

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
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- 16
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- 18
- 19
- 20
- 21
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- 25
- 26
- 27
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Respondent.

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Docket 73674 Document 2018-16729

INDEX
MELVYN SPROWSON
Case No. 73674

	<u>PAGE NO.</u>
Affidavit of Defense's Investigator filed 03/21/17.....	1118-1119
Affidavit of The Honorable Stefany A. Miley filed 01/23/17	1005-1010
Affidavit to Disqualify Judge Stefany A. Miley for Bias and Misconduct filed 01/31/17	993-997
Affidavit to Disqualify Judge Stefany A. Miley for Bias and Misconduct filed 02/07/17	998-1004
Affidavit to Reconsider Disqualifying Judge Stefany A. Miley for Bias and Misconduct Date of Hrg: 02/24/17	1016-1022
Affidavit to Reconsider Disqualifying Judge Stefany A. Miley for Bias and Misconduct filed 02/28/17	1023-1028
Amended Criminal Complaint filed 12/09/13	3-4
Application for Ex Parte Order to Extend Time in which to File the Pre-Trial Writ of Habeas Corpus filed 02/18/14	257-263
Bail Bond filed 05/05/14	360-364
Clerk's Certificate and Order Dismissing Appeal filed 12/02/15	751-754
Criminal Complaint filed 11/05/13.....	1-2
Decision and Order filed 08/28/15	597-610
Defendant's Motion to Continue Jury Trial Date of Hrg: 06/02/14.....	387-390
Defendant's Motion to Continue Trial Date filed 09/08/14	515-518
Defendant's Motion to Continue Trial Date filed 07/06/15	611-615
Defendant's Motion to Continue Trial Date Date of Hrg:: 06/06/16.....	844-849
Defendant's Proposed Jury Instructions Not Used at Trial filed 03/30/17.....	1124-1127
Defendant's Second Pro Se Motion to Continue Trial Date of Hrg: 04/10/17	1087-1095
District Court Minutes from 01/15/14 through 06/26/17	1175-1250
Ex Parte Application for Court Approval of Payment of Specific Categories of Ancillary Defense Costs Date of Hrg: 06/01/15.....	568-575

1	Ex Parte Application for Expert Witness and	
2	Investigator And Funding Therefor filed 12/09/16	964a-964f
3	Ex Parte Motion and Order for Release of Records filed 05/22/14.....	381-383
4	Ex Parte Motion and Order for Release of Records filed 05/22/14.....	384-386
5	Ex Parte Motion and Order for Release of Records filed 09/10/14.....	519-520
6	Ex Parte Motion and Order for Release of Records filed 09/10/14.....	521-522
7	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	525-526
8	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	527-528
9	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	529-530
10	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	531-532
11	Ex Parte Motion and Order for Release of Records filed 11/17/14.....	533-534
12	Ex Parte Motion and Order for Release of Records filed 09/17/15.....	663-664
13	Fifth Supplemental Notice of Witnesses and/or Expert Witnesses filed 02/27/17.....	1081-1086
14	Fourth Supplemental Notice of Witnesses and/or Expert Witnesses filed 05/09/16.....	831-843
15	Information filed 01/13/14.....	251-254
16	Instructions to the Jury filed 03/31/17	1130-1161
17	Judgment of Conviction (Jury Trial) filed 07/05/17.....	1167-1169
18	Jury List filed 03/23/17.....	1123
19	Jury List filed 03/30/17.....	1129
20	Justice Court Minutes from 11/06/13 through 01/08/14	9-20
21	Media Request & Order Allowing Camera	
22	Access to Court Proceedings filed 11/05/13.....	21-35
23	Media Request & Order Allowing Camera	
24	Access to Court Proceedings filed 01/30/14.....	255-256
25	Media Request & Order Allowing Camera	
26	Access to Court Proceedings filed 02/18/14.....	264-266
27	Media Request & Order Allowing Camera	
28	Access to Court Proceedings filed 02/18/14.....	267-269
	Media Request & Order Allowing Camera	
	Access to Court Proceedings filed 08/13/15.....	627-628

1	Media Request & Order Allowing Camera Access to Court Proceedings filed 10/07/15.....	701-702
2		
3	Media Request & Order Allowing Camera Access to Court Proceedings filed 03/21/17.....	1103-1104
4	Minute Order filed 05/27/15.....	576-577
5	Motion for Bail Reduction Date of Hrg: 11/14/13.....	48-54
6		
7	Motion for Bail Reduction Date of Hrg: 04/14/14.....	322-344
8	Motion for Disclosure of Non-Public Information filed 11/05/13	36-39
9	Motion for Disclosure of Non-Public Information filed 11/08/13	40-43
10	Motion for Disclosure of Non-Public Information filed 11/14/13	44-45
11	Motion for Disclosure of Non-Public Information filed 12/06/13	59-60
12	Motion for Disclosure of Non-Public Information filed 12/09/13	92-95
13	Motion for Disclosure of Non-Public Information filed 12/23/13	96-97
14	Motion for Discovery filed 12/12/13.....	62-91
15	Motion for Discovery filed 08/26/14.....	391-420
16	Motion for Discovery filed 09/20/16.....	859-871
17	Motion to Dismiss Misdemeanor Charges for Lack of Original Jurisdiction Date of Hrg: 11/28/16.....	896-903
18		
19	Motion to Proceed on Appeal in Forma Pauperis Date of Hrg: 10/12/15.....	658-662
20	Motion to Proceed Pro Se filed 08/19/15	629-634
21	Motion to Suppress Evidence Date of Hrg: 06/01/15.....	548-567
22		
23	Motion to Suppress Evidence Date of Hrg: 10/05/15.....	638-644
24	Motion to Withdraw as Counsel of Record filed 07/21/15	622-626
25	Motion to Withdraw the Original Record of Search and Seizure Warrants on File with the District Court	
26	Date of Hrg: 01/04/17.....	912-964
27	Notice of Appeal filed 09/08/15	635-637
28	Notice of Appeal filed 08/01/17	1171-1174

1	Notice of Change of Hearing filed 04/07/14	321
2	Notice of Change of Hearing filed 09/05/14	491
3	Notice of Change of Hearing filed 09/18/14	523
4	Notice of Change of Hearing filed 10/14/14	524
5	Notice of Change of Hearing filed 10/02/15	700
6	Notice of Change of Hearing filed 10/11/16	895
7	Notice of Contempt of Court and Brady Violation filed 03/21/17	1105-1117
8	Notice of Motion and Motion for Clarification Regarding	
9	State's Previously Filed Motion in Limine to Preclude	
10	Evidence of Victim's Prior Sexual Abuse at Trial	
11	Date of Hrg: 10/05/15	671-699
12	Notice of Motion and Motion for Independent	
13	Psychological/Psychiatric Examination of the Complaining Witness	
14	Date of Hrg: 09/08/14	438-460
15	Notice of Motion and Motion in Limine to Preclude	
16	Evidence of Victim's Prior Sexual Abuse at Trial	
17	Date of Hrg: 09/15/14	492-506
18	Notice of Motion and Motion to Admit Evidence of Other Bad Acts	
19	Date of Hrg: 10/26/15	
20	Notice of Motion and Motion to Continue	
21	Date of Hrg: 11/21/13	55-58
22	Notice of Motion and Motion to Set Conditions of	
23	Defendant's Release Upon Defendant Posting Bail	
24	Date of Hrg: 05/12/14	365-380
25	Notice of Motion and State's Motion to Revoke Defendant's Bail	
26	Date of Hrg: 02/04/15	535-543
27	Notice of Request to Withdraw Original Record	
28	of Search and Seizure Warrants filed 12/09/16	909-911
	Notice of Witnesses and/or Expert Witnesses filed 10/08/15	703-714
	Notice Resetting Date and Time of Hearing filed 05/19/17	1165
	Notice Resetting Time of Hearing filed 03/27/14	320
	Opposition to Defendant's Motion for Defendant's Motion for Bail Reduction	
	Date of Hrg: 04/14/14	345-359
	Opposition to State's Motion in Limine to Preclude	
	Evidence of Victim's Prior Sexual Abuse at Trial filed 10/14/14	507-514

1	Order filed 03/13/14	305
2	Order filed 03/22/17	1120-1122
3	Order filed 06/19/17	1166
4	Order filed 07/05/17	1170
5	Order Denying Defendant's Third Motion to Suppress Evidence Date of Hrg: 04/13/16.....	829-830
6	Order Denying Motion to Disqualify filed 01/24/17	1011-1015
7	Order Granting State's Motion to Admit Evidence of Other Bad Acts Date of Hrg: 12/10/15.....	727-729
8	Order Scheduling Status Check RE: Trial Readiness filed 11/23/16	908
9	Petition for Writ of Habeas Corpus, Motion to Dismiss, and Memorandum of Points and Authorities Date of Hrg: 03/24/14.....	270-304
10	Receipt of Copy of Documents Pertaining to Protected Information and Records from Wells Fargo Bank filed 12/11/15	756-757
11	Receipt of Copy of Protected Information and Records from Montevista Hospital, Willow Springs Center, Hope Counseling, Desert Behavioral Health, Doctor Robin Donaldson, and Doctor Eugene Ronsenman filed 07/13/15	616-617
12	Receipt of Copy of Protected Information and Records from Montevista Hospital, Willow Springs Center, Hope Counseling, Desert Behavioral Health, Doctor Robin Donaldson, and Doctor Eugene Ronsenman filed 07/14/15	618-619
13	Receipt of Copy of Protected Information and Records from Montevista Hospital, Willow Springs Center, Hope Counseling, Desert Behavioral Health, Doctor Robin Donaldson, and Doctor Eugene Ronsenman (Amended) filed 07/17/15.....	620-621
14	Receipt of Copy of Protected Information and Records from Vena M. Davis, Mojave Adult, Child & Family Services filed 11/05/15	749-750
15	Remittitur filed 12/02/15	755
16	Reply to Return to Writ of Habeas Corpus and Opposition to Motion to Dismiss Date of Hrg: 04/30/14.....	309-319
17	Reply to State's Opposition to Defendant's Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness and Discovery Request for Her Medical/Mental Health Treatment Records filed 10/13/14.....	481-490
18	Response to State's Motion to Revoke Defendant's Bail Date of Hrg: 02/04/15.....	544-547
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

1	Response to State's Opposition to Defendant's Motion for Discovery Date of Hrg: 11/02/16.....	884-894
2		
3	Response to State's Opposition to Defendant's Motion to Withdraw the Original Record of Search and Seizure Warrants in the District Court Date of Hrg: 01/04/17	972-986
4		
5	Response to State's Opposition to Defendant's Third Motion to Suppress Evidence Date of Hrg: 04/13/16.....	828i-828bb
6	Request for Rough Draft Transcript filed 09/23/15.....	667-670
7	Second Amended Criminal Complaint filed 12/19/13	5-8
8	Second Request for Rough Draft Transcript filed 02/26/16.....	758-760
9	Second Supplemental Notice of Witnesses and/or Expert Witnesses filed 10/26/15.....	735-742
10	State's Opposition to Defendant's Motion for Discovery Date of Hrg: 09/22/14.....	421-437
11		
12	State's Opposition to Defendant's Motion for Discovery Date of Hrg: 11/02/16.....	872-883
13		
14	State's Opposition to Defendant's Motion for Independent Psychological/Psychiatric Examination of the Complaining Witness Date of Hrg: 09/10/14.....	461-480
15		
16	State's Opposition to Defendant's Motion to Dismiss Misdemeanor Charges for Lack of Jurisdiction Date of Hrg: 11/28/16.....	904-907
17	State's Opposition to Defendant's Motion to Suppress Evidence Date of Hrg: 07/01/15.....	578-596
18		
19	State's Opposition to Defendant's Notice of Request to Withdraw Original Record of Search and Seizure Warrants and Defendant's Ex-Parte Application for Expert Witness and Funding Therefor Date of Hrg: 01/04/17	965-971
20		
21	State's Opposition to Defendant's Second Motion to Suppress Evidence Date of Hrg: 10/05/15.....	645-657
22		
23	State's Opposition to Defendant's Sixth Motion to Continue Trial Date of Hrg: 05/16/16.....	850-858
24	State's Opposition to Defendant's Seventh Motion to Continue Trial Date of Hrg: 03/21/17	1096-1102
25		
26	State's Opposition to Defendant's Third Motion to Suppress Evidence Date of Hrg: 04/06/16.....	828a-828h
27	State's Proposed Jury Instructions Not Used at Trial filed 03/30/17	1127-1128
28		

1	Stipulation and Order Regarding Discovery of Child Pornographic Materials filed 09/21/15	665-666
2	Substitution of Attorneys filed 11/08/13	46-47
3	Supplemental Affidavit of The Honorable Stefany A. Miley filed 02/17/17	1070-1080
4	Supplemental Motion to Affidavit to Reconsider Disqualifying Judge Stefany A. Miley for Bias and Misconduct filed 03/06/17	1029-1069
5	Supplemental Notice of Witnesses and/or Expert Witnesses filed 10/19/15	730-734
6	Third Motion to Suppress Evidence Date of Hrg: 04/06/16.....	761-828
7	Third Supplemental Notice of Witnesses and/or Expert Witnesses filed 10/23/15	743-748
8	Verdict filed 03/31/17.....	1162-1164
9	Writ of Habeas Corpus filed 03/14/14.....	306-307
10	Writ of Habeas Corpus filed 03/17/14.....	308
11		
12		

TRANSCRIPTS

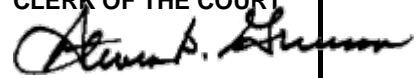
13		
14	Recorder's Transcript JURY TRIAL DAY 1	
15	Date of Hrg: 03/21/17.....	1646-1841
16	Recorder's Transcript JURY TRIAL DAY 2	
17	Date of Hrg: 03/22/17.....	1842-2005
18	Recorder's Transcript JURY TRIAL DAY 3	
19	Date of Hrg: 03/23/17.....	2006-2109
20	Recorder's Transcript JURY TRIAL DAY 4	
21	Date of Hrg: 03/24/17.....	2110-2442
22	Recorder's Transcript JURY TRIAL DAY 5	
23	Date of Hrg: 03/27/17.....	2443-2626
24	Recorder's Transcript JURY TRIAL DAY 6	
25	Date of Hrg: 03/28/17.....	2627-2770
26	Recorder's Transcript JURY TRIAL DAY 7	
27	Date of Hrg: 03/29/17.....	2771-2981
28		

1	Recorder's Transcript JURY TRIAL DAY 8	
2	Date of Hrg: 03/30/17	2982-3111
3	Recorder's Transcript JURY TRIAL DAY 9	
4	Date of Hrg: 03/31/17	3112-3117
5	Recorder's Transcript Arraignment Continued	
6	Date of Hrg: 01/29/14	1253-1255
7	Recorder's Transcript Calendar Call	
8	Date of Hrg: 03/19/14	1256-1260
9	Recorder's Transcript Calendar Call	
10	Date of Hrg: 10/28/15	1428-1439
11	Recorder's Transcript Calendar Call	
12	Date of Hrg: 03/08/17	1605-1608
13	Recorder's Transcript Calendar Call	
14	Date of Hrg: 03/15/17	1609-1612
15	Recorder's Transcript Defendant's Motion for Discovery...Defendant's Motion for Independent	
16	Psychological/Psychiatric Examination of the Complaining Witness	
17	Date of Hrg: 09/10/14	1314-1323
18	Recorder's Transcript Defendant's Motion to Continue Jury Trial	
19	Date of Hrg: 05/28/14	1311-1313
20	Recorder's Transcript Defendant's Motion to Continue Jury Trial Date	
21	Date of Hrg: 07/20/15	1349-1358
22	Recorder's Transcript Defendant's Proper Person Motion for Discovery	
23	Date of Hrg: 11/16/16	1543-1569
24	Recorder's Transcript Defendant's Pro Per Motion to Withdraw the Original Record of	
25	Search and Seizure Warrants on File with the District Court	
26	Date of Hrg: 01/04/17	1579-1582
27	Recorder's Transcript Defendant's Pro Se Motion for Discovery	
28	Date of Hrg: 11/02/16	1527-1542

1	Recorder's Transcript	
2	Defendant's Pro Se Motion to Proceed on Appeal in Forma Pauperis...	
3	Defendant's Pro Se Motion to Suppress Evidence... State's Motion for	
4	Clarification Regarding State's Previously Filed Motion in Limine to	
5	Preclude Evidence of Victim's Prior Sexual Abuse at Trial... Status Check	
6	Date of Hrg: 10/12/15.....	1395-1403
7	Recorder's Transcript	
8	Defendant's Pro Se Motion to Proceed on Appeal in Forma Pauperis...	
9	Defendant's Pro Se Motion to Suppress Evidence... State's Motion for	
10	Clarification Regarding State's Previously Filed Motion in Limine to	
11	Preclude Evidence of Victim's Prior Sexual Abuse at Trial... Status Check	
12	Date of Hrg: 10/19/15.....	1404-1427
13	Recorder's Transcript	
14	Defendant's Second Pro Se Motion to Continue Trial	
15	Date of Hrg: 03/21/17.....	1613-1645
16	Recorder's Transcript	
17	Evidentiary Hearing; Defendant's Motion to Suppress Evidence	
18	Date of Hrg: 07/01/15.....	3156-3257
19	Recorder's Transcript	
20	Initial Arraignment	
21	Date of Hrg: 01/15/14.....	1251-1252
22	Recorder's Transcript	
23	Motion	
24	Date of Hrg: 04/13/16.....	1504-1518
25	Recorder's Transcript	
26	Motion for Bail Reduction	
27	Date of Hrg: 04/14/14.....	1261-1263
28	Recorder's Transcript	
29	Motion for Bail Reduction	
30	Date of Hrg: 04/21/14.....	1264-1274
31	Recorder's Transcript	
32	Petition for Writ of Habeas Corpus	
33	Date of Hrg: 04/30/14.....	1275-1301
34	Recorder's Transcript	
35	Petrocelli Hearing	
36	State's Motion to Admit Evidence of Other Bad Acts	
37	Date of Hrg: 12/10/15.....	1443-1503
38	Recorder's Transcript	
39	Sentencing	
40	Date of Hrg: 05/24/17.....	3118-3125
41	Recorder's Transcript	
42	Sentencing	
43	Date of Hrg: 06/26/17.....	3134-3155

1	Recorder's Transcript	
2	State's Motion in Limine to Preclude Evidence of Victim's Prior Sexual Abuse at Trial;	
3	Defendant's Motion for Discovery; Defendant's Motion for Independent	
	Psychological/Psychiatric Examination of the Complaining Witness	
3	Date of Hrg: 11/05/14.....	1324-1342
4	Recorder's Transcript	
5	State's Motion to Revoke Defendant's Bail	
5	Date of Hrg: 02/04/15.....	1343-1348
6	Recorder's Transcript	
7	State's Motion to Set Conditions of Defendant's	
7	Release upon Defendant Posting Bail	
8	Date of Hrg: 05/12/14.....	1302-1310
9	Recorder's Transcript	
9	State's Opposition to Defendant's Sixth Motion to Continue Trial	
10	Date of Hrg: 05/16/16.....	1519-1526
11	Recorder's Transcript	
11	Status Check: Discovery	
12	Date of Hrg: 08/31/15.....	1380-1384
13	Recorder's Transcript	
13	Status Check: Discovery	
14	Date of Hrg: 09/21/15.....	1385-1394
15	Recorder's Transcript	
15	Status Check: Faretta Canvass, Resetting of Trial	
16	and Defendant's Motion to Proceed Pro Se	
16	Date of Hrg: 08/24/15.....	1367-1379
17	Recorder's Transcript	
17	Status Check: New Counsel/Resetting of Trial	
18	Date of Hrg: 08/19/15.....	1364-1366
19	Recorder's Transcript	
19	Status Check: PSI Corrections	
20	Date of Hrg: 05/31/17.....	3126-3133
21	Recorder's Transcript	
21	Status Check: Resetting of Trial	
22	Date of Hrg: 07/22/15.....	1359-1363
23	Recorder's Transcript	
23	Status Check: Resetting of Trial	
24	Date of Hrg: 11/02/15.....	1440-1442
25	Recorder's Transcript	
25	Status Check: Trial Readiness	
26	Date of Hrg: 11/28/16.....	1570-1578
27	Recorder's Transcript	
27	Status Check: Trial Readiness	
28	Date of Hrg: 02/06/17.....	1598-1604

1	Recorder's Transcript	
	Status Check: Trial Readiness	
2	Status Check: Investigator	
	Defendant's Pro Per Motion to Withdraw the Original Record of	
3	Search and Seizure Warrants on File with District Court	
	Date of Hrg: 01/09/17	1583-1597
4	Reporter's Transcript	
5	Motion to Continue Preliminary Hearing	
	Date of Hrg: 11/21/13	98-107
6	Reporter's Transcript	
7	Preliminary Hearing	
	Date of Hrg: 12/30/13	108-197
8	Reporter's Transcript	
9	Preliminary Hearing Volume II	
	Date of Hrg: 01/08/14	198-250
10		
11		
12		
13		
14		
15		
16		
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C295158-1
)	DEPT NO. XXIII
vs.)	
)	
MELVYN PERRY SPROWSON, JR.,)	TRANSCRIPT OF
)	PROCEEDING
Defendant.)	

BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE

JURY TRIAL - DAY 8

THURSDAY, MARCH 30, 2017

APPEARANCES:

For the State:	JAMES SWEETIN, ESQ. JACQUELINE M. BLUTH, ESQ. Chief Deputy District Attorneys
For the Defendant:	MELVYN PERRY SPROWSON, Pro Se MICHAEL R. YOHAY, ESQ.

RECORDED BY MARIA GARIBAY, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

UNCERTIFIED ROUGH DRAFT

I N D E X

CLOSING ARGUMENTS:

By Mr. Sweetin 11

By Mr. Sprowson 57

REBUTTAL ARGUMENT:

By Ms. Bluth 109

1 **LAS VEGAS, NEVADA, THURSDAY, MARCH 30, 2017, 9:18 A.M.**

2 * * * * *

3 (Outside the presence of the jury.)

4 THE COURT: Mr. Sprowson, cite to the specific
5 instructions, the language in the instruction, and then what
6 you'd like to do to modify, so we can make a good record.

7 MR. SPROWSON: Did we number the instructions yet?

8 THE COURT: No, we haven't, because we need to have
9 them all, because sometimes there is kind of a logical
10 chronology for them.

11 MR. SPROWSON: Right.

12 THE COURT: And then I always have the attorneys
13 sit, and the attorneys and you sit and go through and number,
14 make sure they're all there.

15 MR. SPROWSON: Okay. So the two that I'm referring
16 to are the sexual conduct and the sexual portrayal; is that
17 what you're asking about?

18 THE COURT: Yes. I just want you to be clear so we
19 can make a record.

20 MR. SPROWSON: Okay. We are on the record?

21 THE COURT: Yes, sir.

22 MR. SPROWSON: I would just like to make a record as
23 far as the sexual conduct. The statute reads, Sexual conduct
24 means sexual intercourse, lewd exhibition of the genitals,
25 fellatio, cunnilingus, bestiality and inter -- or anal

1 intercourse, excretion and sadomasochistic abuse, masturbation
2 or the penetration of any part of a person's body, or of any
3 object manipulated or inserted by a person into the anal
4 opening of the body of another.

5 I wanted to add the definition of lewd, which
6 specifically says, Sexually unchaste, also obscene, vulgar,
7 and it's from the Merriam-Webster dictionary, and that is in
8 regards to sexual conduct.

9 THE COURT: Is there a definition in the statutes on
10 lewd?

11 MR. SWEETIN: No, there's not.

12 MR. SPROWSON: May I continue?

13 THE COURT: Yeah.

14 MR. SPROWSON: Secondly, on the statute for sexual
15 portrayal, the definition is, Sexual portrayal means the
16 depiction of a person in a manner which appeals to the
17 prurient interest in sex and which does not have serious
18 literary, artistic, political or scientific value. And I
19 wanted to add the definitions of two words, sexual and sexy.
20 And also, just in regards to sexual, the Merriam-Webster
21 dictionary definition is, Of, relating to or involving sex or
22 the sexes. The word sexy, Sexually suggestive or stimulating.
23 And I just added a little footnote there in regards to sexy is
24 not to be confused with sexual. Sexual involves sex, while
25 sexy is sexually suggestive. Though something may be sexy, it

1 is not sexual unless it involves sex. Sexual conduct or a
2 sexual portrayal would be conduct or a portrayal that involves
3 sex. And that was all I wanted to add, and I just wanted to
4 state that for the record.

5 THE COURT: By the State.

6 MR. SWEETIN: Your Honor, the instructions that have
7 been provided state the statute. I think some of the
8 definitions that the defendant is requesting, I don't know
9 that they necessarily comport completely with the legislative
10 intent behind the actual crimes that we've had here.
11 Certainly they are -- they haven't -- defendant's produced
12 nothing that is shown that has been recognized by the Supreme
13 Court as further defining the statute.

14 There's certainly nothing in the statute that
15 defendant has provided that would either suggest that. It
16 appears it might be ultimately very misleading, and much of
17 what he's attempting to bring in is really part of argument.
18 For that reason the State would submit that the instructions
19 submitted are appropriate.

20 THE COURT: Okay. So I'm not going to allow it
21 because again, the legal definitions are very specific and the
22 legislature has gone through and has made -- I'm trying to
23 think of the best way to say this -- has been very specific as
24 with respect to the words used to define the crime, and I
25 can't just take things out of Merriam-Webster's dictionary.

1 If you had given me something like from a case or somewhere in
2 the statute that had further defined the words set forth
3 within those crimes that would have been one thing, but the
4 Merriam-Webster is just -- it wouldn't satisfy that criteria.

5 Now, what I do need, sir, is I know you've
6 handwritten on those. I need those because those need to be
7 defendant's offered but not admitted, or not accepted. They
8 need to be part of the record. So if you want to give them to
9 Kathy and we'll mark them.

10 MR. SPROWSON: Okay. And I just want to make a --
11 just another note.

12 THE COURT: They're defense proposed. I'm sorry.

13 Yes, sir.

14 MR. SPROWSON: I'm sorry, Your Honor. I just want
15 to make another note. I was attempting to look up any
16 caselaw, but we were all locked down for the whole night last
17 night and I couldn't even get out of the cell, so it's not
18 like I had the opportunity to do that. So I just want to
19 state for the record that we -- that the whole facility was
20 locked down last night.

21 THE COURT: And I don't -- I don't -- I was asking
22 Mr. Sweetin whether the statute further defines any of those
23 words, and I don't believe that it does. I don't know that
24 I've seen any additional instructions that break down the
25 crimes.

1 MR. SPROWSON: No, that's fine. I can make it part
2 of my argument. I just wanted to make a record that --

3 THE COURT: Absolutely you can make it part --

4 MR. SPROWSON: -- that happened last night.

5 THE COURT: -- of your argument, sir.

6 MR. SPROWSON: That's fine. I can make it part of
7 my argument.

8 THE COURT: Yeah, if you just want to give those to
9 Kathy so she can do those proposed, defense proposed.

10 MR. SPROWSON: Can I approach?

11 THE COURT: Yes, of course you can. That's fine.

12 MR. SWEETIN: And Judge, yesterday you asked the
13 State to prepare an instruction just in regards to the
14 evidence as presented of the chlamydia.

15 THE COURT: Yes.

16 MR. SWEETIN: I have prepared one. I can present
17 the Court --

18 THE COURT: Yeah. Mr. -- when you're done, look
19 at -- we talked about, remember, the issue of the sexually
20 transmitted disease, and I wanted something to tell the jury,
21 hey, you can only -- you can't consider it for the fact of an
22 element of the crime, you can't consider it for the fact of
23 anything other than why she decided that she no longer wanted
24 to continue contact or a relationship with you.

25 MR. SPROWSON: Yeah. I don't know. This seems to

1 be more -- more damaging than actually including it. It seems
2 to kind of like bring attention to it.

3 THE COURT: The choice is really up to you. The
4 purpose of having this is to limit any prejudice to you.

5 MR. SPROWSON: I think that by adding it would
6 probably create more prejudice than not, so I would probably
7 want to exclude it.

8 THE COURT: Okay. If you're going to ask that be
9 excluded, then that's fine.

10 MR. SPROWSON: Yeah. I would probably exclude it,
11 because it just kind of like brings more attention to it.

12 THE COURT: So this needs to be marked as State's
13 proposed, and it's objected to by the defendant, and the
14 defendant requests that it be specifically excluded believing
15 that the inclusion of it prejudices his case more than not
16 having it include -- prejudices his case more than including
17 it would prejudice his case, or -- I don't think I'm saying it
18 incorrectly.

19 MR. SPROWSON: It sounded right.

20 THE COURT: It's too prejudicial for it to be in
21 there. Sorry.

22 Okay. The other issue we discussed is a limiting
23 instruction on the --

24 MS. BLUTH: Tavares [phonetic]?

25 THE COURT: Yes.

1 MR. SWEETIN: That, I believe, is in the group that
2 was provided to the Court.

3 THE COURT: It is?

4 MR. SPROWSON: What was that? I didn't hear what
5 that --

6 MS. BLUTH: That instruction that I showed you
7 yesterday that talks about like they shouldn't consider any
8 acts that aren't charged against you.

9 MR. SPROWSON: Oh, the bad acts one?

10 MS. BLUTH: Mm-hmm.

11 THE COURT: Is that in the pile of jury
12 instructions?

13 MR. SWEETIN: It is.

14 THE COURT: Okay. And did you review that, sir?

15 MR. SPROWSON: Yes, I did.

16 THE COURT: And are you agreeable to the language of
17 that limitation?

18 MR. SPROWSON: Yeah, that's fine. I don't have any
19 problems with that one.

20 THE COURT: Okay. So are there any other jury
21 instructions that we need to go through at this time?

22 MR. SPROWSON: I don't believe so.

23 THE COURT: So Ms. Bluth knows this, because I have
24 this little quirk. I make the parties go through and they
25 number them together. This way you guys ensure that

1 everything that was agreed upon is contained and you guys can
2 get it in the order that you want. So why don't you continue
3 to do that. We have 30 minutes until the jury comes in.

4 We already have a verdict form that was stipulated
5 to by the State and the defendant. Is there anything else we
6 need to do before the jury comes back at 10:00?

7 MR. SWEETIN: I don't believe so.

8 THE COURT: Okay. Thank you.

9 (Court recessed at 9:26 a.m. until 10:22 a.m.)

10 (Outside the presence of the jury.)

11 THE COURT: So all the jurors are here?

12 THE MARSHAL: Yes, Judge.

13 THE COURT: Let's bring them in.

14 (Jurors enter at 10:22 a.m.)

15 THE COURT: All right. Welcome back. Counsel,
16 Mr. Sprowson, make yourselves comfortable. No yawning yet.

17 JUROR NO. 11: I'm sorry.

18 THE COURT: At the end of the day, absolutely. All
19 right, everybody.

20 So we talked a little bit about this yesterday.
21 First of all, we're on the record on State of Nevada vs.
22 Melvyn Perry Sprowson, Case C295158. We talked about this --
23 oh, we have another yawner in the back. None of that.

24 All right. So we talked about this yesterday.
25 Right now what I'm going to do is give you the jury

1 instructions. The jury instructions, the law that you'll use
2 when you go back to deliberate the case. Now, if you want,
3 you can take little notes on the jury instructions as I read
4 them to you, but I don't want you to be too worried about
5 trying to take, you know, a note on any particular
6 instruction.

7 The reason is you'll have a copy of these
8 instructions when you go back to the jury room. So if you
9 want to take little notes of instructions you want to go back
10 and review, that's fine, because you can go back and reference
11 them as many times as you would like when you deliberate the
12 case.

13 (Jury instructions read - not transcribed.)

14 THE COURT: By the State.

15 MR. SWEETIN: Thank you, Your Honor.

16 STATE'S CLOSING ARGUMENT

17 MR. SWEETIN: May it please the Court, Mr. Sprowson,
18 ladies and gentlemen of the jury. As the judge said, this is
19 the time for the State to make its closing argument. We'll
20 have our closing argument, and then the defendant will have a
21 chance to make his, and then we will have a chance to do
22 rebuttal, since we carry the burden here.

23 Now, what I want to try to do in the course of my
24 closing argument is sort of remind you of some of the facts,
25 the evidence that has come across in the proceeding today, and

1 then I want to apply the law to that fact -- to those facts.
2 And what is the law in this case? Well, that's the jury
3 instruction that the judge just read to you.

4 Now, in the course of my argument, I'm going to make
5 reference to some of those jury instructions by number. And
6 the reason for that is, as the judge said, you'll have those
7 jury instructions with you as you go back and deliberate, and
8 if there is an instruction that I talk about that you want to
9 take a closer look at later, just jot it down and you'll be
10 able to look at it in more detail when you go back.

11 So let's start off by remembering what crimes the
12 defendant's charged with in this particular case. We really
13 have three charges that are made. We have Count 1, First
14 degree kidnapping; Count 2, Child abuse, neglect or
15 endangerment with substantial bodily harm; and the remaining
16 counts, Counts 3, 4, 5 and 6, are, Unlawful use of a minor in
17 the production of pornography.

18 So I'm going to try to walk through each of these
19 charges sort of one by one as we go through. There's going to
20 be some intermingling in a few charges, but we'll work through
21 it as we go.

22 First of all, first degree kidnapping. Now, Jury
23 Instruction No. 7 tells us that the elements of this
24 particular crime is that every person who leaves, takes,
25 entices or carries away or detains a minor with the intent

1 to -- two things, it doesn't necessarily have to be both
2 things, but one or the other -- first, keep, imprison or
3 confine him or her from his or her parents, guardian or any
4 other person having lawful custody of the minor, or perpetrate
5 upon the person of the minor any unlawful act is guilty of
6 kidnap in the first degree.

7 So now let's break this down just a little bit.
8 First of all, we see that this is making reference to the
9 victim being a minor. Okay. So that's our initial issue.
10 The victim in this case, is the victim a minor? And you have
11 an instruction, Instruction No. 8, which tells us that a minor
12 is a person less than 18 years of age. So Jaysenia, at the
13 time this -- the crimes were committed, the alleged crimes
14 were committed, was 16 years old, clearly under the age of 18.
15 Clearly Jaysenia was a minor.

16 Now, let's go back to the statute itself, and let's
17 break it down a bit further. There's really two parts to this
18 statute as we look at it. There's the first part, it's an
19 act. Every person who leads, takes, entices or carries away
20 or detains a minor with intent, that's an act. And the second
21 part is with the intent to keep, imprison and perpetrate upon
22 the person of the minor. So those are our elements.

23 So let's start with the first broad element. And I
24 wanted to mention that Jury Instruction No. 9 tells you that
25 while a guilty verdict must be unanimous, it need not be

1 unanimous on the means or the theory of the first degree
2 kidnapping in arriving at that verdict. So what do I mean by
3 that?

4 Well, up here in the first element that we talked
5 about, this act that we talked about, every person who --
6 there's various ways to act out under the statute to be
7 liable; lead, take, entice, carries away, detains. Say one of
8 you jurors thinks that, well, clearly they showed leads, but
9 they didn't show entice. And someone else thinks, no, I think
10 they showed entice, but they didn't show leads. It doesn't
11 matter that you think there's different elements that you
12 agree were shown, so long as each of you agree that that
13 element was met in some way.

14 And same thing down here in the second element.
15 Remember I told you that there's essentially two parts of this
16 second element, or the intent can be shown in two ways. It
17 doesn't have to be shown both ways. So some might think that
18 the intent to do number one is shown, some might think the
19 intent to do number two is shown and not the other. If that
20 element or one of those two you believe is met, you don't have
21 to agree on which one, just so long as it's met. So that's
22 what it's saying.

23 So let's go back to this first element, this act.
24 Okay. Every person who leads, takes, entices or carries away
25 or detains a minor. First, you might -- this first element,

1 the first degree kidnapping not required. It does not require
2 that the defendant leads, takes, entice or carries away or
3 detains a minor against the minor's will. That's not an
4 element. That first element is the act of actually performing
5 one of these particular things; leads, takes, entice or carry
6 away.

7 So the question is, did the defendant perform the
8 act of leading away, taking away, enticing away, carrying
9 away, detaining? And again, you don't have to find that he
10 did all of these things. Just one of those things would
11 satisfy this element. So let's take a look at this.

12 Undisputed that the defendant picked up Jaysenia
13 from the residence she shared with her family in the early
14 morning hours of August 29, 2013. That's undisputed in this
15 case. He drove his car to the area of her residence pursuant
16 to the agreement that he had made with her earlier that
17 evening and picked her up down the street. Obviously the
18 State would submit that that clearly was to avoid detection.
19 He picked her up in his red Mustang.

20 Defendant then took Jaysenia directly to his
21 residence. Well, ladies and gentlemen, that act, the State
22 would submit, clearly satisfies at least two of these elements
23 here; taking away, carrying away. The State would submit you
24 only need one of those elements to satisfy, to take care of
25 that first chunk of the kidnapping statute. The State would

1 submit that based upon the evidence of him going to that
2 residence and picking her up in the middle of the night and
3 taking her over to his house, that first element is satisfied,
4 that first part of the kidnapping statute.

5 But let's look at the others. What about leading
6 away and enticing away? Think about this, are these elements
7 satisfied as well. Let's talk about it a little bit. The
8 defendant's contact with Jaysenia leading up to his removal of
9 Jaysenia from the residence is very telling in this regard.
10 Ask yourself this; would Jaysenia have left with the defendant
11 the first day she made contact with him.

12 So the first day she makes contact with him, on
13 August 1, 2013, over Craigslist, at that particular point in
14 time would she just get up and walk out and head over to his
15 house? The State would submit it was the defendant's conduct
16 leading up to August 28 that caused Jaysenia to do just that.

17 Remember a very short time after beginning to talk
18 to Jaysenia, the defendant asked Jaysenia this question; do
19 you want to be his girlfriend. The defendant then contacts
20 Jaysenia often over the telephone, has long conversations with
21 Jaysenia over an extended period of time. Remember this
22 starts on August 1 and this goes up to August 28, when
23 ultimately she leaves the house.

24 Now, you've heard about these Sprint records, and I
25 think you might have seen an overshoot of them. You'll have

1 these back in the jury room when you review the evidence.
2 Now, I've highlighted in yellow, yellow's not going to be on
3 your copy, but I highlighted in yellow the calls that were
4 made between the two of them. They were extensive, ladies and
5 gentlemen. Take a look at that if there's any question in
6 your mind.

7 And there's a few things that maybe take note of
8 when you're looking at those. All right. Because we're
9 talking about 28 days here, this phone record between August
10 1, 2013 and August 28, 2013. During that time defendant and
11 Jaysenia had 42 phone calls together. Thirty-two of those
12 calls were initiated by the defendant to Jaysenia.

13 Now, you've heard the defendant say, well, you know,
14 she would contact me and tell me to call her and then I would
15 call her. Ladies and gentlemen, does that make any sense at
16 all? If in fact she wanted -- if in fact she wanted to talk
17 to him, why wouldn't she just call him?

18 Why would she contact him and say, okay, now you can
19 call me. Does that make any sense at all? Those 28 days the
20 defendant and Jaysenia talked on the phone for 576 minutes.
21 That's a lot of input that the defendant had to Jaysenia in
22 those days leading up to her leaving her residence.

23 The defendant provided Jaysenia with \$150 he
24 transferred into her checking account. Again, you'll see the
25 Wells Fargo account that goes back, and that transfer was made

1 on August 22, so they'd been talking over the phone and for a
2 bit. The defendant picks Jaysenia up in this late model red
3 Mustang the weekend before school started.

4 Remember this is when she went over to spend some
5 time with her friend and ultimately instead of spending time
6 with her friend, she hooks up with the defendant. He drives
7 his red Mustang, late model Mustang over to pick up this
8 16-year-old girl. We're talking about a 16-year-old girl.

9 He picked her up from the shopping center as she
10 waited by herself, and although Jaysenia was supposed to be
11 staying with her friend at school, the defendant takes her to
12 spend the night with him. It's a 16-year-old girl kind of
13 like playing grownup. The defendant told you that he had his
14 first kiss and sex with Jaysenia that night. She stayed at
15 his house a second night, after she told her mother that she
16 was going to spend the night, a second night with her friend.

17 And you heard the defendant testify and he was asked
18 questions about, well, whose idea was it to spend the second
19 night, right. And he says, Well, I don't know, I think it was
20 her idea, well, maybe it was -- maybe we both thought -- maybe
21 it was both of our ideas. Pushing the envelope a little
22 farther, a little farther.

23 Jaysenia is given a ring by the defendant. Remember
24 this time when he comes over -- she comes over to his house
25 and spends the night, ultimately what does she get? Well,

1 she's gotten \$150 from him, and now she gets a diamond ring.

2 What about this talk about emancipation? You heard
3 Jaysenia and you heard her mom. You know, they're just having
4 a normal life together as mom and teenage daughter, you know.
5 Many of you can probably -- many of us can probably relate to
6 that whether we're a teenage daughter or a sibling or we're a
7 teenage -- or we're a parent. That's the relationship. But
8 all of the sudden, Jaysenia starts talking about emancipation.
9 Where does that come from? And it happens to be right before
10 she ends up disappearing.

11 Well, we know from the defendant that he did have
12 conversations with her about emancipation. And in fact, he
13 described the process to her. He even offered to take her to
14 a lawyer to talk to them about it and maybe put it forward a
15 little bit. Pushing a little further. Pushing a little
16 further. Defendant clearly affected Jaysenia [inaudible]
17 statements [inaudible].

18 Now, could defendant's conduct be reasonably
19 expected to produce this result in which Jaysenia thought it
20 was preferable to be with the defendant, with the defendant
21 who gave her \$150 and gave her a diamond ring and picked her
22 up in this red sports car, was it preferable for her to be
23 with the defendant than her own mother? The State submits
24 through his acts the defendant did entice away, lead away
25 Jaysenia from her family. This was a progressive thing.

1 Did the defendant's conduct constitute grooming?
2 Now, we haven't heard really much about grooming in this case.
3 Remember back in voir dire, jury voir dire, that's when
4 Ms. Bluth talked to you all and asked you questions. There
5 was a question asked in regards to grooming, said, Does anyone
6 know what grooming is, and everyone says, oh, yeah, I know
7 what grooming is.

8 And one of the school teachers actually gave us sort
9 of a definition of grooming, of sort of getting someone and
10 complimenting them, isolating them, sort of pushing, pushing
11 the envelope a bit was kind of the discussion of it. Of
12 course, when the defendant testified, he was asked do you know
13 what grooming is. The defendant, who is a trained educator,
14 as he's described himself, who has been a school teacher for
15 ten years, do you know what grooming is; no, I -- I don't know
16 what grooming is.

17 Was there grooming here? The State would submit
18 that the defendant clearly performed the acts of leading away,
19 taking away, enticing away, carrying away in this particular
20 case. He did it physically by going over and picking the
21 child up from the residence and taking him [sic] to his house.
22 He also did it sort of through acts over a longer period of
23 time of basically bringing the child closer to him, pushing
24 the envelope, getting to more sort of contact situations, and
25 that's how things went.

1 You know, initially they're sort of meeting
2 someplace to look at each other, then meeting each other to
3 talk to each other, then they're meeting someplace to go and
4 have sex at his house. This is the way the thing progressed,
5 and all the time while the defendant makes 34 telephone calls
6 to her; Jaysenia, ten calls. Who's pursuing who here?

7 What about the last element? And again, any one of
8 these elements would satisfy that first element, but what
9 about detain? Let's think about this for a minute. Now, once
10 taken to defendant's residence on August 29, 2013, Jaysenia
11 was physically free to leave much of the time she was there.
12 You know, I mean, she was in the apartment, there was no one
13 else there. She could have opened the door and walked out the
14 door. Okay. We all agree on that.

15 But was she mentally free? Now, think about this.
16 Did the defendant act in a manner which made it mentally
17 difficult for Jaysenia to leave that residence? We're talking
18 about a 16-year-old child here, ladies and gentlemen.
19 Jaysenia told you that she packed her things and was preparing
20 to leave on a number of occasions. What was defendant's
21 response? He cried. He reminded Jaysenia all the things that
22 he had done for her. Remember Jaysenia said this.

23 Now, think about this, ladies and gentlemen, because
24 you heard the defendant testify, and one of the things he
25 testified about was about how he did all these things for

1 Jaysenia. He said, you know, I went to the store after a long
2 day of teaching the kindergartners. I went to the store. I
3 bought food. I never ate steak but, you know, when she was at
4 my house I went and I got steak dinners. I did all these
5 things for her, he said that on the stand. Can you see him
6 saying this to Jaysenia?

7 He told her that she didn't love him, a 16-year-old.
8 Do you think she felt guilty? The result was she stayed.
9 Now, when you're thinking about this, remember the defendant
10 is 44 years old and Jaysenia is 16. Do you think that the
11 defendant had these life experiences, education, job
12 experiences which assisted him in persuading Jaysenia?
13 Compared to defendant, he's a trained school teacher, what was
14 Jaysenia's level of maturity here.

15 Besides us knowing that she was 16 years old, what
16 else do we know about Jaysenia? Well, we know that in the
17 house one of the rooms that she liked to go to was the bedroom
18 upstairs, this vacant room. Remember why she liked to go to
19 that bedroom? Well, she testified that when she's in the
20 house, the house was fairly dark. It was fairly dark inside.
21 She couldn't go outside, she knew that.

22 That was part of the rules, she couldn't go outside
23 because someone might see her. And so what did she do? Well,
24 I mean, she's a 16-year-old kid. She likes the sun. She went
25 to the most well-lit room in the house. That's this room up

1 here. And we can see on this particular day that the sun's
2 coming in, and she wanted to get a little bit of sun, feel as
3 if she's somewhat outside.

4 What do we have inside that room? We have crayons.
5 We have a coloring book here, crayons, a book to read. We've
6 got Jaysenia making these makeshift cards, this large card,
7 which you'll have in evidence in back, which I think was read
8 to you in the course of the evidence here, which goes through
9 this story that's sort of like a fairy tale that she writes
10 out.

11 She takes the time to write out where, you know,
12 there's a prince and there's a princess, and then there's the
13 wicked mother. This is the story that she writes out. Other
14 cards that she writes to the defendant, all addressed to him,
15 little cards that you would see so inconsistent with what you
16 expect a child to do, a 16-year-old. In the bed that she,
17 Jaysenia, 16-year-old Jaysenia slept in, had sexual relations
18 with the 44-year-old defendant, what do we have right next to
19 the bed? A pink teddy bear.

20 Jaysenia had already given up everything she knew to
21 be with the defendant. Think about the things that are
22 important to a 16-year-old. You heard about school with
23 Jaysenia, beyond that being normally important for most
24 16-year-olds, the State would submit, as a point of
25 socialization, as a point of sort of moving forward, Jaysenia

1 was really into school. She did well. She gave that up, her
2 family, her mom, sisters, grandmother.

3 Remember when she went home on November 1, you heard
4 testimony about this tearful reunion, you know, her sisters,
5 her younger sisters who at the time I think were 10 and 12,
6 they're crying, they're hugging her, their mom. Her friends,
7 how important are friends to a 16-year-old. She doesn't have
8 any. She's completely isolated living inside this place.
9 Freedom, she has no freedom. How important is freedom to a
10 16-year-old.

11 Do you think that defendant's conduct caused
12 Jaysenia to question whether she could leave? She has sort of
13 assumed, based upon what the defendant has led her to, this
14 new sort of reality, can she go back to the old reality.
15 Remember that Jaysenia told her mother in December 2013,
16 remember that this is when Jaysenia has come home, her mom
17 couldn't handle her, she went directly over to Montevista,
18 she's in Montevista for a number of days.

19 She comes out of Montevista, again she's still a
20 mess. She attempts to, you know, she's thinking about jumping
21 over the bannister to the first floor, and she goes into
22 Montevista again. And now, after that, while she's waiting to
23 go to long-term counseling, which she wasn't adverse to at the
24 time, at this point sort of the -- the State would submit the
25 normal Jaysenia's starting to peek out just a bit. And what

1 does she say to her mom? I wish you would have found me
2 sooner. I did not know how to leave.

3 The defendant may not have locked Jaysenia in a
4 room, but through mental manipulation he clearly detained her
5 in this residence, the State would submit. That first element
6 that we're talking about, this act of removing or detaining
7 Jaysenia from her home, the leading away, taking away,
8 enticing away, carrying away or detaining, the State submits
9 each of those elements are met, but you only need one of those
10 elements to find that that first element of the kidnapping
11 statute has been met. The State submits that this first
12 element, the act of leading, taking, enticing or carrying away
13 or detaining a minor has been met.

14 So now this goes to the second element, the intent
15 to keep, imprison or confine; so in other words, keep Jaysenia
16 away from her mother, and the second element, to perpetrate
17 upon Jaysenia an unlawful act. Let's go ahead and first look
18 at Number 1, the keep Jaysenia away from her mother.

19 Now, Jury Instruction No. 7 describes to you or
20 defines keep a little bit more. The intent to keep requires
21 an amount to -- or intent to keep a minor from his or her
22 parents, guardians or any other person having lawful custody
23 of a minor permanently or for a protracted period of time.
24 That's our definition of keep.

25 So the question becomes did the defendant perform

1 these acts of leading, taking, enticing or carrying away or
2 retaining Jaysenia with the intent to keep Jaysenia away from
3 her mother. To answer that question, remember that the
4 defendant did, the State would submit, everything he could to
5 make sure that Jaysenia's mom didn't find out anything about
6 what was going on. And why? Think about this, why did he
7 keep her mom out of this. And, you know, I think the State
8 would submit I think we all kind of know why.

9 It's sort of a common sense thing. What happens if
10 Jaysenia's mom finds out who defendant is and what he's doing
11 with her daughter? Well, ladies and gentlemen, everything
12 shuts down, doesn't it. If she finds out any of this, she's
13 going to put a stop to it. She's cut out of this, and we know
14 this for a lot of different reasons. It's clear that the
15 defendant understands this about Jaysenia's mother. We know
16 this a lot from his prior conduct. And just take a look at
17 that.

18 So what we know about when he first makes contact
19 with Jaysenia, they begin talking. They have the contact on
20 Craigslist, and what's one of the first things they do? They
21 switch to the Kik application. And we've heard a little bit
22 about the Kik application and some of us might be familiar
23 with Kik, some of us might not be familiar with Kik. But
24 ladies and gentlemen, the State would submit to you that
25 everything we know about defendant clearly indicates that he

1 was familiar with the Kik app, and this is why.

2 First of all, he's using social media to make
3 contacts with Jaysenia to start with, and he uses it fairly
4 extensively because he details conversations with a lot of
5 other individuals using this social media. But I want you to
6 skip forward to January of 2015. Remember, that's when he's
7 making contact over there in Oklahoma. Now, we'll talk about
8 this a little bit. The State submits the evidence is pretty
9 strong that the defendant was making that contact. But what
10 happens over that contact? We see the defendant sort of
11 sophisticatedly using various vanity names, switching them up,
12 trying to disguise himself.

13 He understands the Internet more than I do, the
14 State would submit more than maybe the average person would
15 based upon what we know about him. The State submits do you
16 believe that he knew what the Kik app was, and do you believe
17 that the reason that was changed was to keep Mom out of it.
18 What about asking Jaysenia to be his girlfriend but never
19 visiting her at her home?

20 Okay. Normally, if you want to go down that road,
21 hey, I'm -- the defendant says, I'm attracted to this
22 16-year-old, I want to see if there's going to be a future, I
23 want to see what's going to happen. In the ordinary
24 situation, is that a situation where you normally do meet
25 family members and you do meet parents and things of that

1 sort. Well, that doesn't happen here. Far, far from it, the
2 absolute opposite of it. Right.

3 We have all these phone calls which the defendant
4 actually describes as being somewhat surreptitious and him
5 suspecting that the mom didn't know and things of that sort.
6 The secret meetings at the Omelet House and the skating rink.
7 You know, if you weren't trying to keep Mom out of this thing,
8 wouldn't it be much easier to just come by and say hi? No, he
9 can't do that.

10 We have to go to the Omelet House, we got to have
11 this secret meeting at the skating rink, at which she's with a
12 friend and she tells the friend, oh, you know what, that's an
13 older teacher. And the defendant understands this. He
14 testified to it. Don't you think that any reasonable person
15 understands at that point this is on the down low, you know,
16 we're not telling anybody about this. We're cutting Mom out
17 of this.

18 How about picking up Jaysenia from the shopping mall
19 the weekend before school started to spend the night, not
20 going to her house, not going to a place where others might
21 know her, but picking her up as she stands alone at this
22 location. The defendant's desire to keep his contacts with
23 Jaysenia secret from Jaysenia's mom does not change when he
24 picks her up on August 29, 2013.

25 Remember, he picks her up in the middle of the

1 night, picks her up down the street from Jaysenia's house,
2 right, because he doesn't want to drive up front, doesn't want
3 to be seen. The defendant admitted as he testified that he
4 knew Jaysenia's mother did not know that he was picking her up
5 and taking her away.

6 The defendant has Jaysenia bring her birth
7 certificate and Social Security card with her. Why? Now,
8 remember the definition of keep is to keep for a prolonged
9 period of time, right. So why do you think that that's so
10 important and telling in regards to that desire to keep for a
11 prolonged period of time? Well, we all know the plan, right.
12 Jaysenia's told us the plan, that she was going to stay there
13 for a couple of years until she turned 18. That was the plan.

14 And consistent with that, the defendant knew that
15 Jaysenia wouldn't have access to those things because they're
16 with Mom, and Mom is cut out of this. Mom can't know this or
17 everything falls apart. So he has to get the birth
18 certificate and Social Security card so that she can do things
19 later, you know, apply to schools, do things or whatever he
20 has in mind for her.

21 Now, the defendant, as he testified, said, Well, you
22 know what, the reason that I got that Social Security card and
23 I told her, I did tell her to get the Social Security card and
24 the birth certificate, but you know the reason why, the reason
25 why is that she was threatening suicide, and so I thought if I

1 bring her home and she does it, because you never know when
2 someone's actually going to do it, you know, and kill
3 themselves, if she does it, I need that just so I can, you
4 know, know who she is and tell the hospital, people like that
5 who she is. Does that make any sense?

6 So he picks her up, this person that he thinks is
7 going to commit suicide, he brings her to his house, he has
8 sex with her, and then the next day he goes to work. He's so
9 worried that she's going to kill herself and that he needs
10 these documents just in case she does. Is it more likely that
11 the reason he wanted it was for this plan that was going to
12 take a couple years to complete.

13 Jaysenia turns her phone and computer off as soon as
14 she gets to the defendant's home. Jaysenia's clear that he
15 told her to do that. You got a 16-year-old child here. You
16 think the first thing she's thinking about when she walks into
17 his house is, oh, I got to turn off all my social media and
18 cut myself off from everybody that I know? Does that more
19 likely come from her or from him?

20 What about the defendant changes his phone number in
21 the early morning hours. You're going to see the AT&T
22 subscriber information. I think we put it up here on the
23 overhead, so you've seen it before. It's going to show you
24 over what period of time that the defendant had this number
25 that we're talking about, the number that he was communicating

1 with Jaysenia with over this period of time of August 1
2 through August 28.

3 He had it from August 8, 2008 to August 29, 2013,
4 the very day Jaysenia goes missing he turns that account off.
5 He's had it for five years. Now, remember, you know, the
6 reason he gives, well, you know -- you know, I just, you know,
7 she kind of told me to do it. Did that make any sense? Would
8 he have other reasons to do it, like, oh, I want a local
9 number. Come on, he's been here since June, right. That's
10 what the apartment manager indicated, that he was living at
11 that residence since June. We're now in the end of August.

12 Isn't it such a coincidence that he decides to turn
13 that off on that very time. Why? He doesn't want Mom to find
14 him. He knows that if Mom finds anything out here,
15 everything's done. Doesn't want that to happen. He's cut her
16 out. He wants Jaysenia away from her mother. He doesn't want
17 that connection to potentially spoil his plan.

18 The defendant tells Jaysenia to stay in the house
19 all day so no one will see her. This is so, you know, no one
20 sees her and basically reports to someone or mom finds out
21 where she is, because that will end it all. When defendant
22 takes Jaysenia out of the house, she's caused to dress in
23 baggy clothes and glasses to conceal her identity. Whatever
24 the clothes are, whether the ROTC clothes that his brother
25 brought up to his house or whatever it is, she was caused to

1 dress in a manner to conceal herself. Didn't want to be found
2 out.

3 Not even the defendant's landlord knew anything
4 about Jaysenia. You saw, you know, Kathy Harris here, the
5 landlord. She talked to you about this apartment complex,
6 it's kind of small, she knew it pretty well. She'd seen the
7 defendant, she even knew what kind of car he drove, so seen
8 him around and whatnot. But she never saw Jaysenia. Why?
9 Because Jaysenia was being concealed inside that apartment.

10 The defendant developed a plan with Jaysenia as to
11 what they would do if anyone ever found Jaysenia in the house.
12 This is a plan if Jaysenia's taken away, she should just keep
13 coming back. Okay. The important part about this, the State
14 would submit, is that his plan is to not only at this point
15 keep her isolated from her mother, but if in fact something
16 goes wrong and her mom somehow gets her back, we're going to
17 keep doing this. I'm going to do everything I can to get you
18 away from your mother again.

19 The defendant knew Jaysenia's mother was looking for
20 her, but did not seek to let her know where Jaysenia was. How
21 important is that to the analysis of whether or not he was
22 trying to keep Jaysenia from her mother. Because we have a
23 lot of things here. And the defendant admits that he saw the
24 missing flyer. He has a 16-year-old girl in his house and
25 he's got a missing flyer that people are out searching for the

1 girl, and he doesn't say a word to anybody.

2 He even -- he testified to you that he researched
3 the Internet to attempt to determine whether or not or who was
4 looking for Jaysenia. And we have a snippet, what we got from
5 Troy when Troy Cox testified, from the defendant's computer
6 showing just that, you know, search is done to try and figure
7 out, well, who's looking for Jaysenia, how close are they,
8 things like that.

9 When asked if the defendant knew where Jaysenia was
10 by the police and private investigators, the defendant said he
11 didn't know. At the same time Jaysenia was actually living in
12 his house, he said that he had never had that face-to-face
13 meeting with her, that was what he told them. And he told
14 that to the private investigator, to Detective Logiudice.

15 And remember when Detective Logiudice talked to him,
16 he told him, hey, her mom is concerned, you know, this is
17 important, you know, can you identify with a mother looking
18 for their daughter; no, I don't know, why are you asking me
19 these questions. Same thing with Officer Abbott and Detective
20 Platt.

21 And then when Detective Platt comes back, and you
22 got that on tape, you heard that recording, did you hear the
23 defendant's voice in that recording? He says, Well, why are
24 you looking at me, why are you accusing me of these things, it
25 seems like you're accusing me of these things. He had no --

1 or there is nothing to indicate that he in any way was going
2 to do anything to allow Jaysenia to get back with her mother.
3 He wanted to keep her isolated from her mother, that's from
4 the get go.

5 There is no question, the State would submit, that
6 the defendant proactively sought to keep Jaysenia concealed
7 from her mother based upon the evidence in this case that
8 we've discussed. But we have more evidence which indicates
9 the defendant's intent to keep Jaysenia from her mother, and
10 we're talking about this January 2015 incident.

11 Now, you have a jury instruction that talks to you
12 about this evidence that came in. So the evidence of the 2015
13 incident was brought in, you know, not to show that the
14 defendant's a bad character or anything of that, but merely
15 for you to consider for the limited purposes of proving the
16 defendant's motive, intent, plan, preparation, the committing
17 of the charged crimes. So that's the purpose of this
18 evidence.

19 So what does the evidence show us? On January 2,
20 2015, the defendant contacted Jaysenia via Instagram, the
21 State would submit. The evidence is pretty strong, the State
22 would submit, that this contact was made. There's the
23 information in the contact itself, and you got the screen
24 shots of conversation that was had. That's pretty personal
25 information in there. It's pretty, pretty detailed in regards

1 to the relationship that the two of them had.

2 The vanity names and the contacts are connected to
3 the defendant's email address. The IP address that the
4 defendant was contacting her from comes back to a hotel in
5 Oklahoma where by chance was about 3 miles from where he
6 actually lived, and at the time that he made -- that the
7 contact was made, he was actually staying at that hotel.

8 Now, the defendant testified here, he indicated that
9 he didn't contact Jaysenia in 2015, that he supposes a girl
10 that he met in a bar who stayed with him at the motel for
11 about two days contacted her. So this girl that he meets in a
12 bar comes to his room, he ends up talking to her and giving
13 her some pretty detailed information, that he's able to carry
14 on a conversation in those screen shots, besides giving her
15 this Audrey, you know, screen name and various other passwords
16 to allow her to get into his computer and make contact with
17 this person that he's never met, for what reason? Well, we
18 don't know what reason. Does any of that make any sense
19 whatsoever?

20 Why did the defendant contact Jaysenia? The plan,
21 ladies and gentlemen. The plan. And the reason that it's
22 important to remember the plan, because from the get go the
23 plan is the plan that she's coming to that residence and she's
24 going to stay with him for a couple years, right. She's going
25 to stay with him until she's an adult so that they can, you

1 know, the prince and the princess be together forever. I
2 mean, that's the plan, right. Well, the plan doesn't change.
3 It's still the plan. Remember the plan is she runs away, she
4 comes back. That's the plan. Is that why he's contacting her
5 here? It's the plan, ladies and gentlemen.

6 Did defendant want Jaysenia's mother to know about
7 this contact with the daughter? No, that's not part of the
8 plan. And if you look at these screen shots, he's
9 specifically talking about, oh, you didn't tell your mother,
10 did you, please say you didn't tell your mother. How telling
11 is that. Ladies and gentlemen, that all relates back to
12 everything that happened in 2013, because it's the plan.

13 These are the screen shots that we talked about,
14 changing the vanity names as he's having the conversation a
15 surreptitious way. The State would submit the defendant
16 proactively sought to keep Jaysenia concealed from her mother.
17 The State submits the evidence is clear on that. The State
18 submits that this first element here of the second element of
19 first degree kidnapping is satisfied.

20 Now, based upon this, if the first element is
21 satisfied and if just number one out of the two alternative
22 elements in the second part of this statute is satisfied, all
23 the elements of this statute are satisfied. The defendant is
24 guilty of first degree kidnapping, the State would submit.

25 But let's take a look at the second portion,

1 Perpetrate upon the person of the minor any unlawful act.
2 Now, in this case the defendant's alleged that when he
3 performed this act of leading, taking, concealing or enticing,
4 carrying away, detaining Jaysenia with the intent to
5 perpetrate upon her unlawful acts, the unlawful acts that
6 we're talking about, child abuse with substantial bodily harm
7 and/or contributing to the delinquency of a minor.

8 Now, we don't have to show that both of -- that he
9 took her with an intent to commit both of these crimes, but
10 just one of these crimes would satisfy. All right. And I
11 want to talk to you about each of them real quick. Now,
12 remember, the child abuse with substantial bodily harm relates
13 to Count 2, which we're going to -- which is actually one of
14 the charged counts, but it also comes into the first degree
15 kidnapping analysis just to show essentially that he took her
16 with an intent to commit a crime. So we'll kind of talk of
17 those two in tandem.

18 But first let's talk about contributing to the
19 delinquency of a minor, and you're told in Jury Instruction
20 No. 12 exactly what that is. Now, the wording is a little
21 convoluted, but it's not that complicated. Essentially in
22 order to be guilty of contributing to the delinquency of a
23 minor, an individual has to endeavor to induce that minor
24 under the age of 18 to perform any act or follow any course of
25 conduct that would cause or manifestly tend to cause that

1 person to become what's considered under the statute a
2 neglected child, a child in need of supervision or a
3 delinquent child.

4 So the perpetrator sets a course of action in the
5 things that he does which ultimately creates a situation where
6 this child is going to become one of these identified groups
7 of children, and these groups of children are defined also in
8 Jury Instruction No. 12. And we find that neglected child,
9 child in need of supervision or delinquent child includes a
10 person less than 18 years of age who is beyond the control of
11 like a parent or custodian. Do we have that here?

12 I mean, he's taken her away and he's bringing her to
13 his house where she's beyond the control of her mother. We
14 only need one of these elements in order for it to meet, and
15 the State would submit that it's met on that element alone,
16 but we have more. Who is an habitual truant from school.
17 Part of the plan, ladies and gentlemen; comes to the
18 apartment, not going to school, habitual truant from school
19 absolutely.

20 But what about three, is leading or from any cause
21 is in the danger of leading an idle, desolate, lewd or immoral
22 life. You know, sometimes those are hard words. But what
23 happened here? You got a 16-year-old who is snatched out of
24 high school, brought to an apartment where she's isolated and
25 has sex with a 44-year-old man at least once a week. Does

1 that qualify; is leading or from any cause is in danger of
2 leading an idle, dissolute, lewd or immoral life, ladies and
3 gentlemen?

4 The State would submit that clearly when the
5 defendant picked up Jaysenia from her house and brought her to
6 that house with the intent to do what he did, he had the
7 intent to violate -- he had intent to commit acts which were
8 violation of contributing to the delinquency of a minor. The
9 State submits that that element is met, and in so meeting that
10 element the State meets that second element -- I guess it's a
11 little complicated to talk about, the second element of the
12 kidnapping statute, the second element that's the alternative
13 element within that second part.

14 Again, the defendant is guilty of first degree
15 kidnapping. What about child abuse with substantial mental
16 harm. Now, remember now we're talking about this for two
17 reasons. Both for the kidnapping statute and satisfying that
18 element, as well as satisfying the elements for that charge
19 itself, because he's charged with child abuse with substantial
20 mental harm.

21 So let's walk through the elements. Jury
22 Instruction No. 10 says, A person who willfully, unlawfully
23 and feloniously causes a child under the age of 18 years to
24 suffer unjustifiable physical pain or mental suffering as a
25 result of abuse or neglect or to be placed in a situation

1 where the child may suffer physical pain or mental suffering
2 as a result of abuse or neglect is guilty of child abuse,
3 neglect or endangerment.

4 So let's break it down a little bit. First of all,
5 again we have this child abuse or have a victim who is under
6 the age of 18. Again, Jaysenia, who is 16 years of age when
7 this was happening, clearly under the age of 18. Now, the
8 other portions of this is this child has to be caused to
9 suffer unjustifiable mental suffering as a result of the
10 abuse -- of abuse or neglect, or be placed in a situation
11 where the child may suffer mental suffering as a result of
12 abuse or neglect.

13 Okay. So there's a couple things there. The first
14 thing we have to talk about is mental suffering. Clearly the
15 State would submit Jaysenia was placed in a situation in which
16 she either suffered or might suffer mental suffering. So what
17 do we have here? We have her ripped from her family. She's
18 in a residence where she's completely isolated, she basically
19 is left to play with coloring books during the day while not
20 attending school. Is this a situation where, you know, she
21 would be subjected to mental suffering? The State submits
22 clearly, clearly this is a situation like that.

23 Now, the other thing that we want to look at in the
24 statute itself is this language of mental suffering which she
25 actually suffered, or put in a situation where she may suffer

1 such mental suffering as a result of abuse or neglect. So we
2 have to define what abuse or neglect is, because that's the
3 result -- that's what results in the mental suffering.

4 So what is abuse and neglect? Jury Instruction
5 No. 11 tells you that abuse/neglect includes mental injury of
6 a non-accidental nature and negligent treatment or
7 maltreatment of a child. So we're going to look at these.
8 First of all, we've got negligent treatment or maltreatment of
9 a child. Jury Instruction No. 11 talks to us about exactly
10 what that was, and essentially it includes a situation where
11 the child is without proper care, control or supervision or
12 lacks education.

13 And what do we have in this case? What do we have
14 here? Again, no education. She's pulled out of school. She
15 can't go anywhere because she'll be found out. She has to
16 stay in the residence, so she's out of school. Proper care
17 and control and supervision; non-existent, the State would
18 submit. She's isolated. There is controlling and demeaning
19 conduct directed at Jaysenia.

20 When I say controlling and demeaning conduct, what
21 am I talking about? Well, I mean, the defendant's 44 years
22 old and he is telling this 16-year-old, hey, why can't you do
23 some chores around the house, can't you do the dishes, wait a
24 second, the dishes aren't done quite right, hey, you don't
25 walk quite right, you don't sing quite right. All of these

1 things are being kind of heaped upon this child in this
2 situation while she's completely isolated without the normal
3 contacts that she normally would have with her family.

4 The State would submit that clearly we have
5 negligent treatment or maltreatment of the child. What about
6 mental injury of a non-accidental nature. Did the time
7 Jaysenia was caused to stay with the defendant result in
8 mental injury to Jaysenia? And you heard Jaysenia and
9 Jaysenia's mother tell you that Jaysenia is forever changed
10 because of this. There are things that have been forever
11 changed in her life because of what has happened.

12 Which events resulted in Jaysenia's mental injury?
13 The complete isolation, at 16 she's sleeping in the same bed
14 with a 44-year-old man and engaging in sexual intercourse.
15 There's no school involved, something that was very important
16 to her. The defendant is engaged in this demeaning and
17 controlling behavior toward Jaysenia. And Jaysenia told you
18 all of these things had significant negative mental impact
19 upon her.

20 The State submits that clearly there was abuse and
21 neglect here. There is negligent treatment or maltreatment of
22 the child, as well as mental injury of a non-accidental
23 nature. As such, the State would submit that the elements of
24 child abuse have been met here. Now, Jury Instruction No. 10
25 tells you if a child is found to have suffered substantial

1 mental harm as a result of abuse or neglect, the person is
2 guilty of child abuse, neglect or endangerment with
3 substantial mental harm.

4 And we're further instructed, in Instruction 11,
5 exactly what substantial mental harm is. It means an injury
6 to the intellectual or psychological capacity or the emotional
7 condition of a child as evidenced by observable and
8 substantial impairment of the ability of the child to function
9 within his or her normal range of performance or behavior.

10 So what do we know about Jaysenia? Prior to the
11 defendant coming into the picture, Jaysenia is this teen, kind
12 of has this normal relationship with her mother. What about
13 when she returns from the defendant's residence? She shows up
14 at home, she has no concern for her family. Remember we
15 talked about this before, her mom looks at her and says,
16 That's not Jaysenia I see as I look into her eyes.

17 What about her admission to Montevista? She's home
18 for like a day, Mom's sleeping in front of the door because
19 she's afraid she's going to run out and run back to the
20 defendant, and ultimately she can't handle her. So she takes
21 her into Montevista. When she gets into Montevista, you heard
22 from Dr. Rodriguez, remember what she does. All she can talk
23 about is this 44-year-old boyfriend of hers, and how she wants
24 to get back to him.

25 What about her return home after that 11/2

1 admission? I think she comes back on, I believe, November 11
2 of 2013. That's when she basically says she's going to jump
3 off this second story balcony in her home. The ambulance is
4 called out. The ambulance comes, picks her up and takes her
5 in to the emergency room. Where does she go? She goes back
6 to Montevista.

7 Her second admission at Montevista is on
8 November 16, and it lasts quite a while, much longer than the
9 first anyway, until December 4 of 2013. Now, you heard Dr.
10 Rodriguez on this occasion when she talks about what's -- you
11 know, when she does the intake on her, now it's a more
12 generalized kind of upset, instead of upset in regards to the
13 defendant. She's sort of kind of on her way back, the State
14 would submit, a little bit.

15 Her return home after her second admission to
16 Montevista, as she waited for her long-term treatment,
17 remember she comes back, and this is after that second time at
18 Montevista, so it's in December, she's waiting to go now to
19 the long-term treatment and you know what, she's agreeable to
20 going to the long-term treatment.

21 She's kind of taken a few steps back and it's at
22 this point that she tells her mother about these pornographic
23 photos and tells her mother, confides in her mother, I wish
24 you would have found me sooner. I don't know -- I did not
25 know how to leave. She ultimately goes to long-term

1 inpatient.

2 Now, you heard Dr. Rodriguez talk to you about the
3 patients that go to Montevista, and sadly, you know, there's a
4 wide spectrum of some very, very troubled youth that end up
5 going to Montevista Hospital. Of all those youth and very
6 serious issues that those youth present at Montevista, she
7 said that only 5 to 10 percent of all those clients ever
8 require this long-term inpatient, and Jaysenia fell into that
9 group.

10 The counseling after the long-term inpatient focused
11 on various issues, including this prior isolation of Jaysenia
12 for two months, very significant, the State would submit; the
13 difficulty in transitioning from high school to college due to
14 her concern that people in her college would find out about
15 what the defendant had done to her; about coming to court and
16 people finding out about her being associated with this case;
17 about coming to court and having to face the defendant after
18 everything that had happened.

19 The jury instruction again, this jury instruction
20 again tells us, Substantial mental harm means an injury to the
21 intellectual or psychological capacity or the emotional
22 condition. Do we have that, ladies and gentlemen? Clearly in
23 this particular case we're seeing a young girl who has been
24 very changed as a result of what happened over those two
25 months. And we know that because as she comes back and she

1 assimilates, she starts to walk back a bit.

2 "As evidenced by an observable and substantial
3 impairment of the ability of the child to function within his
4 or her normal range of performance or behavior." Ladies and
5 gentlemen, before this happened, Jaysenia was a high school
6 student doing very well in high school, loved high school.
7 After this happened, Jaysenia's having trouble just figuring
8 out how am I going to transition into college. Clearly, the
9 State would submit, there's been a showing of substantial
10 mental harm.

11 The elements of child abuse, neglect or
12 endangerment, the State would submit, have been met, and the
13 elements of substantial bodily harm have also been met. The
14 defendant, the State would submit, based upon the evidence
15 presented, has -- is guilty of the crime of child abuse,
16 neglect or endangerment with substantial bodily harm.

17 And now going back to the first degree kidnapping.
18 Remember, this was one of the crimes delineated perpetrated
19 upon the person of the minor any unlawful act, the State would
20 submit that clearly that's been shown as well. The State
21 would submit that each and every one of these elements have
22 been shown to you. Although you only need a few of them in
23 order to find that this statute has been satisfied, the State
24 submits the evidence has shown that each of these elements has
25 been satisfied.

1 Now, the defendant is also charged with the unlawful
2 use of a minor in pornography. And Jury Instruction No. 13
3 talks to you a bit about this. It defines that particular law
4 as a person who knowingly uses, encourages, entices, coerces
5 or permits a minor to be the subject of a sexual portrayal in
6 the performance is guilty of use of a minor in production of
7 pornography. Now, there is a lot of sort of legalistic words
8 in there that we're going to have to walk through so that you
9 understand it.

10 Let's first kind of break it up a little bit,
11 because this statute's really broken into two parts. Okay.
12 The first part is that the individual has to use, encourage or
13 entice or coerce the minor to be the subject of this
14 portrayal, which we'll define in a minute. And the second is
15 that the subject of the sexual -- that it has to be -- the
16 portrayal has to be a sexual portrayal in the performance.
17 Okay. So there's two parts there.

18 So in this case we have a number of photos that were
19 taken by Jaysenia with her phone and forwarded to the
20 defendant. Those are in evidence as Exhibits 24 through 28.
21 I'm not going to show you those photos right now. Okay.
22 They're going to be available to you in evidence and if you
23 want to look at them, you can. I will talk to you basically
24 about what they generally depict in the course of my argument.

25 A portion of these photos were taken on four

1 different occasions, and from that we get the four counts.
2 Each occasion relates to one count, and that's our Counts 3,
3 4, 5, 6. So we know that the defendant got these because we
4 found them on his phone, on his computer, so we know that he
5 ended up getting these things. So let's talk about what we
6 really have to show.

7 There's two questions to answer in determining if
8 the defendant's culpable. The first one is, Did the defendant
9 knowingly use, encourage, entice, coerce or permit Jaysenia to
10 be the subject of these photos, and the second is, Do the
11 photos constitute sexual portrayal in the performance. So
12 let's work on that first one first.

13 In this particular case did the defendant, you know,
14 orchestrate the production of these photos actually is what
15 we're talking about. Did defendant originally ask Jaysenia to
16 send him a sexy photo? That's the testimony, ladies and
17 gentlemen. That's how this starts, send me a sexy photo. And
18 based upon that, Jaysenia took photos and forwarded them to
19 the defendant.

20 This is Count 3 of the Information, okay, and it
21 relates to what's Exhibits 25 and 28. And what's depicted in
22 those exhibits, remember Jaysenia was telling you, yeah, I was
23 just, you know, trying to figure out what he wanted and there
24 was kind of this ongoing conversation, and she took a few
25 pictures and then took a few more as she talked to him and

1 found out a little bit more of what she [sic] wanted.

2 And ultimately what we have in there is we have
3 views of the front and back of the child in her underwear and
4 bra, a view of the behind in her underwear as she's bent over
5 a chair in a manner that sort of exposes her buttocks. And
6 there's a shot of the underwear on and the legs are spread in
7 a manner that sort of exposes the vaginal area. So that's
8 what we're talking about in those first photos.

9 Jaysenia's testimony is that the defendant told her
10 wanted a sexy picture, and then gave her further instruction
11 on what he wanted, and as a result of that she compiled those
12 photos. Now, the defendant, remember when he testified, he
13 says -- the State would submit he said that, Well, you know, I
14 didn't ask for all those pictures, I just asked for a couple
15 of nude pictures from her. Well, Jaysenia told you exactly
16 what happened. The State would submit that is the evidence.

17 The defendant definitely got what he asked for in
18 this particular -- on this particular occasion, but after it,
19 the defendant again asked Jaysenia to send him similar photos
20 on three other occasions. Okay. And that makes up the
21 remaining Counts 4, 5 and 6. In regards to Count 4, Count 4
22 relates to Exhibit 26, and that is a photo of bare breasts of
23 Jaysenia in her bare breasts, no clothes up top, and her
24 underwear.

25 On another occasion, Count 5, that's Exhibit 24, and

1 that's a photo of Jaysenia in her underwear on and her legs
2 are spread sort of wide, wide open, exposing her vaginal area,
3 although she has underwear on as she's doing that. And then
4 Count 6, and that's Exhibit 27, this is another occasion, and
5 this is Jaysenia exposing her bare buttocks with nothing on
6 her bottom. Those are the incidents in which these items were
7 produced.

8 Now, in each of these incidents the defendant
9 clearly used, encouraged, enticed or permitted Jaysenia to be
10 the subject of these photos. He was the reason for these
11 photos. He's telling her, hey, send me a sexy picture, no,
12 why don't you send me this, why don't you move this way, why
13 don't you take this off. He's directing her. He's the reason
14 for this. Clearly he encouraged, enticed or permitted
15 Jaysenia to take these photos.

16 Now, we come back to these questions, the State
17 submits clearly the first element here is met, that the
18 defendant basically enticed, coerced, encouraged, permitted
19 Jaysenia to take these photos. But the second is, do the
20 photos constitute a sexual portrayal in the performance?

21 Now, Jury Instruction No. 16 talks about
22 performance, and that's easy. A performance means any play,
23 film, photograph, computer generated image, electronic
24 representation, dance or other visual presentation, a picture.
25 Okay. So performance equates to a picture that we have here.

1 Jury Instruction 14 talks about a sexual portrayal. What is a
2 sexual portrayal? It means the depiction of the person in a
3 manner which appeals to the prurient interest in sex and which
4 does not have serious literary, artistic, political or
5 scientific value.

6 Okay. So now that we've talked about the photos,
7 you saw the photos here in court, there's a jury instruction
8 that I want to talk to you about, and it's Jury Instruction
9 21. We sometimes call this the common sense instruction, and
10 this is how it reads:

11 "Although you are to consider only the evidence in
12 the case in reaching a verdict, you must bring to the
13 consideration of the evidence your everyday common sense and
14 judgment as reasonable men and women, thus you are not limited
15 solely to what you see and hear as the witness is testifying.
16 You may draw reasonable inferences from the evidence which you
17 feel are justified in the light of common experience, keeping
18 in mind that such inferences should not be based on
19 speculation or guess."

20 So essentially what we're saying in that instruction
21 is you don't check your common sense at the door when you walk
22 in here. You come in here with all kinds of life experiences,
23 with knowledge, with understanding as to what the material you
24 look at, you see on TV, what's appropriate and inappropriate,
25 all those things come to you, and as a result of that you can

1 make a determination in this case whether or not these photos
2 have any real purpose other than a prurient interest in sex.

3 Are they an expression of art, these photos? Does
4 this relate to a school project? Well, Jaysenia wasn't in
5 school, so probably not. Is it an ad for clothing in JC
6 Penney's catalog? The last I looked in JC Penney's catalog,
7 and I haven't looked for a while, they don't have girls in
8 underwear bending over chairs.

9 The purpose of Jaysenia taking these photos is due
10 to their appeal to the prurient interest in sex. How do we
11 know that this is the central reason for these photos to be
12 taken? Well, the defendant initially asked for a sexy photo.
13 That's what he asked for, right. Now, the State would submit
14 to you that as you have a 16-year-old child, this statute is
15 meant to prevent an individual from using that child to
16 sexually gratify themselves or anyone else to produce these
17 sexual images, the State would submit.

18 The defendant then directs her to various sexual
19 poses. The defendant directs her to take items of clothing
20 off. We know that the defendant had a sexual interest in
21 Jaysenia. He told us that. He testified, he says, Oh, yeah,
22 I liked this girl very much, I had -- I was very interested in
23 her, I wanted to see where things would go, I was very
24 sexually attracted, we made love several times. There is no
25 question as to the purpose of these photos the State would

1 submit. Clearly they're meant to gratify this prurient
2 interest in sex, from beginning to end.

3 Now, I'm going to talk a little bit about Jury
4 Instruction No. 13, and it lays out that a person who
5 knowingly uses, encourages and -- or the State would submit
6 that clearly that the elements of use of a minor in production
7 of pornography have been met based upon the sexual portrayal
8 and the performance that we talked about. But I also wanted
9 to talk to you guys about Jury Instruction 13 and its
10 reference to sexual conduct.

11 Okay. Now, the State would submit that if you find
12 that in each of these photos that we have a sexual portrayal
13 in the performance, as we've just gone through the elements
14 and the State submitted that they all met, he's guilty of each
15 of those charges. But the reason that you're given this
16 instruction is because one of those counts also has an
17 allegation of sexual conduct.

18 But the State would submit that as you are
19 evaluating these particular counts individually, that either a
20 finding of sexual conduct or a finding of performance and
21 sexual portrayal, a finding of either of those would be a
22 finding of guilt on that count. So you don't have to find
23 both.

24 But in regards to this, a person who knowingly uses,
25 encourages, entices or permits a minor to simulate or engage

1 in or assist others to simulate or engage in sexual conduct to
2 produce a performance is guilty of use of minor in production
3 of pornography. And we also have -- we have in one of the
4 four counts, Count 5, alleges engaging in or simulating sexual
5 conduct in addition to being the subject of a sexual
6 portrayal.

7 Remember this Count 5, Exhibit 24, that's where the
8 underwear is on but the legs are spread wide open exposing the
9 vaginal area. Sexual conduct is defined to include the lewd
10 exhibition of the genitals. And in that particular case the
11 State would submit that the manner in which the photo was
12 taken is such that there is such a lewd exhibition of the
13 genitals. The legs are wide open and the focus is of course
14 the vaginal area. The State submits that in regards to Count
15 5, that this element is met, but you don't need it so long as
16 you recognize a sexual portrayal in Count 5, as the other
17 counts, because the State submits the elements are met in
18 regards to that.

19 We started off talking about the defendant's charged
20 with first degree kidnapping. The State submits the elements
21 of that crimes have been shown and have been met. Child
22 abuse, neglect or endangerment with substantial mental harm,
23 the State submits the elements of that charge have been shown,
24 have been met.

25 Now, when you go back, you're going to get a verdict

1 form. And on this verdict form on all of the counts it's
2 going to be guilty of the offense or not guilty with the
3 exception of one count, and that's Count 2, Child abuse,
4 neglect or endangerment with substantial bodily harm. In that
5 particular count you're going to have three choices.

6 One is going to be guilty of the crime of child
7 abuse, neglect or endangerment with substantial bodily harm.
8 The other is going to be guilty of child abuse, neglect or
9 endangerment, so without substantial bodily harm. And the
10 third is going to be not guilty.

11 The State would submit that all of the elements of
12 child abuse, neglect and those elements required of
13 substantial bodily harm have been met, that the defendant is
14 guilty of child abuse, neglect with substantial bodily harm.
15 And also we have the unlawful use of minor in the production
16 of pornography. The State submits that all the elements have
17 been met and that the defendant is guilty of unlawful use of
18 minor in production of pornography.

19 On Counts 3, 4 and 6, in regards to a sexual
20 portrayal and performance and in regards to Count 5, in
21 regards to both sexual performance and performance as well as
22 sexual conduct, the State asks that you find the defendant
23 guilty of all counts. Thank you.

24 THE COURT: Why don't we take just a ten minute
25 break until Mr. Sprowson does his closing, just let the jury

1 stretch and use the restroom. Actually, a little bit more
2 than that. Come back at five minutes after 12:00. Again,
3 don't talk about the case, don't research the case, don't form
4 or express an opinion on the case.

5 (Jurors recessed at 11:52 a.m.)

6 THE COURT: Okay. Mr. Sprowson, I don't know if you
7 need to use the restroom or anything.

8 MR. SPROWSON: Yeah, I do.

9 You'd be a good teacher, Mr. Sweetin. Just had to
10 say it.

11 (Court recessed at 11:53 a.m. until 12:06 p.m.)

12 (Outside the presence of the jurors.)

13 THE COURT: Mr. Sprowson, are you ready for
14 everything?

15 MR. SPROWSON: Yeah. Probably -- well, I don't
16 know. Can I use --

17 THE COURT: You can stand there, you can stand
18 there, you can stand wherever you like.

19 MR. SPROWSON: Well, I'd kind of like to face the
20 jury if I can have this like maybe move and like face the
21 jury.

22 THE COURT: Yeah. Jason, can you help him?

23 The only reason is because everything's plugged in
24 down there, so just tell him where you want it.

25 MR. SPROWSON: Yeah. If I can just kind of have

1 it -- center stage with --

2 THE MARSHAL: Center stage?

3 MR. SPROWSON: Center stage, sir. Right here. And
4 if I need to use this, I just kind of want to make sure of
5 that, because I want to be able to probably put some of this
6 up here if I need to. Let me see.

7 (Pause in proceeding.)

8 MS. BLUTH: Mr. Sprowson, I'm sorry, how long did
9 you say that you had, you thought?

10 MR. SPROWSON: You know, I'm just going to
11 guesstimate probably maybe 30 minutes.

12 MS. BLUTH: Okay.

13 MR. SPROWSON: I don't know, because I'm going to do
14 some stuff off the cuff and I have some stuff that I've
15 written down, so.

16 MS. BLUTH: Okay.

17 MR. SPROWSON: So I'm just approximating like 30, 30
18 to 45.

19 THE MARSHAL: The jury is present.

20 (Jurors reconvene at 12:10 p.m.)

21 THE COURT: All right. Mr. Sprowson, the jury is
22 back. Whenever you're ready, sir.

23 DEFENDANT'S CLOSING ARGUMENT

24 MR. SPROWSON: Good afternoon, ladies and gentlemen
25 of the jury. I'm just going to give probably maybe a

1 30-minute presentation. It's not going to be as exact and
2 detailed as that, but I just kind of -- I'm going to hone in
3 on a few things that's going on in my case in particular, and
4 particularly in my defense.

5 One of the things that I kind of just want to use an
6 example, and I'm just going to -- this is kind of -- I'm just
7 going to lay a foundation for something, and I'm just going to
8 make a very, very foundational point when it comes to
9 information dissemination, when you're considering a bunch of
10 facts, when you're considering a bunch of things and you're
11 trying to come to a conclusion.

12 Now, I'm going to use an example of a parent.
13 Imagine -- and again, I'm just using this example to set a
14 foundation for my point. Imagine a parent walking into a
15 living room and the parent has a son, a teenage son, and the
16 son has his girlfriend over. Okay. And the parent walks into
17 the living room and all of the sudden he hears, let's have
18 sex. Wow. That parent's going to say, whoa, what's going on
19 here, I just heard let's have sex. Right.

20 But in reality, if you rewind it a little bit, both
21 of them are watching a program and this is what's going on,
22 and he says, and he turns to his girlfriend when he says this,
23 I saw on a TV a man who said let's have sex. Now, you've
24 noticed one thing that's going on with those two scenarios.
25 If you leave out all of that necessary information, I saw on

1 TV a man who said let's have sex, you're going to come to a
2 very, very, very different conclusion than if you just walk
3 into the room and, let's have sex.

4 The second one sounds, wow, that's really crazy, you
5 know, it's like are you really telling her let's have sex.
6 Well, the parent didn't get the whole body of information.
7 The parent didn't realize that he's quoting what he just saw
8 on TV. None of that information was included.

9 Now, I'm laying this as a foundation because in my
10 particular case there's a lot of information that hasn't been
11 considered and probably won't. And I'm not going to go into
12 detail about that, but I'm just going to mention a few things
13 I want you to consider, because the State has proposed that
14 Jaysenia --

15 THE COURT: Mr. Sprowson, can you come here for a
16 second, please.

17 MR. SPROWSON: Yes.

18 THE COURT: State.

19 MS. BLUTH: Yes, Judge.

20 (Bench conference transcribed as follows.)

21 THE COURT: I'm just a little bit nervous how you
22 prefaced that. Remember, you can only argue what came up in
23 the course of the trial. So if it didn't come up, you can't
24 bring it up.

25 MR. SPROWSON: I'm only going to say what came up.

1 MS. BLUTH: Okay. But --

2 THE COURT: As long as it's only what came up.

3 MR. SPROWSON: I'm just laying a foundation. I'm
4 laying a --

5 MS. BLUTH: Shh, shh.

6 MR. SPROWSON: I'm laying the foundation. I'm just
7 going to say what came up.

8 THE COURT: That's when you can ask the jury to draw
9 reasonable inferences from the evidence as long as it's
10 evidence that's in trial in evidence.

11 MR. SPROWSON: I'm just laying a foundation for
12 what's coming up next.

13 MS. BLUTH: Okay. But my objection is you're
14 telling the jury there's a lot of things that they didn't get
15 to hear. They don't get to know that.

16 MR. SPROWSON: Okay. Sorry.

17 MS. BLUTH: So please don't infer that they haven't
18 been given the whole story, because that's not legal.

19 MR. SPROWSON: Okay.

20 THE COURT: Okay. Thank you.

21 (End bench conference.)

22 MR. SPROWSON: Okay. So continuing with my
23 presentation here, so anyways, the State -- the State made a
24 statement that Jaysenia was a normal teenager. She was a
25 normal teenager, she had a relatively normal relationship with

1 her mother. Now, this is on the record and I'm just going to
2 propose something to you that was stated during the testimony.

3 One of the things that was stated during the
4 testimony is that she was prior to meeting me seeing a
5 counselor, prior to meeting me she was receiving therapy,
6 prior to meeting me she was grounded for two years. Grounded
7 for two years. Her phone and her computer were taken away two
8 years. I want you to just consider that, because I'm going to
9 leave it at that before I get into my presentation.

10 And the reason why I laid down that foundation is
11 the fact that, that wasn't mentioned. That little bit, that
12 little piece wasn't mentioned. Would someone who is having a
13 normal teen life be grounded for two years? Maybe, maybe not.
14 Would someone who is seeking therapy and counseling be
15 considered a normal teen life?

16 Would someone who's had their computer and their
17 phone taken away for two years, think about that, that's a
18 long time. Two years. We're not talking about a month, we're
19 not talking about a day, a weekend. We're talking about two
20 years. Two years. So that prefaces, that leads up to my
21 scenario where I come into the picture.

22 Okay. And I am being charged with kidnapping. I'm
23 being charged with -- I don't have all the statutes right
24 here, the charges in front of me. But I'm charged with the
25 child abuse and endangerment. I'm being charged with the

1 unlawful use of a minor in the production of child
2 pornography.

3 Now, my presentation is not going to be as elaborate
4 as Mr. Sweetin's. I actually learned a little bit from that.
5 It was actually a very good presentation. I enjoyed it. But
6 there's a lot of things that I need to actually clarify. And
7 Mr. Sweetin so nicely put that two of the main elements in any
8 crime --

9 And matter of fact, let me put the instruction --
10 oh, right here. I don't know if you can see. Can everyone
11 see that in the jury? Just nod your head yes if you can see
12 it.

13 Okay. It says here on the top, it says, To
14 constitute the crime charged, there must exist a union or
15 joint operation of an act forbidden by law and intent to do
16 the act. Now, the State proposes that I did an act and I had
17 the intention to do that criminal act. Now, I would propose
18 to you that, yeah, you know, some of these acts I'm not going
19 to deny. Yes, there was some action, a whole lot of action in
20 regards to some of the things that happened. But my argument
21 and my main argument is what were my intentions in all of
22 these things.

23 Now, and I also want you to consider what I started
24 my presentation with. You've got two years of being grounded.
25 You've got counseling, you've got therapy, and you also have

1 the phone and the computer, communication devices. The phone
2 and the computer, I'll say it again, communication devices
3 taken away for two years, that you really, really need to take
4 into consideration when you're considering these charges, and
5 particularly when you're considering my intent.

6 Because my argument before you, ladies and gentlemen
7 of the jury, is that my intentions were not to do any of the
8 things that the State has proposed. Yeah, circumstantially it
9 may look that way. But I propose to you that, you know, none
10 of the things the State has said -- there's mix with a little
11 bit of truth and a little bit of like I said, of falseness.

12 Now, let me just kind of get a little bit more into
13 my -- I'm just going to try to use logic here to bring some
14 things out. Far as the kidnapping, did I pick her up? Yes, I
15 did. I picked her up. And when I spoke to you yesterday, one
16 of the things that I brought to your attention is the fact
17 that she had emailed me a concern that we wouldn't be able to
18 talk anymore and she was really disconcerted about that.

19 She was upset about that, and she kept asking me to
20 come pick her up, because she was worried that we would never
21 be able to see each other again. Okay. She was worried. I
22 want you to think about this. If we had such a plan, if we
23 had a plan, why would she be worried about us not ever seeing
24 each other again if we had such a plan. Why would she be
25 worried about that. Okay.

1 So she emails me and threatens to kill herself.
2 Now, I'm going to make a very simple connection here. She
3 emails me and she threatens to kill herself. Now, prior to
4 that she had asked me, hey, come pick me up, come pick me up,
5 come pick me up. I was reluctant, I was reluctant, I was
6 reluctant. I did not want to do it, until it gets to the
7 point where she says, I'm going to kill myself. Okay. And
8 I'm going to leave it at that. So a bunch of things happened.

9 Now, we got a time period of two months. So here we
10 got a young lady threatening to kill herself. I pick her up.
11 She comes to my place, and there's a period of two months.
12 And there was a whole lot said about that, a lot of actions, a
13 lot of things, a lot of this, a lot of that. Did I neglect
14 her, did I do this or did I do that or all of these other
15 things. But I want -- I just want to point out one
16 significant thing to you, ladies and gentlemen of the jury.
17 She never threatened to kill herself, she never tried to kill
18 herself, two months. She threatens to kills herself, two
19 months.

20 Now, I just want to kind of say also about that two
21 months, that was never an intention for her to be there for
22 two months. I already stated what happened. I'm not going to
23 go into that again. I don't need to, to just save time. I've
24 already stated that to you. This was something that my
25 intentions in this was that to make sure that she is safe,

1 that she's not going to hurt herself.

2 Now, granted, I may not have gone about it the right
3 way. I will admit to that. I probably should have knocked on
4 the mom's door or take her straight to the hospital, or
5 probably have done something that in hindsight, looking back,
6 I probably should have done that. Did I do that? No, I'm
7 sorry. I didn't do it. But was it my intention to do some
8 harm or anything like that? No. I wanted to make sure she
9 was safe.

10 So let's kind of speed it up a little. We got the
11 two months, she's not -- she's not threatening to kill
12 herself, she doesn't try to kill herself. She even said when
13 she got in my car her feeling was I'm happy. Now, there's a
14 question of was I enticing her or doing all these other
15 things. You know, I wasn't doing any of that. And, you know,
16 and our conversations, our mere interactions with each other
17 were getting to know each other.

18 Now I just want to make my point with this and I'll
19 go on, because I don't want to be all over the place. Then
20 the police officers find her at my home. Okay. They take her
21 to the hospital and all of that stuff happens, and then she
22 eventually goes back home. What is one of the very first
23 things she does? She tries to kill herself. And thank God
24 she didn't, and I'm glad she didn't.

25 And matter of fact, I am really happy and glad that

1 she's getting all this therapy, that she's getting all of
2 these things that she needs. But the question is, was I the
3 cause of this? The question is, where is all of this stuff
4 coming from? Is it me? A two month period of time I created
5 such a drastic change in this young lady that she's got to go
6 through all of this -- I want you to think about this, go
7 through all of this therapy and go to this hospital.

8 I mean, the State really just pours it on, I'm this
9 horrible person that created all -- within a two month period
10 of time and maybe let's say a month of getting to know her.
11 So let's just say three months, to be fair to the State, that
12 I changed this girl's life so drastically, a 16-year-old who
13 has 16 years prior to meeting me, that all of this occurred.

14 So again, I just want to say and I just want to
15 point out, prior to meeting me she's at her mom, she threatens
16 to kill herself. Two months period of time, nothing happens.
17 She's relatively -- I don't even want to state if she's, you
18 know, how she feels because I can't speak for her. But I do
19 know and the facts show and the evidence shows that as soon as
20 she goes home she tries to kill herself. I want you to think
21 logically, you all logically rational people, threatens to
22 kill herself, two month period nothing happens, she tries to
23 kill herself. Okay. That's one point.

24 So again, I just want to reiterate and I just want
25 to say again what was my intention when she threatens to kill

1 herself. My intention was to make sure she was all right.
2 And I've already admitted to the fact that I didn't handle
3 that situation properly. There's a lot of -- and yes, I did
4 go to work, and yes, we did make love, and we were in a
5 relationship. I want you to consider that too, but we were in
6 a relationship. So am I supposed to be cold to her?

7 This is a person that is reaching out to me, someone
8 that she has gotten to know, that someone now she feels safe
9 enough to reach out to. I don't know what happened prior to
10 that. Well, anyways, we do know, like I said, counseling,
11 therapy, two years grounded, phone and computer taken away,
12 we'll say that's what we know. Okay. And we get into
13 conversations and we talk about many things, and she reaches
14 out to me.

15 And I want to point out a few other things that the
16 State has brought up. You know, they really try to make it
17 seem like that -- I just wanted to say a couple things. I am
18 not trying to lay everything at Jaysenia's feet. I am willing
19 to take responsibility for my part in this, and I believe that
20 I've already taken responsibility for my part in this. Okay.
21 And again, I didn't act with the best judgment in these
22 things. But not acting in best judgment and a criminal act
23 are two different things and a criminal intent are two
24 different things, or three different things.

25 There were two other situations that the State is

1 really, really harping on. The skating rink. I want you to
2 think logically about this. Says that I'm grooming her. You
3 know, I've heard the word "grooming." I don't go into
4 details. My area of expertise is academics. You know,
5 grooming would be something that a counselor might get into.
6 You know, I kind of heard vaguely some terms about that. The
7 question to me was, do I know exactly what it is. I -- you
8 know, I'm familiar with the term, but I don't know the details
9 of what grooming involves and all this stuff. I don't get
10 into that stuff. You know, maybe some teachers do. I didn't.
11 I don't. I'm sorry. Forgive me for not knowing.

12 But anyways, two situations. The first one is the
13 skating rink. Now, in the testimony, who was the person that
14 arrived later? Me. Now, whether I was reluctant or not,
15 whether or not it was, you know, something that I agreed to.
16 Obviously I did at some point because I showed up. But I want
17 you to think about who's the one that's first at the skating
18 rink? Does it seem logical to you that I'm trying to get this
19 person to meet me at the skating rink, when she's already
20 there with her friend? I want you to think about that.

21 Okay. The other situation is Boca Park. This is
22 the weekend that she and I had together. Now, there's a lot
23 of things in hindsight I'm looking at, you know, I probably
24 should have been a little bit smarter about and probably a
25 little bit more inquisitive about. But here's the facts. The

1 State is trying to present to you this lonely little girl
2 that's standing all by herself and no one is around her. She
3 was there with her friend, Jessica. She wasn't alone. She
4 was there shopping. She was planning on spending the night
5 with her. And matter of fact, when I picked her up, she was
6 right there with her friend, Jessica, and came over to my car.
7 Now, this is not what the State has presented, but this is the
8 fact.

9 So again, who is the person that was there first.
10 Was I there waiting at the mall stalking her, predator, hey,
11 hey, little girl, come over here, like the State would like
12 you to believe. No. I didn't even know where Boca Park is.
13 Matter of fact, she had to give me directions. I want you to
14 think about that. And I'm the one that's enticing her? I'm
15 the one that's going after her? Now I've given you two
16 situations that logically thinking about it, who is the one
17 that's asking who to be where. There's a lot of stuff that we
18 need to consider when we're looking at my case because, you
19 know, quite frankly, everything is being laid at my doorstep.

20 Now, addressing the kidnapping, I'm just going to
21 say one more time, my intentions with this young lady was to
22 make sure she was okay. Did I handle it right? I've already
23 admitted that I hadn't. I didn't handle it right. Was it my
24 intention for her to be there for two years -- I mean, for two
25 months, sorry. Two years would have been crazy. Two months,

1 no. I did want her to go back to her mom's. Now, should I
2 have reached out to the mother? I probably should have.
3 Should I have contacted the police or the hospital? Yeah, I
4 probably should have.

5 But I want you to keep one other thing in mind that
6 the State is leaving out. This is a young lady that I'm in a
7 relationship with. I'm not grooming her. She's 16 years old.
8 She's in the age of consent. She may not be an adult, but
9 she's at the age of consent. We're in a sexual relationship
10 and yes, it happened rather quickly and it wasn't my intention
11 for it to, but it did. That's the fact. I can't change that
12 and that's what happened. But did I kidnap her, did I try to
13 keep her and imprison her and confine her? I think the State
14 is really overreaching on this, you know. I think what
15 they're trying to do is to take a bad moral judgment and turn
16 it into a crime.

17 Now, there were two other things that I want to draw
18 out during this two month period of time, is the truancy and
19 the drinking. Now, first of all, I didn't plan on her being
20 there two years or to wait two years until she was 17 1/2.
21 You know, I'm not going to get into the emancipation thing
22 yet. I just want to focus on the two main things is the
23 truancy and the drinking. Now, I've already stated to you
24 there were two times that she drank. She did not have my
25 approval.

1 Now, did I have alcohol there? Look, I just moved
2 into the place. I don't have locks. I can't put locks on
3 stuff, you know. This is kind of a spur of the moment
4 situation when all this happened, someone's threatening to
5 kill themselves, they come to live with me. You know, I have
6 that stuff already there. I can't just say, okay, let me just
7 throw it all out. Maybe I should have. That probably would
8 have been, according to the State, the best thing to do, throw
9 all the dang alcohol out, you know. And maybe I should have.

10 But did she have my approval to drink? No. Did I
11 get her drunk to have sex with her? No. Why would I get her
12 drunk to have sex with her? She's 16 years old. I can
13 legally do it. Legally. It's the State of Nevada's law.
14 That's what they're upset about.

15 Now, the truancy. I'm a teacher, and it was not
16 okay with me that she didn't go to school. Again, this was
17 not like, hey, you know what, you're going to stay with me for
18 two months, let's do some long-term planning, oh, you're going
19 to come back to me, or you're going to hide it out until
20 you're 17 1/2, 18. You know, they keep bringing up this plan
21 and it's starting to irritate me, because the only plan that I
22 had, I'll tell you about two plans.

23 One plan was like I already said, I wanted to wait
24 until she was 18. I couldn't -- you know, things happen. Can
25 you actually predict everything that's going to happen to you

1 in the next 24 hours. You know, you can plan for it, but do
2 you think it's going to happen that way? You're going to have
3 a lot of things that happen. You might say, you know what,
4 I'm going to do this at 2:00 o'clock, but you know what,
5 because circumstances happen, we might even say we're going to
6 have lunch at 1:00, I bet you we won't, because things are
7 going to happen. Common sense, I want you to think about
8 these things. You know, they're trying to paint me as this
9 really bad character. I'm sorry. I'm not.

10 Truancy. I wanted her to go to school. I didn't
11 buy her books or educational things. Now, here's the thing I
12 want you think about too logically. If I was planning on her
13 staying with me at home and not going to school, don't you
14 think it's more logical that I would buy her educational
15 books? Don't you think it's more logical that I would have
16 things for her to continue her education at my home? Even if
17 I didn't, doesn't it seem more logical?

18 And I want you to think about something that is
19 probably one of the most significant pieces and I'm glad the
20 State keeps bringing it up, \$150 that I gave her. My name was
21 on that. I knew very well that the mom's account was
22 connected to hers. Do you think I'm trying to hide something?
23 My name was directly on that \$150 and I did it on purpose,
24 why? I wanted this young lady to look nice at school. Now,
25 do you think someone's going to pay \$150 for school

1 clothing -- now, I want to keep in mind I did lie to the
2 police later and say it was a loan.

3 But I gave it to her for school clothing, because
4 this is right before, right before school starts. This is
5 right when her mom and her two sisters are buying school
6 clothes. Does it seem logical to you that I'm going to spend
7 \$150 for school clothes if I intended for her not to go to
8 school? It doesn't seem logical, does it. Would I send \$150
9 with my account name on it, with my name on it, Melvyn
10 Sprowson, to an account that I know that the mother probably
11 is connected to? Think about that. Think about my
12 intentions. Think about my intentions.

13 So I've covered truancy and I've covered drinking.
14 I can't say much about the drinking except the fact that she
15 didn't have my approval and it was only twice. Now, this is
16 an important point. We've got how many days are in an average
17 of the month; 30, right. Let's times it two. Sixty. We got
18 60 days. Out of 60 days how many times did she drink, out of
19 60 days? What I know was twice out of 60 days.

20 Now, you think -- you would think if the alcohol was
21 available to her and she's getting drunk and I'm trying to get
22 her drunk to have sex and, you know, I need to remind you
23 another thing about that as well, but out of 60 days there was
24 only two occasions where she actually drank alcohol. And
25 actually, I think there's some statutes that actually get

1 around that, if you're on your residence or you have an
2 establishment if you're a certain age, and which 16 is, I
3 think it's actually legal. I was looking up the statutes, not
4 at this time --

5 MS. BLUTH: Judge, I'm going to object, because
6 that's not the law number one, and --

7 THE COURT: Hold on. The objection will be
8 sustained because you can't give the law other than what's
9 given to the jury by the Court.

10 MR. SPROWSON: All right. Sorry. But anyways, the
11 point is that out of 60 days, out of 60 days there was only
12 two occasions that she actually drank. Okay. So I want you
13 to think about that when you're thinking about my intentions
14 and when you're thinking about was I getting her drunk to have
15 sex. I mean, out of 60 days, even if I -- let's see. Let's
16 do the math. Let's see. I said once a week.

17 So once a week, there's eight weeks in two months,
18 right. There's eight weeks in two months. So I'm getting her
19 drunk to have sex with her. There's eight weeks in six [sic]
20 months, there's only two occasions where she drinks. That
21 math doesn't even add up. Quite frankly, ladies and gentlemen
22 of the jury, I didn't have to get her drunk to have sex with
23 her. I already stated it was legal. It was consensual. She
24 wanted to make love. I wanted to make love. Was that what
25 our relationship was about? No. You know, average once a

1 week. Our relationship wasn't built upon sex.

2 And, you know, they bring in the pictures, oh, you
3 know, you got this -- oh, give me a break. If I can legally
4 have sex with her, what do I need pictures for. Think about
5 that logically. If I can legally have sex with her, what do I
6 need pictures for. I mean, and quite frankly, in my
7 estimation, those pictures are ridiculous in relation to the
8 charges. Not of her, because I believe that she's a very
9 beautiful young lady and, you know, at that time I was in love
10 with her. Now I kind of have to rethink that with everything
11 that's happened.

12 But anyways, I want you to think about that, that
13 I'm being charged with the unlawful use of a minor in the
14 production of child pornography, when I can legally have sex
15 with her. That I directed her to do these pictures for what,
16 the prurient interest in sex, which that term is so
17 subjective. And for those of you who don't know what
18 subjective means, it has to do with individual thoughts and
19 feelings.

20 Which if you had a room of 50 people, let's say 50
21 people, 20 of them are 19-year-olds, we're talking about
22 males, say 20 of them are, you know -- well, let's just do it
23 the ages. We'll say 40, we'll make it a round number. We got
24 10 that are a certain age range, another 10 at a certain age
25 range, another 10 that are at a certain age range, and another

1 10 that are a certain age range.

2 Okay. We got all different age ranges in there now.
3 Okay. That's all based upon let's look at biology. Older men
4 are not -- I mean, some do, but on average older men are
5 not -- sex is not their number one priority. Okay. A matter
6 of fact, you know, there's a statement, one man's treasure is
7 another man's trash. So when it comes to the prurient
8 interest in sex, who is the State to say what my prurient
9 interest in sex is. Do they know me that well? Do they know
10 my state of mind that well?

11 I mean, you can gauge from certain circumstances,
12 but do they know what I like? I'll tell you right now they
13 don't know what I like. They don't know what interests me
14 sexually. I do. I'm an expert at it. You know why? Because
15 I am me. And I tell you, those pictures weren't for the
16 prurient interest in sex, and I already told you how that came
17 about. And I already stated it didn't initiate with me asking
18 her for a sexy picture. She asked me if I wanted a breast
19 shot. And I'm not going to get into how that came about with
20 the breast shot, whether it was already there or whatever.

21 And the State, I'm glad the State -- and again, like
22 I said, Mr. Sweetin would be a very good teacher. He used the
23 word "sexy." Sexy is very different than sexual. Okay. A
24 lot of times in society we kind of take for granted words.
25 And I'm glad he used the word sexy, because those pictures

1 probably could and probably do qualify as sexy. Some of them
2 absolutely are sexy, especially the nudes one. They're very
3 sexy. But is it sexual? The literal meaning of sexual in the
4 dictionary is it involves sex, relating to sex. Ladies and
5 gentlemen of the jury, do you see any sex in those pictures?

6 Matter of fact, I want to give you a little story
7 just to kind of -- it reminds me of an old Burger King
8 commercial, and I'm going to relate this to a situation. It
9 reminds me of an old Burger King commercial where this old
10 lady, and some of you may remember it, she goes into this
11 hamburger restaurant, she orders a hamburger, right. She gets
12 the hamburger, she unwraps it, she lifts the bun and she goes,
13 Where's the beef? And the reason why I say that, because when
14 you look at these pictures that they showed you, where is the
15 sex? Because that's what sexual literally means, it involves
16 sex.

17 Now, you know what sexy means? Sexy means is
18 sexually suggestive. Now, those pictures might be sexually
19 suggestive, but they are definitely not sexual, because the
20 two things that Mr. Sweetin so wonderfully laid out for you --
21 and I'm glad he did because I learned a lot from that video, I
22 don't know about you, I learned a lot about the law -- is that
23 a sexual portrayal means it's a portrayal that involves sex.
24 A sexual conduct is conduct that involves sex. Do you see
25 that in any of those pictures? I'm at a loss, to be honest

1 with you. Yeah, they are sexy pictures, but they are not
2 sexual.

3 Now, there's an issue of there is some nudity in
4 some of those. Now, again, this is another controversial
5 issue, and this is where the ladies and gentlemen of the jury
6 come in very importantly in this matter because this is where
7 you're going to have to use your judgment on these pictures,
8 is there are at least, I don't recollect all the pictures, but
9 there's at least I think, I believe there's two where there's
10 some nudes, and I think there's one or two with breast shots.
11 I'm -- I can't recall exactly.

12 Now, there's some nudity in here, but does it rise
13 to the level of pornography? I don't think so. I don't even
14 think definition-wise it rises to the level of pornography.
15 Is it sexy? Yeah. Is it artistic? I would say so. Because
16 if you go to, as a teacher in some of my college classes I had
17 to take art classes. And you know what I saw in those art
18 classes? I saw nude figures, [indicating], just like those
19 pictures that I have that you saw. Nude pictures just like
20 that [indicating]. Breast shot [indicating].

21 Some of you -- one of you ladies and gentlemen of
22 the jury is about ready to have a baby. I don't know if
23 you're going to decide to breast feed or not.

24 MS. BLUTH: Judge, I'm going to object. We can't
25 turn it towards the jurors.

1 MR. SPROWSON: Well, I mean, okay. Let's just leave
2 it this way then.

3 THE COURT: It's sustained.

4 MR. SPROWSON: We know that --

5 I was just using it as an example. Sorry, Your
6 Honor. I'll use another example.

7 THE COURT: You can't personalize it.

8 MR. SPROWSON: Think about parents or mothers who
9 breast-feed their babies; is that okay?

10 THE COURT: That's fine.

11 MR. SPROWSON: Okay. Parents or mothers that
12 breast-feed their babies, if they choose to, they can actually
13 take their breast out and feed their baby. That's not
14 considered pornography. This is a baby drinking a mother's
15 milk from the breast. Is that pornography? I don't think so.

16 You know, I've seen parents take pictures of their
17 little ones in the bathtub naked. Is that pornography? I've
18 seen pictures of little ones running around naked because
19 their diapers fell off, you know, the parents think that's
20 hilarious, take pictures. Is that pornography?

21 And the reason why I bring all those scenarios up is
22 because you've got pictures there where they're nudes. Was it
23 for the purpose of the prurient interest in sex? Again, I
24 don't need pictures to have sex. What do I need to have
25 pictures for? Don't you think it's a little bit more rational

1 when I can actually have sex with the individual legally?
2 What do I need pictures for? I want to just bring that to
3 your attention, because this was left out.

4 So when we -- let's kind of take it back to the --
5 to the kidnapping charge. Again, you know, the State
6 presented a lot of witnesses and a lot of evidence and stuff,
7 and a lot of these things happened, you know. And they tried
8 to paint a picture of me that, you know, I'm trying to keep
9 all these things hidden from her mother. And, you know, I've
10 already admitted to you that I probably should have let the
11 mother know.

12 But the real issue is was it my intention to confine
13 her from her mother or imprison her. I mean, that's -- think
14 about that. Here's a young lady who has free range in my
15 house, you know. And I'm glad that they keep bringing that
16 picture up with the coloring book and the crayons, because it
17 just shows you how desperate they are to paint a bad picture
18 of me. She spent the majority of her time in the living room
19 on the Internet watching TV.

20 She hardly ever, ever, ever I would say even go into
21 that room. That was my guest room in case somebody came over
22 to spend the night or whatever. That's what that room was
23 for. I had another room I used as an office, and I had a
24 master bedroom where she and I slept lawfully, legally,
25 according to the State of Nevada. Now, granted, the

1 circumstances that she came to stay there at the place again,
2 there was no plan for her to stay for a long term.

3 And again, I want to bring up the issue of the
4 Social Security card and the birth certificate. The State
5 makes a very good point. It does seem kind of crazy. Why
6 would I ask her for that, you know. According to them, this
7 was this long-term plan. You know, again, I don't know what
8 the healthcare system is in the state of Nevada and, you know,
9 I asked her just as to be cautious. There was no particular
10 definite or set of reason. I gave the reason of a hospital
11 because, I don't know, it just seemed like that would probably
12 be something that you would use it for.

13 Yeah, I know her name. But, you know, when you're
14 filling out that stuff, sometimes there's information on there
15 that you need, you know, like maybe a Social Security number.
16 I don't know. I don't fill out too many hospital papers.
17 This is what I'm getting at. I didn't know if I would need it
18 or not, but I took the precaution just in case I did. You
19 know, like I said, I'm not an expert on these things. I was
20 taking a precaution. And yes, I did ask her to bring her
21 Social Security card and birth certificate.

22 Maybe only I needed her birth certificate. I don't
23 know. Maybe I didn't need any of them for that. I just
24 wanted to be careful. Because here it is, you know, someone
25 is threatening to kill themselves, and again, I didn't make

1 the best judgment. I should have said, hey, you know what,
2 Mom, you know what she's telling me, or hey, you know what,
3 let's take a detour to the hospital.

4 Again, I want to emphasize the fact that when she
5 came to my place -- well, let me back up. When she got in my
6 car, I just want to remind you of what she said how she felt.
7 Happy. Previously to that when she's emailing me she's
8 telling me I'm threatening to kill myself. She's in my car
9 now, happy. So I'm thinking to myself, okay, she's calmed
10 down. And maybe I should have just grabbed her by the hand,
11 hey, let's go back to Mom.

12 But again remember, there's three things that I
13 know. She's receiving counseling, therapy, and she had been
14 grounded for two months. Now, I just want to bring that up
15 because here it is, I had some degree of knowledge of her
16 emotional state, and it was disconcerting to me that she was
17 threatening to kill herself. And again, I like to repeat
18 myself because I think research shows that if you hear it at
19 least three times, it kind of plants it here [indicating]. I
20 get picked on a lot of times, so you keep saying the same
21 thing over and over again. I do that strategically. I am a
22 teacher. I have a reason for things I do. That's why I
23 repeat myself, because I want to plant it in your head.

24 So let's kind of speed it up a little bit. So we
25 get to my house. I've already assessed the situation. She's

1 happy. So is there long-term planning in this? She's at my
2 house at this time, you know. I don't know what's going to
3 happen. I can't -- like I said, I'm not a prophet. I can't
4 predict the future. I'm playing it by ear. You know, and all
5 of this stuff is happening so fast. You know, like I said, I
6 don't make the best judgments all the time, and this was
7 probably not one of them. I'm sorry. I just -- you know,
8 that's why I'm here.

9 So then the issue of the phone comes up. Now, I've
10 already stated -- I've had that, you know, the State -- I'm
11 glad they bring it up that at least I pay my bills on time. I
12 had it a long time, five years. At least I pay my bills,
13 right. That was in Pasadena, California. I moved here to Las
14 Vegas only two months, I'm trying to get things settled. I'm
15 getting furniture, I'm getting ready to start a job as a
16 teacher. I'm doing all kinds of things. You know, the last
17 thing on my mind is changing my phone number. That's why I
18 didn't do it sooner.

19 So here's the opportunity, Jaysenia says, hey,
20 change your phone number. Okay. I was going to do it
21 anyways. So to appease her, like I've already stated, I
22 changed it. Yeah, it does kind of look bad and I probably --
23 and again, I want you to think -- I want you to think
24 logically again, I've already been calling her how many times
25 did the State say.

1 You think I don't know that my phone number is with
2 the mother, that the mother is going to know my name. Do you
3 think I don't know that my name is not over my bank account.
4 Do you think that I don't know the mother's going to know
5 these things. Am I that stupid. I knew these things very
6 well, and it says a lot about my intention. Okay. It says a
7 lot about my intention.

8 So I just want to emphasize the amount of times that
9 I called, so that number was plastered all over those phone
10 bills, and I already stated why. It was an issue of money.
11 And I didn't call her to call me. How absurd is that
12 statement; I call her to call me. Hey, will you call me. It
13 doesn't make sense. When we'd talk she'd say, look, can you
14 call me at this time, or can you call me at this time. Okay.
15 I'll call you at that time if you want. I like to do what
16 people ask me to do most of the time. Sometimes I don't.
17 Sometimes I'm kind of grouchy.

18 But I do try to be amenable to what people want, and
19 maybe that's my problem, is that I give in to what people want
20 too much, like in this situation with Jaysenia. Yeah, I was
21 the adult. But do I have a personality -- my uncle once told
22 me that I'm a giver. And the only reason I'm bringing this up
23 is because I do have that personality. You know, I like to
24 make people happy. And sometimes I do stupid things and make
25 stupid mistakes to make people happy.

1 I do things to get myself in trouble and make myself
2 look really bad, because I want to make people happy. All I'm
3 telling you, ladies and gentlemen of the jury, is my
4 intentions were never to kidnap this young lady, to keep her,
5 confine her or conceal her from her mother, or imprison her.
6 I think the statute says imprison her. That's kind of a harsh
7 word, imprison her, to confine her.

8 Now let's get into again, I'm still sticking with
9 the kidnapping. I already told you in testimony we sat out on
10 the patio with neighbors around. Is that confining? Is that
11 imprisoned? We walked to the mailbox several times, out in
12 public. Is that imprisoning her? Is that confining her? We
13 went to fast food restaurants together. Is that imprisoning
14 her? Is that confining her?

15 I took her by her house. I said, Do you want to get
16 off right now, do you want to go home, please. I didn't say
17 it that way. I mean, I was thinking it. And I don't mean it
18 in a way -- because I don't want you to get confused. I had
19 feelings for this young lady and that's why she's there in
20 retrospect of the concern that I have for her well being. But
21 at the same time, you know, I'm not trying to keep her from
22 her mother.

23 There were times that I went shopping for food, and
24 yeah, she would stay in the car. She didn't want to go in.
25 She'd rather stay on my phone and play games or go on the

1 Internet. I had Internet access on my phone, so she'd on the
2 phone. Now, this is important too, because I want you to
3 think about this. If this is a person that's feeling so
4 threatened, so emotionally distraught and having all these
5 problems because of me, you think she's going to sit there
6 playing games and on the Internet.

7 My house, she spent a great deal of time on the
8 Internet. A great deal of time on the Internet. She could
9 have emailed anybody she wanted to. Her phone was right
10 there. Now, the State is trying to emphasize there's this
11 emotional shackles that I have on her. This is a young lady
12 that was able to do whatever she wanted.

13 And let me kind of say that carefully, because I
14 know the State will say, well, look, you know, you neglected
15 her, you know, she was able to do whatever she -- no. When I
16 say she was able to do whatever she wanted was I'm talking
17 about in terms of freedom. She was not restrained. I
18 provided food for her. And again, this is not with a plan for
19 a long-term stay. I provided food for her because look, I
20 need to eat, she needs to eat.

21 A matter of fact, you know, the day of, I want to
22 kind of back up a little bit, because the State made such a
23 big deal about this the day of. I picked her up, she was
24 feeling -- she was feeling happy, she's okay now, I changed my
25 phone number, we make love, the night ends, hey, I got to go

1 to work. All of this, and we're talking about the
2 circumstances. She's already now feeling better. She's not
3 threatening to kill herself. My assessment of her was, okay,
4 she's going to be okay.

5 All right. So yes, I did go to work, because I was
6 sure enough that she probably would be okay. So again, come
7 back, time goes by -- I'm not going to go into every minute
8 detail. It's three years ago. I don't even think I could
9 detail every minute. I'm just giving you the highlights
10 because the State has brought all these things up, and I'm
11 just trying to give you an answer in something other than what
12 they're trying to present to weigh, when you're weighing the
13 factors and the evidence. Okay.

14 Now, let's see if I need to mention anything else,
15 and I'm going to move on from the kidnapping. Again, I want
16 to emphasize again as the State has already brought up, to
17 constitute the crime charged, there must exist a union or
18 joint operation of an act forbidden by law and intent to do
19 the act. I never had an intent to kidnap anyone, and
20 especially the way it's defined; to keep, imprison or confine
21 her.

22 And I think there's another part that leads to it
23 Mr. Sweetin brought up, to perpetrate upon the person -- well,
24 let's kind of put it up so we can see it. Let me put my
25 glasses on, because I need to -- for distance, I need to see.

1 Can everyone see that clearly? Is that -- can everyone see
2 that? Just nod your head if you can see it.

3 Okay. Every person who leads, takes, entices or
4 carries away or detains any minor with the intent. Notice the
5 big word there, with the intent. Now, did I lead, take,
6 entice? I know at least -- you know, he's right, I think I
7 did at least take her, and I did at least carry her away. Did
8 I detain her? I don't think I detained her. Did I entice
9 her? I don't know. What would you call enticement? This is
10 a young lady that's threatening to kill herself. I don't
11 think there was any enticement involved in that.

12 I mean, I like the way they put their presentation
13 together. I mean, if you look at all that, it does make me
14 look, wow, incredibly guilty. But what I'm trying to point
15 you in the direction of is there was a lot else going on prior
16 to that. But here, look at my intention. This is my whole
17 argument, what was my intention in all of this, and it was the
18 girl's safety.

19 Now, I'm not a perfect person. I don't do things
20 perfectly, do you? Does anybody? Nobody I know does
21 everything perfectly. I know a lot of people that make bad
22 judgments. I make a lot of them obviously, or else I wouldn't
23 be here, right. Sorry. I do.

24 Okay. So I just want to remind the ladies and
25 gentlemen of the jury, there's a lot of legal language that

1 Mr. Sweetin has already gotten into. I'm not going to repeat
2 it. I think he did a very detailed examination of everything
3 and tried to connect me to it as well as possible. And, you
4 know, the best I can tell you is that my intention was never
5 to harm this young lady. It was her safety and her well
6 being. And again, I tried to point out to you the logic of
7 it; threatens to kill herself, nothing happens when she's with
8 me, tries to kill herself when she goes home.

9 Where is all of this with the killing stuff
10 happening at; is it happening at my home or the mom's? Think
11 about that. Where is she when she threatens to kill herself?
12 She's at Mom's. Where is it when she tries to kill herself?
13 She's at Mom's. What do we know, what are the facts that we
14 know? Two months she was granted, a computer and a phone was
15 taken away. Not two months, sorry. Two years. Two years,
16 that's a long time. Two years a computer and phone is taken
17 away. Two years receiving therapy. Two years she's receiving
18 counseling. She threatens to kill herself.

19 She comes to stay with me, nothing happens. As soon
20 as she gets back home, she tries to kill herself. Now, there
21 may be, you know, the State is probably going to try to point
22 that in my direction, but again, I mean just thinking about it
23 logically, where are these things taking place. Not once when
24 she was with me for the two months did she ever threaten to
25 kill herself or even try to kill herself. Did I plan on her

1 being there for two months, no. I was expecting that maybe
2 one day she'd go home, she'd relax, and then she'd be okay.
3 Obviously it didn't turn into that.

4 Well, I'm sorry I can't explain why it ended up
5 being two months. I already told you the tail end of that,
6 you know, why I lied to the police. I simply didn't want to
7 get into trouble. It wasn't the fact I was trying to hide her
8 from the mom or conceal her. I didn't want to get into
9 trouble. I'm sorry. I'd already got into it. Now I'm like
10 thinking like, oh, now I got myself into a mess. Why didn't I
11 reach out to the mom. I probably should have. Why didn't I
12 call the hospital. I probably should have. Why didn't I just
13 call the police, why didn't I just tell the officer she's
14 there. I should have.

15 The bottom line is I didn't want to get in trouble.
16 So when I did get back, the alternative was, look, you got to
17 go home. But at the same time I don't want to be insistent.
18 You know, because sometimes you got to be careful with
19 situations, especially when you're not really sure, you know.
20 You can get a feeling about things, you know. Like I said,
21 she seemed to be okay, but at the same time, look what
22 happened as soon as she goes back to her mom. So I'm just
23 trying to point out is that if someone is grounded for two
24 years and in counseling and therapy, there's something
25 definitely going on there, something definitely going on

1 there. Should that be laid at my feet? I didn't even know
2 the young lady at that time. Should that be laid at my feet.

3 Should I go to prison, should I go to prison for
4 something that happened -- I mean, I'm going to take
5 responsibility for my part, but let's also consider that part.
6 And that's all I'm asking for you to do is to consider what
7 I've just -- and is already in testimony, that part. Okay.
8 So let me move on. I kind of -- I like to be exhaustive.
9 Sometimes I overdo it. Sorry. Forgive me.

10 The mental harm thing. Now, the statute, let me
11 kind of find it here. Let me just kind of put that statute up
12 here with the -- I think this is the one right here. Yeah, I
13 think it's these two. I think it's this one. A person who
14 willfully -- let me kind of put it -- sorry. I got to put my
15 glasses on, make sure I got it in the right spot. Can
16 everyone see that? Just nod your head if you can see it. Can
17 everyone see that? Okay.

18 This is Instruction No. 10. It says, A person who
19 willfully, unlawfully and feloniously causes a child under the
20 age of 18 years to suffer unjustifiable physical pain or
21 mental suffering as a result of abuse or neglect, or to be
22 placed in a situation where the child may suffer physical pain
23 or mental suffering as a result of abuse or neglect is guilty
24 of child abuse, neglect or endangerment. I'm just going to
25 kind of stop there.

1 I want to point out to you ladies and gentlemen of
2 the jury that during the whole time that she was there -- and
3 again, this was not a planned two months. During the whole
4 time that she was there, she didn't even get a cut, not even a
5 sliver. Now, let's just talk about the physical aspect of it.
6 Was there any physical abuse, did I ever hit her, did I ever
7 tie her up, did I ever throw her down on the ground? No.

8 Now, the State is really weighing heavy on this
9 mental, this mental stuff, this emotional stuff. Now, this is
10 where I want to again, I'm going to kind of copy Mr. Sweetin
11 here. I'm going to go back to something I've already
12 mentioned a little bit. When you look at the mental stuff,
13 there was therapy, counseling prior to her even knowing me.

14 So even if you consider that there was some damage
15 caused by me, how do you divvy it up? How do you say, well,
16 you know what, we're going to assign 60 percent to Mr.
17 Sprowson and 40 percent to whatever that counseling and
18 therapy was about. How do you divvy that up? How do you
19 charge somebody with a crime when you can't even assign a
20 percentage of what he actually is accountable for.

21 Now, there was a lot of testimony here and a lot of
22 the stuff that I heard, you know, I was shocked that even that
23 was going on, to be honest with you. I never knew any of
24 that. But did it come from me? No. Was this girl in love
25 with me? Who's to say, you know. She seemed to be in love

1 with me. Was I in love with her? I thought so. But here's
2 the point. Is this a matter of someone who is emotionally
3 attached and in love with somebody or thinks they're in love
4 with somebody versus there's some kind of substantial mental
5 harm going on that I'm doing that is permanent, and now
6 she's -- she can no longer function.

7 And, you know, this is a grade A student -- I mean,
8 a student that got straight A's in school prior to meeting me.
9 There is a two month period of time, yes, she didn't go to
10 school. But as soon as she got back into school she did very
11 well, like that [indicating]. I have her grades. I probably
12 should have submitted it. Sorry. But she has good grades.
13 She's always had good grades.

14 Now, we mention -- it was funny and I'm glad the
15 State brought that picture up. I just kind of want to point
16 you in another direction here. There was a picture of games,
17 and the State was like, Look at these kiddy games. But they
18 forgot to show you the other side, where you got Scrabble,
19 you've got Yahtzee, you got Monopoly. You've got games that
20 actually require some level of mental capacity and
21 intelligence. We played -- one of the games that she used to
22 love to play all the time was Scrabble.

23 MS. BLUTH: Judge, I'm going to object. None of
24 this is in evidence.

25 MR. SPROWSON: I said that I played Scrabble with

1 her. That's in evidence. That's my testimony, we played
2 Scrabble.

3 THE COURT: The game part was in evidence. They
4 showed the photographs and everything. So you can continue on
5 this.

6 MR. SPROWSON: Yeah, and I testified that I --

7 THE COURT: That's fine. Talk to the jury, please.

8 MR. SPROWSON: Well, anyways, we played Scrabble,
9 and this is what I testified to. This is in evidence. I
10 testified to you yesterday that we played Scrabble. And that
11 picture was up and I pointed out in that picture that behind
12 there, there was a stack of games. That's why I'm mentioning
13 that, because that was in evidence.

14 The reason why I'm bringing this up to you is
15 because this young lady was intelligent, and the fact of the
16 matter is I lost most of the time when we played Scrabble.
17 Why is that so important? Because I'm trying to show you that
18 she is intelligent. She is mature. I'm trying to show you
19 that that didn't change. I bet you -- well, I'm not going to
20 speculate, because I probably can't. But anyways, bottom line
21 is, you know, there's a whole lot that has been missing from
22 the picture, and I just want to point it out.

23 Okay. So I think I've exhausted the kidnapping
24 thing. I just want to point out one more thing with the
25 kidnapping thing. And this is -- again, this is something I

1 want you to really, really consider, because this is part of
2 the evidence. This is Jaysenia's testimony. I asked her
3 point blank, Jaysenia, you told me about a nightmare, can you
4 please tell the jury what that nightmare was about.

5 And she point blank said, I had a nightmare that the
6 police were going to find me. Now, when you have a nightmare,
7 that describes your mental state. That's not something
8 pleasant. And what was it about? The police finding her.
9 I'm not concealing her. I'm not keeping her. I'm not
10 imprisoning her. And the State talks about, oh, Mom, I wish
11 you would have found me sooner. I want you to contrast that
12 with that nightmare. This is something that was physically
13 happened, a nightmare. When the State made that -- well, I'm
14 not even going to comment on it.

15 But anyways, just consider that nightmare. This is
16 the last thing, the last thing that we actually, besides the
17 testimony, had a conversation about before I got arrested and
18 before she got found. And again, I'm just bringing that up
19 because this is part of two parts. It's a mental -- it shows
20 a mental state and it shows the aspect of the kidnapping.

21 This is someone who's having a nightmare about
22 police finding her. Why would she be having a nightmare about
23 police finding her if I'm the one that's doing all of these
24 things, if I'm the one that's such a bad guy that I'm keeping
25 her, concealing her, imprisoning her or confining her,

1 whatever you want to say. Why is she having nightmares about
2 the police and not me? You need to consider that, please.

3 Now, I kind of put the mental stuff with the
4 kidnapping and like I said, I tried to piece this together the
5 best I can. I don't have the resources to do something like
6 that, sorry, that Mr. Sweetin did. But I'm going to touch
7 again on the porn, because this is an important aspect I'm --
8 well, this is an important aspect. I have to catch myself
9 because sometimes I get into things I shouldn't.

10 On the porn stuff, let me see if I can find the --
11 oh, here it is. There's a couple of them here actually on
12 this one. There's actually three, and probably what I'm going
13 to do is maybe just start with one. I think we'll just start
14 with the actual statute. This is the law that Mr. Sweetin
15 presented to you. Let me just make sure I got this on here.
16 Nod your head yes if you can see this, please. Can everyone
17 see this? Okay.

18 I'll read it to you. It says, A person who
19 knowingly uses, encourages, entices, coerces or permits a
20 minor to be the subject of a sexual portrayal and a
21 performance is guilty of the use of a minor in production of
22 pornography. A person who knowingly uses, encourages, entices
23 or permits a minor to simulate or engage in or assist others
24 to simulate or engage in sexual conduct to produce a
25 performance is guilty of the use of a minor in production of

1 pornography.

2 Ladies and gentlemen of the jury, why would I need
3 to produce pornography with someone I've already stated three
4 times that I can legally have sex with. Matter of fact, I
5 don't know if I can say this, more people have seen those
6 photographs now as a result of their actions. That's profound
7 to me. More people have seen those photographs as a result of
8 their actions.

9 Now let's talk a little bit about some of the
10 language there. Now, I'm going to point blank tell you, I'm
11 not a pervert. I'm not into pornography, particularly child
12 pornography. And I absolutely am appalled that I'm being
13 accused of it, but of course, I got to do my job now. So
14 there's two main things that I want to point out in this, and
15 I think what I'm going to do is I'm going to just kind of
16 enlarge it a little -- oh, sorry. The other way. Enlarge it
17 a little bit. Some of it may go out.

18 But I just want to focus in on something here, and
19 I'm going to point to it with the pencil here. You see that
20 word right there, those two words? It says, Sexual portrayal.
21 And I already brought this up, but I just want to hammer it in
22 your mind when you're considering all this. The word sexual
23 literally means involves sex. So logically thinking about it
24 from a teacher's perspective, you could literally say a
25 portrayal that involves sex. And I wouldn't be wrong to say

1 that, because that's literally what is being said there, a
2 portrayal that involves sex.

3 The other one, sexual conduct. If we just break it
4 down in its most basic meaning without getting all crazy and
5 all that stuff, conduct -- conduct that involves sex. So I
6 used the Burger King example because I thought maybe that
7 would help remind you. Where's the sex in all these pictures?
8 Where is the sex, whether it's masturbation and all the other
9 things that are listed. They give you a whole slew of things
10 of sexual conduct and what they would consider sex. Where is
11 it? I'm at a loss. I don't see any sex in any of those
12 pictures.

13 All right. The other thing is too, I just want to
14 point out two more things. Which one is it. Oh, yeah. Let
15 me -- let me just show you this for the sake of showing you
16 this. Mr. Sweetin was already kind enough to show it to you
17 already, which is kind of -- oops, sorry. It's been a while
18 since I've done this.

19 Okay. These are some of the things that I was
20 mentioning. It says, Sexual conduct means sexual intercourse,
21 lewd exhibition of the genitals, fellatio, cunnilingus, I
22 think I pronounced that right, bestiality, anal intercourse,
23 excretion, sadomasochistic abuse, masturbation or the
24 penetration of any part of a person's body or of any object
25 manipulated or inserted by a person into the anal opening of

1 the body of another. Wow. I can really see why they call
2 that pornography. To me that would be pornography. That
3 would be pornography in my mind.

4 Now, I just kind of want to point out here a phrase.
5 It's lewd exhibition. And please bear with me. Some of you I
6 may be kind of overdoing it, but I just want to make sure I'm
7 covering everything, because sometimes I forget things. So
8 lewd exhibition. The word "lewd," according to the
9 Merriam-Webster dictionary literally means vulgar or obscene.
10 Vulgar or obscene.

11 So when you're considering this particular statute,
12 it literally means sexual conduct means sexual intercourse,
13 vulgar or obscene exhibitions of the genitals. So it's not
14 just the genital area with some panties on that would -- it
15 has to literally be vulgar or obscene. Okay. So just
16 pointing that out to you.

17 Now, let me see. I think I've covered pretty much
18 everything. There was lewd. Oh, one other thing. I think I
19 already mentioned this, but I just want to make sure. There
20 is definitely a difference between sexy and sexual. Okay. So
21 when you're weighing the factors, keep that in mind, because
22 the statute refers to sexual, not sexy. There's a phrase
23 somewhere in the evidence that says, well, you know, he
24 requested sexy pictures or I sent him sexy pictures. That's
25 very different than sexual pictures.

1 Okay. So when you're looking at these photographs,
2 I really want you to do your job as you've already been
3 instructed, and I know you will. But just consider everything
4 that I've set before you. And I want to kind of go back to
5 what I started with. I want to go back to what I started
6 with.

7 And is it all right if I put some of my notes up
8 there just to show them? Can I do that? I just want to
9 put --

10 THE COURT: I just don't know what you have on
11 there, sir.

12 MR. SPROWSON: Can I show you? I just want to put
13 that, and I'll show the State too. Just that last sentence.
14 I already read it to them. I just want -- just for my
15 example.

16 THE COURT: Okay. Well, show the State, please.

17 MR. SPROWSON: Let me show it to them. I just want
18 to put my sentence up. I'm going to have it like that. Is
19 that okay?

20 MS. BLUTH: You just got to let me read it.

21 MR. SPROWSON: Yeah. Just that last one. I already
22 read it. I just want to put it up there so I can kind of just
23 demonstrate. It's okay?

24 MS. BLUTH: Mm-hmm.

25 MR. SPROWSON: Okay. This is just from my notes,

1 and here's the example that I used. Can everyone see that?
2 Just nod your head yes if you can see that. The part that I'm
3 referring to is, I have it in quotes here, I saw on TV a man
4 who said, Let's have sex.

5 And the example that I started off this whole
6 foundational conversation with was if you walked into the
7 living room and you were a parent, and you heard your child
8 say let's have sex, you would get a totally different
9 understanding and meaning of what's going on. Then if you put
10 it in context, that's very different. I saw on TV a man who
11 said, Let's have sex.

12 So ladies and gentlemen of the jury, I'm just
13 presenting to you a little bit more that you should consider.
14 In my closing argument I've talked a little bit about the
15 kidnapping, and my defense weighs heavily on the intent part.
16 My argument is that I had no intention to commit a criminal
17 act. My intentions were to make sure this young lady was
18 okay. I've already admitted to you that I didn't use proper
19 moral judgment. I've already admitted to you that I didn't do
20 the right thing that I should have.

21 There's a mention about, well, he doesn't take
22 responsibility, he's trying to blame the young lady. No. I
23 take responsibility. Yeah, I made mistakes in this scenario.
24 But did I commit a criminal act? Did I intend to kidnap her
25 and keep her from her mother? Absolutely not. And I want you

1 also to weigh the factor of what I said about the kidnapping;
2 where is it taking place when she's threatening and actually
3 doing. Certainly not in my place. So where is she feeling
4 threatened. Seriously, where is she feeling threatened?

5 The other thing with the substantial mental harm,
6 the physical -- or what is it, child abuse, you know, I've
7 already stated that not one -- she didn't even have a cut on
8 her finger. You know, and the State, like I said earlier, is
9 weighing heavily on the mental aspect of it, and this is why
10 I'm going to point you to that beginning. Prior to even
11 knowing me, two years of therapy, two years of counseling.

12 MS. BLUTH: Your Honor, I apologize. At this time
13 we're going all the way back to the beginning. He's --

14 MR. SPROWSON: I'm just trying to wrap it up in the
15 beginning, the beginning and the end. I'm just going back to
16 the beginning, that's all. Please forgive me. Give me two
17 minutes. I'm wrapping it up right now. I'm sorry. It's just
18 the way teachers are, at least I am. I like to repeat it just
19 to make sure it's hammered in.

20 So anyways, I'm just quickly -- in the beginning,
21 two years therapy, counseling, computer and phone taken away.
22 There's a reason for that prior to me. Substantial mental
23 harm? The question in my mind, and when you're weighing the
24 evidence you should consider that, what happened?

25 The last thing is the porn charges. You know, I

1 hate to have to beat up the State a little bit on this, but
2 more people have seen those pictures as a result of their
3 actions than mine. If you really weigh the definition of
4 that, you look at those pictures, it's not pornography.
5 There's a couple nude pictures there. They do have artistic
6 value.

7 I want you to also consider, and I'm going to wrap
8 it up right here, this is someone I can legally, lawfully have
9 sex with, whether it was at my place, at the park, in my car,
10 anywhere. In the state of Nevada, 16 is the legal age of
11 consent I can legally, lawfully have sex with.

12 Thank you, ladies and gentlemen of the jury for
13 bearing with me. I hope you really consider all the things
14 that I have said, and I believe I'm --

15 I'm passing it back to the State now, right?

16 THE COURT: You are.

17 MR. SPROWSON: Okay. So --

18 MS. BLUTH: Your Honor, I -- sorry. Are you done,
19 Mr. Sprowson?

20 MR. SPROWSON: Yeah. I'm passing it on to you.

21 MS. BLUTH: Okay. Awesome, thank you.

22 I just need about five minutes, Your Honor, to get
23 the exhibits together.

24 THE COURT: I think that's perfect for the jury.
25 Okay. Come back at 1:30. I know that we're trying to get you

1 out of here, ma'am. Again, don't talk about the case, don't
2 research the case, don't form or express an opinion on the
3 case.

4 (Jurors recessed at 1:21 p.m.)

5 THE COURT: Ms. Bluth.

6 MS. BLUTH: Thank you, Your Honor. Judge, I -- when
7 I was writing something in my rebuttal, I turned to the jury
8 instruction -- what was that numbered. Yeah. Just one
9 second. I apologize. If you go to the kidnapping section --

10 MR. SWEETIN: I think it's seven.

11 MS. BLUTH: It's seven?

12 MR. SWEETIN: I believe so.

13 MS. BLUTH: Okay. So I realize that there is a line
14 left of Instruction No. 8, where it says, A minor is a person
15 less than 18 years of age. In the kidnapping statute, it says
16 that a person under the age of 18 cannot consent to the crime
17 of kidnapping, and I can give Your Honor the statute and
18 Mr. Sprowson. Obviously that's a major element of the case,
19 so I'm obviously going to argue that to the jury, but I think
20 it should also be in writing. If you would like me to
21 approach with the instruction, or if I could just --

22 THE COURT: So is this a --

23 MR. SPROWSON: Yeah, I'm very familiar with the
24 issue.

25 THE COURT: -- an omitted jury instruction?

1 MR. SPROWSON: I had no problem with it. I have no
2 problem with it.

3 THE COURT: Is this one that's been omitted?

4 MS. BLUTH: Yeah, it's been omitted. And if you --
5 203.50, Section 2.

6 MR. SPROWSON: And I have no objection, Your Honor,
7 on that. I know what she's referring to.

8 THE COURT: Okay. So you want to add a jury
9 instruction?

10 MS. BLUTH: Yeah, or just add it to 8, to say a
11 person under the age of 18 cannot consent.

12 THE COURT: I think that the way it is now it'd be
13 best to do this as an additional jury instruction. I'll read
14 it to the jury quickly. Mr. Sprowson, to be fair, will have a
15 chance to comment upon it again, even though he's rested. And
16 I'll explain to that jury, that it's just inadvertently
17 omitted, so you get to explain it, and then you can jump up
18 and do your rebuttal.

19 MS. BLUTH: Sounds good.

20 THE COURT: I think that's the clearest way to do
21 it. So I need that instruction, please.

22 MS. BLUTH: Should I just type it out and email it,
23 or how -- because I don't have the -- were the instructions
24 emailed to you?

25 THE CLERK: No.

1 MS. BLUTH: No. They were just printed?

2 THE COURT: Type it and email it, because if I type
3 it up and make an error, then it's my error.

4 MS. BLUTH: Oh, so you want it to be my fault.

5 THE COURT: I do want it to be your fault.

6 MS. BLUTH: Good.

7 (Court confers with the clerk.)

8 THE COURT: Mr. Sprowson, and I am sorry, I did not
9 ask you. I thought from what I heard is you have no objection
10 to us doing that addition -- doing that --

11 MR. SPROWSON: I have no objection to that, Your
12 Honor. I'm familiar with the issue, so I have no problems
13 with that.

14 THE COURT: Are you going to email it to Carmen?

15 MS. BLUTH: I did it -- I was emailing it to Kathy,
16 but I can email it to Carmen. Does it need to be on that
17 lined paper, or can I just send, you know, the one, two,
18 three, the pleading paper?

19 THE COURT: It doesn't matter.

20 MS. BLUTH: Okay.

21 THE COURT: Okay. Then send it to him. And we'll
22 allow Mr. Sprowson to look at it before we include it and I
23 read it.

24 (Court recessed at 1:26 p.m. until 1:33 p.m.)

25 (Outside the presence of the jury.)

1 THE COURT: Ms. Bluth, did you review this?
2 MS. BLUTH: Yes, Your Honor. Thank you.
3 THE COURT: Mr. Sprowson, sir, did you review this,
4 the 7A?
5 MR. SPROWSON: May I approach? It's okay if I
6 approach?
7 THE COURT: Of course you can. That's fine.
8 MR. SPROWSON: Here's thinking.
9 THE COURT: Here's thinking?
10 MR. SPROWSON: Okay. We're on the record.
11 (Court confers with staff.)
12 THE COURT: Mr. Sprowson --
13 MR. SPROWSON: So all you did was edit the line, A
14 person under the age of 18 cannot consent to being kidnapped
15 or -- is this --
16 THE COURT: That's the State's addition.
17 MR. SPROWSON: All right. So this is we're just
18 going to add this one and this is in addition to the -- the
19 one that's under 18 is a minor?
20 THE COURT: Yes.
21 THE CLERK: No. It's Number 7.
22 THE COURT: It'll be behind 7. Do you want to see
23 what 7 is?
24 MR. SPROWSON: It should be 7A then. This is my
25 copy?

1 THE COURT: No. That would have been my copy.

2 THE MARSHAL: You have a copy on your desk.

3 THE CLERK: And I did put a copy on your desk.

4 MR. SPROWSON: Okay.

5 THE COURT: So do you want to see 7, Mr. Sprowson?

6 Do you want to see 7?

7 THE CLERK: It's following the kidnapping, all
8 right?

9 MR. SPROWSON: Okay. And then after that we have --
10 and that's 7A you marked it as?

11 THE CLERK: Yes, sir.

12 THE COURT: Okay. I'm ready if Mr. Sprowson's
13 ready. Are you ready?

14 MR. SPROWSON: Yeah, I'm ready.

15 THE COURT: Okay. Come on, let's bring the jury in.

16 (Jurors reconvene at 1:36 p.m.)

17 THE COURT: Welcome back, ladies and gentlemen of
18 the jury. It came to our attention when you guys were out
19 that there was a jury instruction that had been inadvertently
20 omitted, and it's Jury Instruction No. 7A. It says, A person
21 under the age of 18 cannot consent to being kidnapped.

22 And Mr. Sprowson, do you want to comment on this
23 addition to the jury instructions?

24 MR. SPROWSON: No. I don't need to, Your Honor.

25 THE COURT: Okay. Rebuttal by the State then.

1 MS. BLUTH: Thank you, Your Honor.

2 STATE'S REBUTTAL ARGUMENT

3 MS. BLUTH: You know, we started this process almost
4 two weeks ago, and you remember all of those questions that
5 were asked ad nauseam during the voir dire process, and
6 probably a lot of those questions make a lot more sense to you
7 now, now that the case has been completed and it's about to be
8 handed over to you.

9 And in the preparation of trial, you know, attorneys
10 try to make sure the documents are all correct and every
11 statement has been read and every transcript has been read.
12 But in every trial I've done, I've always found that it's
13 things that you could never prepare for, or little moments
14 that are just organic or human that really speak volumes to
15 jurors like the 14 of you, and in this case, two of those come
16 to my mind.

17 And the first one that comes to my mind is
18 yesterday, when I put Exhibit 21 over onto the overhead. And
19 Maria's going to turn it over in just a second. But when I
20 was asking the defendant questions in regards to his
21 relationship --

22 (Pause in proceeding.)

23 MS. BLUTH: It was this picture, which is State's
24 Exhibit 21. And yesterday, when I was asking Mr. Sprowson
25 some questions, he kind of smiled when I put up that picture,

1 this picture, and he said, "That's a great picture. I love
2 that picture. It's cute." And I asked him, Right now, as you
3 sit here today and you've seen Jaysenia, you've heard all
4 these things, you still see nothing wrong with what is being
5 depicted in this photograph; absolutely not, I love this
6 picture, it's a great picture.

7 It's moments like that it doesn't matter how much I
8 prepare or how many transcripts I read, because it just is
9 what it is. As he sits here today, there is still nothing
10 that he thinks is wrong and nothing that he's willing to take
11 responsibility for.

12 Throughout this process you've heard a lot about the
13 law. And lawyers use 45 words to really what could be used in
14 two. And so what I've asked you to do is if there comes a
15 point when you go back there and you're deliberating and
16 you're caught up on something and you don't understand, just
17 go through those instructions. Those will be your best friend
18 back there, because they really explain the elements of the
19 crime.

20 But what I want to talk about is kidnapping. I
21 think before you came to this courtroom, everybody has in
22 their mind this idea of kidnapping, that there's this little
23 girl and she's walking to school or she gets off the bus and
24 some stranger drives up in a creepy van, grabs her, throws her
25 in the van and drives off and takes her, and then keeps her

1 for no one to find her. That is absolutely kidnapping for
2 sure.

3 But while that is kidnapping in Nevada, so is this,
4 what we've charged here. It doesn't have to be that secret
5 stranger type relationship. Kidnapping, like Mr. Sweetin
6 talked about and like Mr. Sprowson talked about, is actually
7 can be much more simple. And so what I would ask you to do is
8 just consider two things. If you believe -- first of all,
9 Mr. Sprowson just admitted the first element. He said, I did
10 take her. By him going to the house and picking her up, that
11 satisfies take.

12 If you believe that when he picked her up in those
13 early morning hours that he knew that he was going to keep her
14 at his house, even if she agreed to it, so if you believe that
15 he picked her up and it was their plan for her to stay at his
16 house until she was 17 1/2 or 18 years old and that her mom
17 wouldn't find out, in Nevada that is kidnapping if you believe
18 that happened. If you listened -- if you believe what
19 Jaysenia said, that he was going to come get me, I wanted to
20 go and I was going to live, we were going to be together, we
21 were going to get married, until I turned 18, he is guilty of
22 kidnapping. That is what the law says.

23 If you believe that he picked her up and he took her
24 with the intent that for the next two years she would not go
25 to school, that's contributing to the delinquency of a minor.

1 That's also kidnapping. So it doesn't have to be this, you
2 know, complete elaborate plan and all those words don't have
3 to be met. It's as simple as that. You believe that he
4 picked her up, he took her with the intent that her mom
5 wouldn't find her and she was in on it, it's still kidnapping.

6 When he picked her up and he knew that she wasn't
7 going to be able to go to school, or that they were going to
8 go, you know, behave immorally or act in immoral ways, he is
9 guilty of kidnapping. The law says, which is what Judge Miley
10 just read to you, is that a -- someone under the age of 18, it
11 doesn't matter if they consented. It doesn't matter if
12 Jaysenia was like, yes, please come get me right now. I mean,
13 she says that that's what she said.

14 We're not saying she didn't say that. Hey, my mom
15 found out about us, come get me, we're not going to get to see
16 each other for months or maybe even years, you've got to come
17 get me. And what does he say? Okay. Get your birth
18 certificate, get your Social Security card. She can't consent
19 to being kidnapped. It doesn't matter that she wanted to go.
20 It doesn't matter that she wanted to be there.

21 We're not saying that he kept her in a dungeon and
22 that he beat her and that he tied her up. We're not saying
23 that. Absolutely not. That would be factually inaccurate.
24 It would absolutely be not true. The fact that she wanted to
25 be there does not mean anything under the law. She cannot

1 consent.

2 And, you know, ask yourself in using your common
3 sense, is there a reason why the legislature created those
4 laws, is there a reason why the age is 18. I mean, if
5 someone's, let's say they're a church leader, grooms a
6 10-year-old child, and this 10-year-old child loves this
7 church teacher so much, and this 10-year-old child wants to go
8 live with the church teacher and the teacher wants her to come
9 live with him, it doesn't matter that the child wants to. The
10 child has parents.

11 The law says that until you're 18, you're almost
12 basically -- I know that sounds weird, but like a possession
13 or property of your parents. Your parents get to decide where
14 you live. And so I'd ask you to think about the legislative
15 intent behind those types of things, behind the law when you
16 are thinking about this.

17 Now, I think Mr. Sweetin explained this, but six of
18 you might think that he took her with the intent that her mom
19 would never find them. Okay. And then the other six might
20 think that he took her with the intent that she would never go
21 to school or that they would engage in immoral behavior.
22 That's okay. You don't have to agree. You just have to agree
23 that one of those things is met. So you don't have to be
24 unanimous on exactly which element it is.

25 Now, the defendant would have you believe that he

1 had to do this, he had no other choice but to pick up Jaysenia
2 because he was so worried about her emotional health. Okay.
3 Number one, that's not a defense. Being worried about a
4 child's emotional health is not a defense to first degree
5 kidnapping. I think we can all agree that there are lots of
6 options out there if you're worried; call the police, call the
7 mother, call a friend, do anything. Get out of your car and
8 knock on the front door and say, I've got some big issues with
9 your daughter, I think that she's really going to hurt
10 herself.

11 But also ask yourself, is that believable? Because
12 when he picks her up, what does he do? He picks her up, he
13 takes her to his house, he's so worried about her, but instead
14 he has sex with her unprotected. That doesn't sound like
15 someone who's real worried about Jaysenia. That sounds
16 someone that's real worried about themselves and what they're
17 going to get out of it.

18 There are three bedrooms in that apartment or condo.
19 Three bedrooms. She could have had her own room, but no.
20 Where was all of her stuff? All of her stuff was in his room,
21 because that's where he wanted her. Yeah, you're right, 16
22 years old, the law says it's the age of consent. We didn't
23 charge him with sex assault. She can consent to having sex
24 with him. She can't consent to being at his home without her
25 mother's permission. That's what the law says.

1 And he's so -- he's so worried about her he then
2 leaves her day in and day out. He's not scared. And today he
3 even said, While she was with me she never threatened suicide
4 once, I thought she was fine. But yet he says that the whole
5 reason he kept her for two months was because he just really
6 wanted to get her better, he just wanted to make sure she was
7 okay before she got home. These things do not add up when you
8 look at them.

9 Jaysenia said multiple times, you know, they had
10 this plan. And I've asked you to look at the evidence and
11 read the poster that she writes, and read the things that she
12 said about they had a plan and she was going to be saved by
13 her Prince Charming from her evil stepmother. I mean, that
14 poster is proof in and of itself of this plan that the two of
15 them had together.

16 Some people may not understand the kidnapping law.
17 You may not like the kidnapping law. But in Nevada it is the
18 law. The defendant has broken the law for first degree
19 kidnapping, and you took an oath to follow that law, and we
20 would ask you to find him guilty of the kidnapping charge.

21 The instruction on credibility. There's an
22 instruction about considering someone's demeanor on the stand
23 and things like that, and I'd ask you to think about Jaysenia
24 Torres. And, you know, she comes in those doors, all those
25 eyes are on her, and she comes up here, she stands, she takes

1 her oath, and she sits here and what did she have in her hand?
2 Left hand Play-Doh, right hand a metal shield, and the whole
3 time you see her hands and you see her wringing and you see
4 her talking about these things.

5 Do you think it's easy for -- she's now 20 years
6 old. She will be 20 years old in a few months. It's been
7 almost four years, four years since this happened to her.
8 What did she look like to you? I mean, did she look like an
9 almost 20-year-old? What did she look like almost four years
10 ago when the defendant took her to his house? She was a
11 child.

12 And when she sat here, consider her demeanor. She
13 cried multiple times. And then the second moment, like I
14 said, the first moment one thing that stuck out to me was that
15 picture and the defendant's reactions yesterday as he sat in
16 this seat, but nothing spoke louder when Jaysenia didn't
17 realize that the defendant would get to approach her with
18 exhibits and things like that. And she shot that chair back
19 and started kind of to scream and to cry. Those types of
20 things, those actions mean way more than anything that I could
21 ever tell you in a closing argument.

22 What does she have to gain? What motives does she
23 have to gain now? She doesn't. You think it's fun to come in
24 here and tell this story? It's awful. What was her concern?
25 Her concern was I don't want people to know it was me. I want

1 to go to college. I don't want people to know. But yet she
2 still had to come back in here with the risk of these cameras
3 and people knowing it was her. Why would she do that? Why
4 would she tell that story? What would be her motives of doing
5 that?

6 The defendant wants to talk about this intellectual
7 mastermind that she was. I don't care if she was playing
8 chutes or ladders and I don't care if she was playing
9 Scrabble. She was 16 years old and she writes in crayon.
10 Take a look at those letters that she wrote, where she draws
11 him and her in stick figures and hearts. That's the mind of a
12 16-year-old living with a 44-year-old man who is a teacher,
13 who specializes and his expertise is in the teaching of
14 children.

15 And he wants to act like Jaysenia is this old soul,
16 this 16-year-old trapped in a 40-year-old body. If your
17 girlfriend comes over with her retainer, she probably
18 shouldn't be staying the night. She should probably be at her
19 house with her mom and her sisters. And look at the items,
20 just go through and look at the items that she brings over to
21 his house. She's a child. She's 16 years old.

22 And that's not to say, you know, she didn't make bad
23 decisions, because she did. But what did she do? She took
24 responsibility. She didn't get up there and say, oh, that was
25 his idea, that was his idea, that was his idea. She didn't do

1 that. There were plenty of times when she said, You know
2 what, I don't think that was his idea, I think that that was
3 my idea. She's not putting it all at his doorstep.

4 What she's saying is we were in this together. I'm
5 willing to take my responsibility for it. And she said, yes,
6 some of the photos, he asked me for some sexy pics, and she's
7 like, So I sent him what I thought was sexy. She admitted to
8 that. She admitted that she kept things purposely from her
9 mother because she knew her mother wouldn't approve, and she
10 told the defendant that.

11 She admitted that she tried to manipulate the system
12 so that it was when she was alone or when she was babysitting
13 her sisters when the defendant called her so her mom wouldn't
14 find out. She admitted to lying to her mother about Boca Park
15 and saying that she was at Jessica's house, and that certain
16 parts of the plan were her idea. She lied to the police. At
17 the preliminary hearing, she lied as soon as it was switched
18 over and the defense attorney got to ask her questions.

19 What did she do after that? She wrote the court a
20 letter saying, I'm sorry, I'm sorry I did this, I'm sorry that
21 I lied. I mean, this is a child struggling. She's -- you
22 know, she's struggling to do what is right mixed with the
23 feelings of a 16-year-old kid like I still love him. She's
24 not saying she didn't do it. She's saying she didn't do it
25 alone, and she has paid a price as well, probably a price that

1 she's still paying.

2 I'd like you to compare that with the defendant's
3 actions and what he's willing to take responsibility for.
4 Because yesterday, when he took the stand, he stated a litany
5 of things. It was Jaysenia who pursued him. It was Jaysenia
6 who wanted to meet in person. It was Jaysenia who wanted to
7 stay the night. It was -- he has no idea that what her mom
8 knew, because he believed that her mom knew and would be okay
9 with Jaysenia staying the night.

10 And then this whole thing of the alcohol. I mean,
11 he's not even going to admit that he was there when she had
12 the alcohol, that she must have gotten drunk when he was
13 upstairs in this room. I mean, it's not a mansion. It's a
14 three bedroom apartment. And he can't even admit to the fact
15 that he drank wine coolers with her.

16 The photos were Jaysenia's idea; that she said, I'm
17 going to kill myself if you don't come pick me up; that he was
18 just appeasing her because it was her idea for him to change
19 his number; that she wanted to stay and that he just kept
20 trying to get her to leave, this is your way home, if you want
21 to go home, look, I'm driving you, if you decide you want to
22 go, you can go. And then it just so happens that right
23 before, right before the police pick him up, after he's lied
24 four, five times, it just so happens that that weekend was the
25 weekend he was going to take her home and he was going to end

1 up doing the right thing.

2 And then Lisa, good old Lisa Thomas. Lisa Thomas,
3 who's just roaming around in Oklahoma somewhere writing
4 Jaysenia. Lisa knows the name of their child and Jaysenia's
5 birthday, and he just so happens there's only one other person
6 in the world who knows his user name and his password. And
7 then Lisa, who he met at a bar in Oklahoma and spent a couple
8 nights with, who knows all of his deepest darkest secrets.

9 And then she gets pissed off because he gets in a
10 car wreck or a wreck on the ice, and he doesn't get there fast
11 enough. So then Lisa gets on that Instagram and starts
12 messaging Jaysenia. He is literally incapable, incapable of
13 admitting anything he has ever done.

14 And now it's the porn. The porn, not only were they
15 Jaysenia's ideas, but now the State, we've shown more people
16 than he has shown. The only reason why we even have to show
17 these is because they are crimes he committed. That lays on
18 his shoulders and his shoulders alone. The more he wants to
19 lay on everybody else's doorstep, like he likes to say, the
20 more you realize that everything should be at his doorstep.
21 Because when people won't take responsibility for their own
22 actions, somebody else has to find them accountable for their
23 actions.

24 The defendant states that, you know, he was
25 cautious. Jaysenia just would not -- I mean, impetuous is

1 what he likes to say. Persistent and impetuous. She would
2 not stop, she would not stop, and he was so cautious. At what
3 point was he cautious? At the point where in 27 days he calls
4 her 34 times, was that being cautious? Or meeting her at a
5 roller skating rink, was that cautious? Going to her place of
6 work, asking her for nude photos.

7 And Mr. Sprowson's idea of, well, why would I need
8 photos of her if I can have sex with her whenever I wanted.
9 Well, first of all, Jaysenia said that the photos came before
10 they met in person, number one. And number two, people who
11 have intimacy or who have sex with each other, I mean, they
12 still send each other nude photos, it's not like once you have
13 sex you quit sending each other things like that. So that is
14 illogical in regards to the photo argument.

15 But he's trying to be cautious, yet within a few
16 weeks of meeting her on the Internet he takes her to his
17 house, where he has sex with her unprotected probably two
18 nights in a row, for sure the first night, and then the second
19 night. What part of this is cautious? And then the
20 engagement ring, is that cautious? Picking her up in the
21 middle of the night. The only thing that he was cautious
22 about was not getting caught.

23 He was cautious when the PI came to see him. He was
24 cautious when Detective Logiudice went to see him. He was
25 cautious when Officer Abbott went to see him. And then he was

1 cautious when Detective Platt went to see him. That's when he
2 was cautious, because he was cautious for himself. At no
3 point was he cautious with Jaysenia Torres, at no point.

4 The defendant said a few things in his opening
5 statement that I'd like to talk to you about. Because in his
6 opening statement, he said that at Boca Park, when he went to
7 pick up Jaysenia and when he takes her back for the first
8 nights together, she tells him, I'm going to lie to my mother
9 so I can stay the night. But yesterday, when he testified, he
10 said that he had no idea, he had no idea what she was telling
11 her mother.

12 He also said during his opening statement that the
13 ring was just a gesture, it wasn't a big deal, it was just a
14 gesture, I gave her this ring. But yesterday on the stand he
15 changed it, no, no, what I meant was emotionally it was a big
16 thing, but financially it wasn't a big thing.

17 There's something about the truth, there's a
18 statement about the truth, or a common saying rather, I should
19 say. It never changes. The truth shouldn't have to change.
20 Things happen one way and no matter how many times -- for
21 instance, you ate cereal this morning. No matter how many
22 times you say what you ate this morning, as long as you're
23 telling the truth, it should never change.

24 How many times has this man lied, just out and out
25 looked at people in their eyes and said, I have no idea.

1 Please, sir, please, there is a mother looking for her child,
2 I know you don't have children, but think about it. She is
3 looking for her child. Nope, I don't know why you keep coming
4 around here. I have no idea. Go find somebody else.

5 The substantial mental harm, absolutely the State
6 completely agrees that Jaysenia had received prior therapy,
7 that she suffered previously from anxiety, from fear of
8 abandonment. We don't hide behind that. Hundred percent that
9 happened. But that's different than what Katie Torres -- or
10 excuse me, Katie Smith told you and Jaysenia told you. They
11 told you that she had gone to therapy, but that her actions
12 were fine during that time period, that they were doing normal
13 mother-daughter stuff, that Jaysenia was flourishing, that she
14 had tried out for The Voice.

15 But these issues that Katie and Jaysenia talk about
16 when Jaysenia got back from living with the defendant, those
17 were different issues. Those were not feeling comfortable
18 being around other human beings. Those were not feeling like
19 you had self-worth, talking about self-doubt. And she was
20 told she couldn't sing, she didn't do the dishes right, she
21 didn't walk right.

22 And talk about and think about what the therapist
23 said yesterday, that Jaysenia's goal was to be able to control
24 her emotions, to control her anxiety, and to be able to
25 reintegrate into society. You know, she missed two months of

1 school when she was with the defendant. But then when she
2 went to the long-term treatment center, she missed an entire
3 year. An entire year of being in an uncontrolled environment
4 like a school, like a high school, like a college.

5 And so she worked very hard. So this idea, oh, she
6 went to school -- she missed school for two months and then
7 she went back like that [indicating] and got good grades, no,
8 it didn't quite work out like that for Jaysenia. Okay.

9 Jaysenia went to Montevista twice, tried to commit suicide,
10 and then had to leave her family and go up to Reno for where
11 she was almost for six months. Missed an entire year of
12 school.

13 So while the State is absolutely in agreeance with
14 Mr. Sprowson that Jaysenia had had prior therapy and
15 abandonment issues and anxiety, it was nothing in comparison
16 to what she still deals with. And Katie Smith says it all as
17 a mom, like she will never -- she will never be the same, like
18 she is forever changed. And is that that hard to believe when
19 you've been sitting here watching this for two weeks.

20 I mean, it's not even when he -- when the defendant
21 is crossing Jaysenia, watch her demeanor. She wouldn't even
22 look up for the first 40 minutes. She looked to the side and
23 played with her Play-Doh. And then when the defendant talks
24 to her about the dishes, "Jaysenia, isn't it true that I
25 talked to you about the dishes? What did I tell you about the

1 dishes?" And Jaysenia says, I don't -- I don't know. That
2 there was food still on them? Yeah. Yeah, that there was
3 food still on there. Just like that he doesn't even see
4 anything wrong with the behavior, and just like that she
5 snaps.

6 When I was standing here and I was reading the
7 poster, and I'd ask you to read the poster when you get back
8 there, and I asked her, Jaysenia, do you want to read the
9 poster or would you like me to read it, she said, I'd like you
10 to read it. And I sat here and I got down on my knees when I
11 got to the bottom and I read it, and she turned her head and
12 tears just flowed down, probably for a lot of reasons.
13 Probably there's a piece in there that maybe still loves the
14 defendant.

15 She is -- she still struggles. It's still hard to
16 draw the line. It's not like she's angry and I hate you. She
17 cries. This is hard. This is an internal struggle. That's
18 why it's substantial mental harm. Not bodily harm. We have
19 never said that he abused her physically. No way. Never said
20 that. Never said that he imprisoned her, threatened her, no,
21 no. It was the mental harm.

22 And that type of behavior shows there are reasons
23 why this law is this law. There are reasons why people under
24 18 can't consent to being kidnapped. It's because so mothers
25 like Katie Smith don't lie awake at night for two months

1 wondering if their child is even alive, and for kids like
2 Jaysenia Torres, so they're still not going to therapy.
3 That's why these laws are what they are and that's why they
4 make sense.

5 Before I get to accountability, the last -- the
6 thing I want to talk about is the pornography charges. And
7 this is the section where I would ask you to use the
8 instructions, because there is very specific sexual conduct
9 and sexual portrayals are listed, and there's very specific
10 definitions for them. But what I -- you know, the defendant
11 says number one, it wasn't his idea, and what did Jaysenia
12 say? Jaysenia said, I gave him what I thought was sexy and he
13 didn't like those, and so he asked me specifically.

14 And I, you know, Mr. Sweetin and Mr. Sprowson, they
15 didn't want to show you these pictures, and I understand why,
16 I do. But at the end of the day, he committed a crime and you
17 have to look at these pictures, because you have to come to
18 the decision of whether or not that these were criminal. And
19 Jaysenia told you, He told me he wanted like a sexy picture, I
20 sent him a breast picture, and he would then tell me, no, I
21 want a butt picture or a pose like this and a pose like that.
22 Even though she's 16, you're still not entitled to call or
23 Skype or send a child a message that says get into this pose.
24 That is what child porn is.

25 Again, many of us only think child porn, we think of

1 a five-year-old, a six-year-old, a seven-year-old. That's not
2 what the law says. If you -- a 16-year-old, and you tell them
3 I want a butt picture, pose like this, pose like that. And
4 Mr. Sprowson would like to tell you that he thinks that this
5 is artistic. What did Jaysenia say? She said, He wanted a
6 crotch shot. He told me how to pose.

7 There is nothing artistic about this. There is not
8 one damn artistic quality in that picture. Nor is it
9 appropriate for the butt picture, where she's on all fours
10 naked with a thong. There is nothing artistic about that. He
11 asked her for those poses, all four of them on four or five
12 different days. He committed that crime. And when you read
13 those instructions and you read what sexual portrayal and
14 sexual conduct say, you will see that he is guilty of those.

15 I guess at the end of the day Melvyn Sprowson had so
16 many opportunities to do what was right. So many
17 opportunities. When she said, hey, I'm 16, he could have shut
18 off the computer. When he said -- when they saw on Facebook
19 that her family was looking for her, he could have said, hey,
20 this has gone too far, the gig is up.

21 When he brought home the missing poster and saw that
22 her family was out posting those posters wondering where she
23 was, he could have done what was right. When each one of
24 those officers and detectives went to him and tried to talk to
25 him to see if he could help, he could have done what was

1 right.

2 What I'd ask you to consider are his actions before
3 he went and picked her up, the actions during when he picked
4 her up and when she lived with him, which I've already gone
5 over, but his actions after, his actions after he got caught.
6 He knew how badly she was struggling. He knew she had tried
7 to commit suicide. He knew she stayed at Montevista. He knew
8 she had gone to Willow Springs. And still, and still he chose
9 to contact her.

10 Can you imagine what a struggle that is, at 16 years
11 old knowing and thinking that the whole world is going to know
12 and see pictures of you, and you committed suicide, you've
13 gone to a long-term treatment facility, how far she must have
14 come? He knew all that and he still tried to bring her back
15 into his fold, and luckily, thankfully for Katie Smith and
16 Jaysenia Torres, she was stronger this time and she told her
17 mom.

18 When was it ever going to stop for him? And he says
19 to you that he's the vulnerable one, he's the one who has
20 suffered. It's not just that picture that I showed you that
21 he shows that there's nothing wrong with that. He believes he
22 has done nothing wrong, and that's what today is. That's what
23 today's about, and that's about accountability.

24 In order for us to live in a society where we all
25 live and we're safe and we work and we go home to our

1 families, we all make decisions and we all have to be
2 responsible for those decisions. That's what accountability
3 is. And when someone won't be responsible or hold themselves
4 accountable for their decisions, that's when a jury comes in.

5 You are the only 12 people who can tell him what he
6 did was wrong. We ask that you go back there, you look at the
7 evidence, you read the instructions and you listen to the
8 testimony, and by that I mean look at your notes, and you find
9 him guilty of those charges because he is guilty. And I thank
10 you.

11 THE COURT: Jason. Please swear him in, Kathy.

12 (Marshal is sworn to take charge of the jury.)

13 (Jurors retire to deliberate at 2:12 p.m.)

14 THE COURT: Okay. So leave us -- as far as today,
15 the one juror, the woman who's pregnant, she has a commitment
16 at 2:30. So I think they'll probably just go back there,
17 maybe select a foreperson and then they'll leave for the day.
18 I'm not sure what time Jason's going to have them come back
19 tomorrow.

20 THE CLERK: He has them coming back at 8:00 a.m. to
21 start deliberations.

22 THE COURT: Okay. So leave us with contact
23 information.

24 THE COURT: I know where to find you.

25 (Court recessed at 2:13 p.m.)

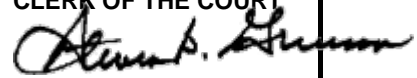
ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

A handwritten signature in cursive script, reading "Kimberly Lawson", is written over a horizontal line.

KIMBERLY LAWSON
TRANSCRIBER

UNCERTIFIED ROUGH DRAFT



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	CASE NO. C295158-1
Plaintiff,)	DEPT NO. XXIII
)	
vs.)	
)	
MELVYN PERRY SPROWSON, JR.,)	TRANSCRIPT OF
)	PROCEEDING
Defendant.)	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 9

FRIDAY, MARCH 31, 2017

APPEARANCES:

For the State:	JAMES SWEETIN, ESQ. JACQUELINE M. BLUTH, ESQ. Chief Deputy District Attorneys
For the Defendant:	MELVYN PERRY SPROWSON, Pro Se MICHAEL R. YOHAY, ESQ.

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3112

1 **LAS VEGAS, NEVADA, FRIDAY, MARCH 31, 2017, 10:27 A.M.**

2 *** * * * ***

3 (Outside the presence of the jury.)

4 THE COURT: C295158, State of Nevada vs. Melvyn
5 Sprowson. The record will reflect the presence of the
6 defendant, the chief deputies district attorney prosecuting
7 the case. And my understanding, Marshal, is that you've been
8 informed there's a verdict?

9 THE MARSHAL: We have a verdict, Judge.

10 THE COURT: All right. You'll want to bring the
11 jury in, please.

12 THE MARSHAL: I will.

13 (Pause in proceeding.)

14 (Jurors enter at 10:29 a.m.)

15 THE COURT: All right. Now you may all please be
16 seated. Judge Miley is significantly taller than I am, so I
17 cannot see you very well. My understanding is that the jury
18 has reached a verdict. Who is our foreperson?

19 JUROR NO. 8: I am, Your Honor.

20 THE COURT: Would you hand the verdict to the
21 marshal. Thank you.

22 All right. Thank you. And the clerk will read the
23 verdict, and thank you.

24 THE CLERK: District Court, Clark County, Nevada.
25 Case No. C295158, Department 23. The State of Nevada,

1 plaintiff, vs. Melvyn Perry Sprowson, Jr., defendant.

2 Verdict. We, the jury in the above-entitled case,
3 find the defendant, Melvyn Perry Sprowson, Jr., as follows:

4 Count 1. First degree kidnapping; guilty of first
5 degree kidnapping.

6 Count 2. Child abuse, neglect or endangerment with
7 substantial bodily or mental harm; guilty of child abuse,
8 neglect or endangerment with substantial bodily or mental
9 harm.

10 Count 3. Unlawful use of a minor in the production
11 of pornography; guilty of unlawful use of minor in the
12 production of pornography.

13 Count 4. Unlawful use of a minor in the production
14 of pornography; guilty of unlawful use of a minor in the
15 production of pornography.

16 Count 5. Unlawful use of a minor in the production
17 of pornography; guilty of unlawful use of a minor in the
18 production of pornography.

19 Count 6. Unlawful use of a minor in the production
20 of pornography; guilty of unlawful use of a minor in the
21 production of pornography.

22 Dated this 31st day of March 2017. Dorothy Funston,
23 foreperson.

24 Ladies and gentlemen of the jury, are these your
25 verdicts as read, so say you one, so say you all?

1 (Jurors respond affirmatively.)

2 THE COURT: Would either side like the jury polled?

3 MS. BLUTH: Not on behalf of the State, Your Honor.

4 THE COURT: Sir, would you like the jury polled?

5 MR. SPROWSON: That's fine.

6 THE COURT: Thank you. Ladies and gentlemen, thank
7 you very much for your service in this matter. You are now
8 relieved of your obligation not to discuss this case with
9 anyone. You are free to do so. However, if you do not wish
10 to discuss your verdict or talk to anyone about your verdict,
11 then that is your decision to make.

12 If anyone persists after you tell them you do not
13 wish to discuss it, then please bring it to the attention of
14 the marshal, who will bring it to the attention of the Court,
15 and we will look into that matter and see that that
16 persistence does not continue.

17 I know that the attorneys may wish to speak with
18 you. It's always helpful to them. They call it practicing
19 law for a reason. Lawyers continue to practice law for their
20 entire career. And so if you would like to speak to the chief
21 deputy district attorneys in this case, I'll -- what I'll have
22 the marshal do is conduct you back into the jury room, and
23 I'll find out whether you'd like to speak with them at all,
24 and I'll relay that back to you.

25 But again, thank you very much for your service and

1 your willingness to participate as jurors. As you know, in
2 our system of justice, if we did not have people willing to
3 serve as conscientious and impartial jurors, it could not --
4 the system could not function as it does, and so I know that
5 Judge Miley would ask me to thank you as well. And so on
6 behalf of all the judges at the Eighth Judicial District
7 Court, I thank you for your service. Marshal.

8 THE MARSHAL: Thank you, Judge.

9 (Jurors dismissed at 10:34 a.m.)

10 THE COURT: And the record will reflect that the
11 jury has departed the courtroom. Now, my understanding is
12 that the defendant is currently being held without bail; is
13 that correct?

14 MS. BLUTH: That's a correct statement, Your Honor.

15 THE COURT: So that status will continue. We'll
16 refer this to the division of parole and probation for
17 presentence investigation report, and set it down for
18 sentencing.

19 THE CLERK: May 17, 9:30.

20 MS. BLUTH: Thank you.

21 THE COURT: Thank you. And I'll come back and let
22 you know what the jury wants.

23 MS. BLUTH: Thank you, Your Honor.

24 (Court adjourned at 10:35 a.m.)
25

ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

A handwritten signature in cursive script, reading "Kimberly Lawson", is written over a horizontal line.

KIMBERLY LAWSON
TRANSCRIBER

UNCERTIFIED ROUGH DRAFT



1 RTRAN

2
3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 MELVYN PERRY SPROWSON, JR.,

12 Defendant.
13

CASE NO. C295158-1

DEPT. NO. XXIII

TRANSCRIPT OF PROCEEDINGS

14
15 BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE

16 WEDNESDAY, MAY 24, 2017

17 **SENTENCING – COUNTS 1 - 6**

18 APPEARANCES:

19 For the Plaintiff:

JACQUELINE M. BLUTH, ESQ.
JAMES SWEETIN, ESQ.
Chief Deputy District Attorneys

22 For the Defendant:

MICHAEL R. YOHAY, ESQ.
Deputy Public Defender

24
25 RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1 WEDNESDAY, MAY 24, 2017, 11:22 A.M.

2
3 THE MARSHAL: Page 14, C295158, Sprowson.

4 THE COURT: All right, Mr. Sprowson. Good morning. It's the time set
5 for sentencing in your case.

6 THE DEFENDANT: Good morning, Your Honor, if I may.

7 THE COURT: Mm-hmm.

8 THE DEFENDANT: I just got my PSI yesterday and I was discussing with
9 Mr. Yohay, my standby counsel; there's some incorrect information --

10 THE COURT: Okay.

11 THE DEFENDANT: -- on page 4, and I was never given an opportunity to
12 even give an opposition or objection to any of the information. And concerning
13 the fact that I only got it yesterday, I'd like to have an opportunity to go
14 through it and actually correct -- or actually submit some of the things that are
15 incorrect in your -- or bring them to the attention of the Court. And I was
16 talking with Mr. Yohay who suggested that we ask for a 30-day continuance
17 for sentencing so I can have this done. Since I only got it yesterday, I didn't
18 have the opportunity to do anything.

19 THE COURT: Okay. So specifically what are you saying is incorrect in
20 your PSI?

21 THE DEFENDANT: On page 4, there's -- where it says arrest date,
22 offense, I have the first four counts. That seems to be correct. Then it has
23 RMD 12-31-13, three counts. The last part here, the RMD 2-4-15, when I was
24 remanded, I was not remanded for these two charges. They've got two
25 counts, child abuse and neglect with substantial bodily and mental harm and

1 use of a deadly weapon. I'm not even charged with that.

2 THE COURT: Okay. Are there any other errors that you see in the PSI?

3 THE DEFENDANT: This is the main thing, but some of this stuff that as
4 far as the offense synopsis and things like that, I'd like to address those things
5 in a written form and file with the Court prior to sentencing.

6 MS. BLUTH: Judge, in regards to the wording in the RMD 2-4-15, the
7 State would agree, and we can agree to strike that language. I'm not sure
8 where the use of a deadly weapon came in, so that can absolutely be stricken.
9 As far as the offense synopsis, I mean that's something that Mr. Sprowson's
10 always going to object to because he, you know, he obviously has an objection
11 to the factual basis of these charges so I don't think that that's a proper basis
12 to continue; although, he can obviously say orally today what he believes he did
13 or didn't do, but for a continuance because he objects to the facts in the
14 offense synopsis is not, you know, surprising to anybody in the court.

15 THE DEFENDANT: Your Honor, I'm legally entitled to have an opportunity
16 to file a written objection to this report. One day is not giving me enough time
17 to do anything. I got this literally -- I mean Mr. Yohay notified this Court; I
18 literally got this yesterday when Mr. Yohay met with me. I didn't have time to
19 deal with this. As a matter of fact, by the time I got it, even if I could file
20 something with the Court yesterday, if I had something electronically, I
21 wouldn't be able to do it because it was late in the afternoon. I mean make it
22 two weeks. Give me some opportunity, Your Honor, so that I can at least have
23 a -- 'cause this -- if I at sentencing, if I have an opportunity for parole, this is
24 going to have an impact on it.

25 THE COURT: So --

1 THE DEFENDANT: That's why I feel it's important, Your Honor.

2 THE COURT: Okay. Well, the issue for me would be the -- obviously, the
3 incorrect portion of the top of page 4, which shows that you were remanded
4 with obviously with use of a deadly weapon. That could affect your ability to
5 make parole. As far as the factual synopsis, I think you're just going to
6 probably disagree with that. But is there anything else in the PSI that he's
7 objecting to, that you've gone over with him? My only concern is, I think the
8 victim, I don't recall, are they from out of state, the victim Jasmin?

9 MS. BLUTH: One, yes. Jaysenia is out.

10 THE COURT: Jaysenia. I'm sorry, it's been a while.

11 MS. BLUTH: That's okay.

12 THE COURT: Who else is here to speak?

13 MS. BLUTH: Her mother and her sisters.

14 THE COURT: They're also out of state?

15 MS. BLUTH: No, no. no.

16 THE COURT: She's in Reno, though; right?

17 MS. BLUTH: Yeah.

18 THE COURT: Is she down here for the summer?

19 MS. BLUTH: Back and forth.

20 THE COURT: Back and forth. When will she be back down to
21 Las Vegas?

22 MS. BLUTH: Two weeks. Whatever you want to give the Defendant,
23 we'll make sure she's here.

24 THE COURT: Okay. Well, let's just do it when she's here.

25 MS. BLUTH: Okay.

1 THE COURT: 'Cause her mom lives here already, right?

2 MS. BLUTH: Correct. Yes, I think she's going to be here the majority of
3 the summer.

4 THE COURT: Okay. So Mr. Sprowson, did you notice anything else that
5 you believe is incorrect with the PSI?

6 THE DEFENDANT: Well, that --

7 THE COURT: So usually what happens we send it back to P&P.

8 THE DEFENDANT: Well, that was the main thing, but I haven't had a
9 chance to actually gone through this. Like I said, you know, I was going
10 through other paperwork preparing for sentencing today and since I got this so
11 late, I was going to bring this issue up, and so I still need time to go through
12 this. You know, it's not just the offense synopsis. I just want to make sure
13 everything is correct on here. I mean there's not very much to it because I
14 don't have a criminal history, but I would like at least a fair opportunity. I'm
15 entitled to that, Your Honor. That's all I'm asking for.

16 THE COURT: Okay. Why don't we do this: So you already noted one
17 thing on page 4, and the State does agree that it's inaccurate and that it should
18 be stricken from the PSI. So Monday is a holiday, what if we come back on
19 Wednesday? You have between now and Wednesday to go through the PSI.
20 Make sure there's nothing else that you believe that it's inaccurate that P&P
21 needs to go back and readdress.

22 THE DEFENDANT: Right.

23 THE COURT: And then once we do that on Wednesday, we'll send it
24 back to P&P to make the corrections or look into any issues you may have with
25 the PSI, okay?

1 THE DEFENDANT: Okay, so --

2 THE COURT: 'Cause that'll give you a week to look at the PSI.

3 THE DEFENDANT: Right. And then when would the sentencing date be?

4 THE COURT: The sentencing date would probably be -- how long do you
5 think it'd take P&P to do an amended?

6 THE CLERK: Probably about 30 days.

7 THE COURT: So it'd be -- yeah, it probably be toward the end of June,
8 middle of -- sometime early July.

9 THE DEFENDANT: That's fine. That'll give me an opportunity to -- that's
10 all I'm asking for, Your Honor, just a fair opportunity because, you know, if I do
11 get parole, an opportunity for parole, I'd like it to be correct.

12 THE COURT: No, no, this is the time where if you have an issue with the
13 PSI, this is the time you have to make those changes.

14 THE DEFENDANT: Right.

15 THE COURT: What is Ms. Torres' schedule?

16 MS. BLUTH: So they're not going to be here July 4th through the 19th, so
17 it would either have to be before or after that.

18 THE CLERK: It could be -- from next Wednesday, 30 days would be -- I'm
19 sorry, June 21st.

20 THE COURT: I don't care what is -- which one's better; does she want it
21 in June or the end of July?

22 MS. BLUTH: Sorry, Your Honor, it'd have to be before July 4th.

23 THE COURT: Okay. So we'll do it --

24 MS. BLUTH: And I can call P&P and expedite that, just striking of that
25 language if you'd like.

1 THE COURT: Okay, so but we're going to come back next week so he
2 can fully look at the PSI.

3 MS. BLUTH: Oh, okay.

4 THE COURT: Because he says he's not sure whether --

5 MS. BLUTH: If there's others.

6 THE COURT: -- there's other corrections. So let's give you a date for
7 sentencing so the speakers can plan accordingly and then we'll come back next
8 Wednesday, and Mr. Sprowson can look at the PSI and tell me if there's
9 anything else we need to have P&P look at, okay?

10 THE DEFENDANT: And then one other thing, Your Honor, if I may. Is
11 there any way that I can ensure that I'll actually get the updated copy so I can
12 look at it and make sure those corrections were made? I mean part of my
13 reason why I'm asking for the continuance is 'cause I got it so late, you know,
14 and I couldn't [indiscernible].

15 THE COURT: I understand. Hopefully, Mr. Yohay will try to get it to you
16 as soon as you can.

17 MR. YOHAY: Yeah, Judge, I mean I had assumed that they would send it
18 to him since he's representing himself. When I spoke to Mr. Sprowson the
19 other day, I realized he didn't have one. That's when I contacted your court
20 staff and they were kind enough to email me one that I could run over to him,
21 so.

22 THE COURT: So maybe next time maybe you can be a little more
23 proactive, please?

24 MR. YOHAY: I will.

25 THE COURT: Great. Thank you.

1 THE CLERK: Okay, so status check regarding the PSI is May 31st at 9:30;
2 sentencing June 28th at 9:30.

3 THE COURT: Okay. Bye, Mr. Sprowson, we'll see you next week.

4 THE DEFENDANT: Thank you. Thank you, Your Honor.

5 [Matter recalled]

6 THE MARSHAL: Recalling page 14, C295158, Sprowson.

7 MS. BLUTH: Is the 28th a Monday?

8 THE CLERK: Wednesday.

9 MS. BLUTH: So, unfortunately, we're going to have to do it on Monday
10 the 26th. There's a mandatory training on the 28th, sorry.

11 THE CLERK: Let me double check the calendar real quick.

12 MS. BLUTH: Okay.

13 THE CLERK: That's fine. So June 26th, 9:30.

14 THE COURT: That's your sentencing date, okay?

15 THE DEFENDANT: June 26th?

16 THE CLERK: Yes.

17 THE DEFENDANT: Okay. Thank you.

18 THE COURT: Just two weeks.

19 PROCEEDINGS CONCLUDED AT 11:30 A.M.

20 * * * * *

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

23 
24 MARIA L. GARIBAY
25 Court Recorder/Transcriber



1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
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7 STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 MELVYN PERRY SPROWSON, JR.,

12 Defendant.
13

)
) CASE NO. C295158-1
)

) DEPT. NO. XXIII
)

) **TRANSCRIPT OF PROCEEDINGS**
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15 BEFORE THE HONORABLE STEFANY A. MILEY, DISTRICT COURT JUDGE

16 WEDNESDAY, MAY 31, 2017

17 **STATUS CHECK: PSI CORRECTIONS**
18
19

20 APPEARANCES:

21 For the Plaintiff:

ROBERT BRAD TURNER, ESQ.
Chief Deputy District Attorney

22 For the Defendant:

MICHAEL R. YOHAY, ESQ.
Deputy Public Defender
23
24

25 RECORDED BY: MARIA L. GARIBAY, COURT RECORDER

1 WEDNESDAY, MAY 31, 2017, 11:27 A.M.

2
3 THE MARSHAL: Bottom of page 22, C295158, Sprowson.

4 THE COURT: Hi, Mr. Sprowson. Good morning.

5 THE DEFENDANT: Good morning, Your Honor, just here to update the
6 PSI.

7 THE COURT: Yeah.

8 THE DEFENDANT: And I had a chance to review the report and the only
9 problem that I --

10 THE MARSHAL: No, no.

11 THE COURT: Hold on a second.

12 THE MARSHAL: He's got the file.

13 THE COURT: Brad has the file?

14 MR. TURNER: Judge, I do have the file. My understanding is it is on this
15 morning for the Defendant to make representations about challenges to the PSI.

16 Okay. I'm prepared to go forward.

17 THE COURT: And then, Mr. Yohay, are you going to -- once he makes all
18 those representations, are you going to get it over to P&P so they can look
19 into?

20 MR. YOHAY: I believe the State was going to.

21 THE COURT: Is the State going to do it?

22 MR. TURNER: I -- I -- once the Court directs me to do it, I'll notate all the
23 various challenges that he has and then forward it to P&P.

24 THE COURT: You're going to be directed to do it, so get your pen out.

25 MR. TURNER: That -- we'll just -- depending on what he says, Judge,

1 and the specifics of it then we will do that.

2 THE COURT: Okay. All right.

3 THE DEFENDANT: Yeah. And I had a chance to review the PSI and I
4 thank you, Your Honor, for allowing me doing that. As I addressed last time,
5 on page 4, it's just really dealing with the arrest dates here. I pointed out that
6 there were two remand dates, or RMD, that is remand. One is 12-31-13 and
7 one is 2-4-15. Last time, I mentioned that on the 2-4-15 remand date that I
8 was never charged with any charges. I was remanded on a violation of bail
9 condition. So that should not be there, and I do believe the State stipulated to
10 that.

11 But the second problem that I have, I just wanted clarification from
12 the Court. It says remand 12-31-13 on page 4, and it's adding three counts of
13 the use/permit minor 14 to produce pornography. That -- and I was discussing
14 with Mr. Yohay, now, does the Court when they do this, when I'm adding --
15 when they're adding new charges, 'cause I was in custody, when they're
16 adding new charges, should that be classified as a remand or amended 'cause I
17 was under the understanding that it was amended charges, not remand. I just
18 don't want it to reflect if I go before a parole board or something like that I got
19 out and re-offended somehow and came back. That's my main concern.

20 THE COURT: I don't know. Mr. Turner.

21 MR. TURNER: So Defendant doesn't want it to say remand. Basically, he
22 doesn't like the terminology that's used. Is that really what we're looking at,
23 Judge?

24 THE DEFENDANT: I just want clarification. That's all.

25 THE COURT: He just wants to make sure I think that it shows he was

1 remanded only from this case; right?

2 THE DEFENDANT: Well, the last one shouldn't even be there because I
3 was never remanded for any charges at all. I was remanded on bail condition.
4 That's my first issue, the 12-31-13 date. And I believe what Mr. Yohay was
5 explaining to me that the way the Court does it that if it's an amended charge
6 that they put it as a RMD remand; is that correct? 'Cause I just want
7 clarification because like I said, if this goes before a parole board, I don't want
8 to look like I got out and somehow I re-offended and came back. That's my
9 concern.

10 MR. YOHAY: My guess as to what happened is that they may have
11 added additional charges at the prelim date, so he may actually been re-booked
12 in on those new charges. Now, the way it reflects it looks like he was
13 remanded like on new charges, which technically I don't think it's correct. He
14 was rebooked.

15 THE DEFENDANT: I was not.

16 MR. TURNER: Well, I think typically the Court uses the terminology
17 remanding on the additional charges. I don't know, maybe this is something
18 that the Court can pass. Ms. Bluth might be able to clarify for the record that
19 that's in fact the case and we can address it potentially without having to go
20 back as long as the Court understands what it means.

21 THE COURT: No, there was one other -- you know what, for whatever
22 reason, I don't see that I have the PSI. There was one thing that was
23 substantive 'cause --

24 MR. YOHAY: Right, the deadly weapon thing.

25 THE COURT: -- the deadly weapon. It absolutely has to go back.

1 MR. TURNER: Okay.

2 THE COURT: 'Cause that would -- yeah, that would affect him for sure
3 with parole.

4 MR. TURNER: And where was that, Judge? I apologize. What are we
5 talking about?

6 MR. YOHAY: I'll show you. It's on page 4.

7 MR. TURNER: Okay.

8 THE DEFENDANT: It's on page 4. Well, the other issue is on 2-4.

9 THE COURT: Stop. Hold on a second.

10 THE DEFENDANT: I'm sorry. Sorry, Your Honor.

11 THE COURT: Okay. Hold on. Let him show Mr. Turner.

12 [Stand by Defense counsel and the District Attorney confer]

13 THE COURT: And Ms. Bluth agreed that was inaccurate.

14 MR. TURNER: Understood.

15 THE DEFENDANT: Yeah, she did stipulate last time.

16 THE COURT: Okay. So give him a second to write it down.

17 Ready?

18 MR. TURNER: Yes, Judge.

19 THE COURT: All right. Next one.

20 THE DEFENDANT: Okay. So, Your Honor, on two, again, I just want to
21 have this cleared that there were no new charges added or amended on 2-4-15.
22 This was all done way back in my preliminary hearing which was done in 2013.
23 So this RMD, there should be nothing under the RMD 2-4-15 date. That should
24 be absolutely either put back to a different date if it's a -- if they're using RMD
25 to amend charges because there it shouldn't be -- there shouldn't be no 2-4-15

1 here at all, period, as far as any charges. I was not -- there were no charges
2 amended or anything at that date. I was just simply remanded for violating a
3 bail condition. Those charges that are here, I previously had from a previous
4 date. That's why that date shouldn't even reflect that.

5 Now, if indeed, if the way the Court does it, RMD as an amended
6 date on 12-31-13, I would accept that, but to have it reflect as one of one
7 Information as -- and again like I said, as an amended charge, it's not like
8 remand, like I came out. And I would even ask, Your Honor, if it is an RMD as
9 a remand, I just -- if the Court or somehow the State could put a note there that
10 it was part of the same just amended charges, not that I got out and got re-
11 offended. That's what I'm concerned with. I don't want to make it look like I
12 got out and got re-offended somehow. You know, if it goes before -- I'm not
13 sure everybody understands that terminology, that's my concern.

14 THE COURT: The prison probably will. I mean they should.

15 MR. TURNER: Yes, I mean it's kind of a terminology that's always used
16 in Justice Court Judges if they're remanded on new charges.

17 THE COURT: Yeah.

18 MR. TURNER: In other words, there -- if the Court adds it as the Justice
19 Court is entitled to do and if the State moves to amend the complaint, the
20 Justice Court -- then we would request the Justice Court to remand him on
21 those additional counts.

22 THE COURT: I don't have in -- well, let me know. Now, I have him in
23 front of me.

24 MR. TURNER: But I can't affirmatively make the representations that that
25 happened 'cause unfortunately I wasn't there, but --

1 MR. YOHAY: Neither was I.

2 THE COURT: I don't think it's phrased inappropriately. I think it's
3 phrased as they always phrase it.

4 THE DEFENDANT: I just want clarification, Your Honor.

5 THE COURT: Yeah.

6 THE DEFENDANT: If that's correct, the way they do it, the only --

7 THE COURT: And when you go in front of the parole board, you're going
8 to have people who are familiar with reading this 'cause it's what they do.

9 THE DEFENDANT: Okay. Then I'm fine with that. The only concern I
10 have is again this 2-4-15. That should actually not be there. I was not -- there
11 were no charges amended or -- at all during that date.

12 MR. TURNER: And, Judge, I can certainly send it back for that. I've
13 notated --

14 THE COURT: Okay.

15 MR. TURNER: -- the Defendant's challenges to both the fact there was
16 never even a remand on 2-4-15.

17 THE COURT: And there's no deadly weapon.

18 MR. TURNER: And that we've agreed that there was no deadly weapon
19 enhancement.

20 THE COURT: Yeah.

21 Okay. Mr. Sprowson, is there anything else?

22 THE DEFENDANT: I think that was all that I could find that I had a
23 disagreement with, but everything else seems to be right on.


24 THE COURT: Okay. And did we give -- we did. We already -- did we
25 already set a date for the sentencing?

1 THE DEFENDANT: The 26th for sentencing.
2 THE CLERK: Yes.
3 THE COURT: June 26th.
4 THE CLERK: June 26th.
5 THE COURT: Okay.
6 THE CLERK: Yes. Is there anything else, Mr. Sprowson?
7 THE DEFENDANT: No, that was it, Your Honor.
8 THE COURT: Okay. We'll see you on the 26th.
9 THE DEFENDANT: Thank you.
10 MR. TURNER: And, Judge, so this is Court's order, PSI back to P&P?
11 THE COURT: Yes, this is Court's order. Thank you.
12 MR. TURNER: Yes, Your Honor.

13 PROCEEDINGS CONCLUDED AT 11:34 A.M.

14 * * * * *

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

17 
18 MARIA L. GARIBAY
19 Court Recorder/Transcriber
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1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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10 THE STATE OF NEVADA,) CASE NO: C-14-295158-1
11 Plaintiff,) DEPT. NO.: XXIII
12 vs.)
13 MELVYN PERRY SPROWSON, JR.,)
14 Defendant.)
15

16 BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE
17 MONDAY, JUNE 26, 2017

18 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
19 **SENTENCING**

20 APPEARANCES:

21 For the State:

JACQUELINE M. BLUTH
Chief Deputy District Attorney

22 For the Defendant:

MELVYN PERRY SPROWSON, JR.
In Proper Person

23 Stand-By Counsel:

MICHAEL R. YOHAY
Deputy Public Defender

24
25 RECORDED BY: MARIA GARIBAY, COURT RECORDER

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ALSO PRESENT:

CHERYL SMITH
KATHRYN SMITH
Victim Impact Speakers

1 MONDAY, JUNE 26, 2017, AT 10:55 A.M.

2
3 THE MARSHAL: Page 9, C295158, Sprowson.

4 THE COURT: Hi, Mr. Sprowson. Are we going to keep him over there? Can
5 he go sit by Mike?

6 THE MARSHAL: Yeah, absolutely.

7 THE COURT: That's more appropriate. All right. Good afternoon, or good
8 morning, everybody.

9 THE MARSHAL: Judge, we have to use the facilities real quick.

10 THE COURT: Oh, he's going to use the facilities? Okay, that's fine.

11 All right. You ready?

12 THE DEFENDANT: Yes; thank you, Your Honor.

13 THE COURT: All right, so, Mr. Sprowson, sir, is the time set for sentencing in
14 your case. This is by way of jury verdict. Now, first of all for the State, how many
15 witnesses are actually going to speak?

16 MS. BLUTH: Two, Your Honor.

17 THE COURT: Two, okay, so by the -- Mr. Sprowson, as a preliminary matter,
18 did you look at the Second Supplemental PSI? I know that we tried to make efforts
19 on Friday to make sure you had a copy to review over the course of the weekend.

20 THE DEFENDANT: I'm satisfied with the results.

21 THE COURT: Great. The other thing I want to just touch on briefly, is one of
22 the charges, which is Count 2, Child Abuse, Neglect, or Endangerment With
23 Substantial Bodily Harm, requires an evaluation as far as risk to reoffend; but I'm
24 assuming since the other charges mandate prison, that'll just be done when he
25 comes up for parole?

1 MS. BLUTH: Yes.

2 THE DEFENDANT: Right; yeah. I understand that.

3 THE COURT: So, by the State.

4 MS. BLUTH: Oh, thank you, Your Honor. I'm not going to go into a lot of the
5 facts of the cases, because I think that Your Honor knows the facts very well, but
6 there's a lot of things that happened outside of the court and how this impacted the
7 victim and her family that I'd like Your Honor to know about.

8 When I first was assigned the case, and I went to meet Jaysenia, it was right
9 after she had returned home, and she had attempted to jump off of the balcony, and
10 so she was committed into Montevista, and so that's where my first and only pretrial
11 was before the preliminary hearing. When they allowed me to go in and see her, we
12 were in this very small room, and she was all the way against the wall and in the
13 corner, and she was so small and so thin and had these dark black circles under her
14 eyes, and she kind of just like shook like a leaf in the corner, and I know that you
15 have seen her. You know, it's been years now that this case has been going on, but
16 I can't explain to you how much she has grown and how much stronger she is, but
17 that was a really long process; and what Your Honor sees today is not who came
18 out of Melvyn Sprowson's house.

19 Some of the things that she has had to suffer, you know, early on in the case
20 when it received so much press attention, the children at school found out that she
21 was the little girl that they were talking about, and she was teased, and she was
22 bullied; and it was very, very difficult for her to not only deal with the ramifications of
23 what was going on when she was missing for those 10 weeks, but what happened
24 once she got back; and the defendant knew of her abandonment issues. He knew
25 of her self-esteem issues, and he took advantage of those, and this was a young

1 child who had a lot of issues, and those only became exacerbated by his
2 manipulations, and I knew that that was the case, but I didn't quite know how deep
3 his grasp was until we were at preliminary hearing in front of Judge Kephart, and I
4 did my direct examination, and she was doing fine. She was holding it together, and
5 then after when it went to cross, and she just fell apart; and when she contacted me
6 afterwards and wrote me a letter apologizing, she explained to me that the
7 defendant was whispering things to her and mouthing things to her, and how easily
8 she fell right back into that trap.

9 And I -- when she testified at trial, I think Your Honor might have seen a
10 couple of the things that she holding, but, as you know, she was on there for several
11 hours. I think it was like four, five, six hours, and before she went in, to make her
12 feel comfortable, her therapist asked her to bring things, and so she brought a little
13 silver coin that said peace on it, but in the other hand was playdough; and by the
14 end of her testimony, that playdough had disintegrated into almost like sludge
15 running down her hands; and I kept -- like I kept asking her, do you want me to get
16 you something else? Is there anything else? And she said, no, I just need to get
17 through it. I just need to get through it, but this is -- this is a kid that we were talking
18 about. This is something that affected her, and it's going to affect her forever, and I
19 don't think that anyone can speak more about that than her mother; and I'd just like
20 to take a moment to talk about Kathryn Smith, because I work with so many parents
21 being on the special victims unit, and I had never worked with a mom who has been
22 so kind and so patient throughout this process; and if you remember, this is a
23 mother who went to so many people begging for help. Like my daughter is missing,
24 please help me. She did not -- she is missing. I need to know where she is. She
25 went to local law enforcement. She went -- repeatedly she called, and it wasn't until

1 she hired a private investigator in California and spoke to school police, that
2 someone finally helped her find her child who was missing for 10 weeks. If she
3 wouldn't have done those things, I'm not sure if we ever would have -- if we ever
4 would have found Jaysenia. After Jaysenia tried to jump off the balcony and was
5 taken to Montevista, she was then placed in a long-care treatment, as you know, in
6 Reno; and shortly after being placed in the treatment center, I let her know that
7 Jaysenia was going to have to come back for a preliminary hearing; and I could tell
8 she was so upset, because they had just gotten her to a position where she could
9 go to Reno. She could work on herself, and she quietly said, if that's what you're
10 telling me that we have to do to keep her safe, then that's what I'll do.

11 And every time I had to call her and tell her, you know, that this was
12 continued, she quietly took it. She quietly understood, and she said, I have faith in
13 the system.

14 When I told her that the defendant was representing himself, and that that
15 was his right, but it was also his right to question Jaysenia, she again, I understand,
16 but I trust in the system.

17 She is one of the most patient and kindest mothers that I have ever, ever had
18 to work for, and honestly I wish that there was a charge for her. I wish that I could
19 argue for a sentence for her, because the substantial mental harm that she suffers
20 in watching not only her daughter go through this, but what she's had to go through,
21 and all of that rests on Melvyn Sprowson's shoulders, and I feel like there are so
22 many times that he could have made a better decision. He could have chosen not
23 to pick her up. He could have chosen -- when he saw the missing poster of her that
24 her family created, he could have chosen to bring her back. When he saw her
25 mother begging on Facebook, please, someone if people know where my daughter

1 is, please, she's 16-years old, help bring her back.

2 When the police went to speak to him three times and asked, he could have
3 done what was right.

4 At the preliminary hearing, when he knew she had tried to commit suicide,
5 and she knew -- he knew she was struggling, he could have done what was right;
6 but the one thing that blows my mind, besides anything, is when he got out of
7 custody, and he knew she had been in a long-term treatment center, and that she
8 was finally on the right track, and he waited a day, two days to contact her.

9 This is someone who is absolutely incapable of two things: Number one,
10 doing what is right, but number two, knowing what he did was wrong. The
11 defendant to this day, and obviously we haven't given him an opportunity to talk, but
12 I've never once ever heard him take responsibility or accountability for what he has
13 done and witnessed what he has done to Jaysenia Torres.

14 This whole idea that, you know, she's 16-years old, and so, therefore, it's not
15 a crime, or he did nothing wrong, I don't know where we got this idea that 16-year-
16 olds can make decisions; and look at what happens when they do make decisions.
17 She is going to be paying for this for the rest of her life.

18 I looked at the Department of Parole and Probation's Presentence
19 Investigation Report and how that they think that everything should be run
20 concurrent, and I'm offended by the recommendation, to be honest with you. The
21 idea that someone can take a child and keep them at their house, have intimate
22 relations with them for 10 weeks, and then they just get 5 years to life is just
23 offensive to me. I'm asking this Court to do what other parts of this system have not
24 done, and how they failed her, and I'm asking Your Honor -- there's a multitude of
25 charges. I'm not asking for the defendant to be maxed out, but I do think that a

1 sentence should be served on each of the different conducts; so, number one, for
2 the kidnap, it's obviously a minimum of 5 years, a maximum of life. Count -- the
3 child abuse with substantial mental harm, I'm asking for a minimum of 6 years, a
4 maximum of 15 years, because I think that those punishments and those actions are
5 two very different things; and then the use of a minor in the pornography charges, I
6 think should also be served consecutively, so that would be a total of 16 years on
7 the bottom; and, of course, because of the counts, there's a life sentence on the
8 end, and I'd ask Your Honor to take those recommendations into consideration, but
9 I'd also ask, obviously, pursuant to statute, that Kathryn and Cheryl Smith be able to
10 speak and submit their recommendations to Your Honor as well, and I thank the
11 Court.

12 THE COURT: Mr. Sprowson, the speakers get to go last. Is there anything
13 you'd like to say, sir?

14 THE DEFENDANT: I would like to say something, yes. I have actually
15 several things I'd like to say, if I may? First of all, Your Honor, you know, through
16 this whole ordeal, I've been very patient. The State wants to argue that I haven't
17 taken responsibility. I've been in custody for a thousand and fifty-seven days, okay.
18 I've lost all of my retirement. I'm in debt. I've lost my reputation. My career as a
19 teacher has been ruined, and these are all -- all a result of my decisions, and I will
20 admit that, and I have no problem with that. I do have a problem with the
21 mischaracterization that the State had continuously tried to put everything on my
22 doorstep. I'm not going to get into the previous incidences that this Court already
23 knows about and that the State knows about. I'm not going to get into -- well,
24 actually I should get into -- well, I'm not going to do that. I'm going to have a little bit
25 of respect for the victim here, and I'm not going to get into that, but I do want to say

1 one thing. When I got into a relationship with Jaysenia, Your Honor, you know, we
2 developed a relationship, and the idea of her running away was not mine. My
3 mistake was I allowed her to come and stay with me; and when she was with me, I
4 did the best that I can to care for her, and I repeatedly asked her if she wanted to go
5 home; and she would tell me -- and she would tell me, no, I am home. Now this is
6 someone I was in a relationship with and deeply cared for and still do, despite what
7 the State wants to try to portray; but more importantly, Your Honor, I want to just
8 kind of analyze this in one regards and ask the question. The victim was 16 at the
9 time. She's 20 now. In relation to the charges, I'd like to ask one pivotal question.
10 If she was 18 and not 16, would I have been charged with kidnapping, and the
11 answer is absolutely no. If she was 18 and not 16, would I have been charged with
12 child abuse with substantial mental harm, and the answer is no. In regards to the
13 unlawful use of a minor in the production of child pornography, if she was 18 and not
14 16, would I have been charged? No. A matter of fact, I wouldn't even be here, Your
15 Honor. I wouldn't even be here.

16 THE COURT: Mr. Sprowson, you for -- you forget. We don't -- the law does
17 not see a 16-year old and an 18-year old the same way.

18 THE DEFENDANT: I understand that, but allow me -- allow me little bit of --

19 THE COURT: We don't even give a 16-year old the right to vote.

20 THE DEFENDANT: -- room here to argue, Your Honor. I'm trying to make a
21 pivotal point here.

22 THE COURT: Okay.

23 THE DEFENDANT: I'm trying -- I'm using that as a point. I understand that.
24 I'm trying to make a point here. I understand that I'm liable to these charges, but
25 what I'm trying to argue, and what I'm trying to lay a foundation here is that this is an

1 issue of age of consent. This is not an issue of me being a criminal or having
2 criminal intent. You know, the State is continuously trying to badger me and try to,
3 you know, you know, make me out to be this bad person, and I'm sure that Jaysenia
4 has suffered through this, and I have to, and I have taken responsibility in a lot of
5 ways on this, but what I'm trying to point out is that this is really an issue of age of
6 consent; and, yes, I did make a bad moral judgment, and I just want to say another
7 thing. If you look at the PSI, I have no criminal history. I'm 48 years old. I have
8 always been my entire life a law-abiding, tax-contributing member of society; and
9 when I was a teacher, I did a very, very good job. It's unfortunate that I happen to
10 be accused of something very nasty in California, but there's something that was left
11 out of that picture as well. I actually was working as a substitute teacher one-and-a-
12 half years after that fact. I didn't just come here from resigning from a situation that
13 was bad. I worked, and I was recommended by the high school that I substituted
14 taught at -- taught at -- sorry, several times for a full-time position. I had no issues
15 of misconduct, no issues of problems, and I'm kind of getting a little -- little weary of
16 the press and this Court trying to blend the two of me being a teacher; and
17 everybody makes bad moral decisions, and I understand that I'm liable to those
18 charges, but I made some bad, poor choices, as the State has pointed out, but did I
19 have criminal intent to harm her? No. This is somebody that I fell in love with. This
20 is somebody that I had a relationship with, and this is somebody that, you know, I
21 would continuously ask her if she wanted to go home; and, yes, I did want her to
22 stay with me, but I did want her to go home, as well; and I understood that she
23 couldn't continue to stay there, but I took care of her when she was with me.

24 And so, Your Honor, my whole point in laying this whole thing down, the first
25 charge of kidnapping has a definite term of 15 years with a minimum of 5 years

1 served before I'm eligible for parole. I would ask Your Honor for the leniency of this
2 Court to sentence me to that definite term of 15 years and run all the rest of the
3 charges concurrent to that; and I just want to present this one fact. Your Honor, I'm
4 50-years old, almost. What point would it be to sentence me to a long term in prison
5 without any hope of rehabilitation? I'm willing to take responsibility for my poor
6 decisions. I've already served a lot of time, and I'm willing to serve the rest of the
7 remaining time that I would have to do according determined by probation or even
8 this Court, but the issue here is, does this Court really want to send a message that
9 -- that you should take care of me for the rest of my life and have taxpaying
10 members of society keep people who make bad moral decisions and should have a
11 fair opportunity to rehabilitate from that, or should you keep me in prison for the rest
12 of my life so that I would have to be taken care of and be paid for, so to say, or allow
13 me an opportunity to have some hope of rehabilitation after some time in prison. I'm
14 not denying it. I have to do some prison time, but give me an opportunity to
15 rehabilitate, get back out in society, to do what? So I can be a law-abiding, tax
16 contributing member of society once again.

17 I'm not this person that the State has been trying to portray. Your Honor,
18 you've been working with me for a great deal of time. We've had our differences,
19 and I understand that, but you've had an opportunity to see how I handle myself,
20 and even during the trial process, you've had an opportunity to see how I handle
21 myself.

22 And I'm not trying to escape responsibility here. Like I said, I understand. I
23 know I'm going to prison, and it could be for life, and it could be for life, but the real
24 issue is here this is a result of not someone who has criminal intent. This is
25 someone who made bad decision-making, and I don't think that we should send a

1 message that people who make bad decision-making should have to pay for it for
2 the rest of their lives, well in the sense of a life sentence, because if I do get
3 sentenced to 5 to life concurrent, Your Honor, I still, when I do get out, if I get out on
4 parole, I still have to register as a sex offender for the rest of my life. I still will be on
5 parole for the rest of my life, so this isn't something like I'm going to get out and
6 somehow be free of any kind of punishment. I will be punished for the rest of my life
7 for bad decision-making, and so I ask Your Honor that you would sentence me to
8 that definite term of 15 years, so that I would have some hope of rehabilitation, and I
9 understand that does mean a minimum of 5 years that I would have to serve before
10 I'm eligible for parole, and that's what I'm asking for, Your Honor; and, you know, if
11 that's not the case, my second -- you know my second would be the 5 to life,
12 obviously, but I don't see any sense, because I really have been my whole life. I
13 have no criminal history. I've been a law-abiding, tax-contributing member of
14 society. I've helped kids as a teacher.

15 There's been some unfortunate events in my career, yes, and I've had to pay
16 for those too, and so, Your Honor, I think there was some other things that I wanted
17 to say. Yeah, I think I just want to reiterate and say it one more time, Your Honor. I
18 just ask you to consider my criminal history. I have none, you know, and I would ask
19 you to consider the fact that, you know, though I am responsible for making bad
20 decisions in my life, one of the decisions I did make or several decisions I did make
21 is I worked very hard to become a teacher. I went to college at a late age. I worked
22 full time when I went to college, and when I became a teacher, I want to just kind of
23 point out a couple of more things, and I just beg your indulgence.

24 When I was a teach at LAUSD, Los Angeles Unified School District, for some
25 of you who don't know the initials are, I worked at a school that had 90 teachers,

1 and out of those 90 teachers, I was one of two that was in the Los Angeles Times as
2 having the most improved student test scores over a five-year period of time. Again,
3 it is unfortunate, because everybody knows here or probably will know that I was
4 accused of some things in California, and one of the other things that was left out of
5 all the media attention was the fact that this person that accused me actually
6 recanted, and they did it to get me into trouble; and one of the things that I want to
7 point out is that a lot of times -- indulge me here a little bit, Your Honor, because I'm
8 just trying to develop my character here and show you my character, is that one of
9 the things that was left out is a lot of times that teachers who do a good job,
10 sometimes get into situations where students don't like them or they don't want them
11 to be their teacher, and so they make accusations, and it's unfortunate that
12 happened to me, but I wanted to point out two timelines. I didn't just jump from
13 LAUSD and then come here to Nevada and try to hide some kind of misconduct. I
14 resigned with a substantial settlement. Otherwise, I would have had to pay \$20,000
15 to defend myself. What would the average person do? They're going to take the
16 large settlement. I got another job, and I worked for another year-and-a-half as a
17 teacher, not full time, but as a substitute teacher, and I had recommendations from
18 the principal of Azusa High School for a full-time position. They loved me. I had no
19 issues of misconduct, no problems at all, and I'm getting very weary and tired of the
20 media trying to portray me as somebody that's a bad person. The union is there for
21 a reason. The union is there to defend teachers and to protect them from false
22 allegations, and I just want to say that, because this is part of the thing that's been
23 blended into my case, unnecessarily; but because it has, I have to speak on it.

24 So again, Your Honor, whatever you sentence me today, one day I will die,
25 and I will wake up in the arms of Jesus, and I don't really care what happens after

1 that, --

2 UNIDENTIFIED SPEAKER: Weird.

3 THE DEFENDANT: -- and that -- you can say whatever you want, and that is
4 my sole consolation in all of this whole process. The Lord knows what happened.
5 The Lord knows what happened, and I have -- I have a clear conscience before
6 God, and when I stand before him, I have a clear conscience before God; and it's
7 unfortunate that some people got hurt in this situation. It was never my intention to
8 do that. I was trying to help a young lady who I fell in love with and still do love, and
9 I don't care what anybody says. I still love her, and it's unfortunate that the State
10 had to come in between us and destroy our relationship the way that they have
11 done. It's pitiful -- pitiful the way that they have treated this whole case, just to try
12 to victimize me and make me out to be this bad person; and like I said, I do feel for
13 the mother, the grandmother, the family; and it's unfortunate, and I wish -- I wish that
14 I would have went to the door and said, hey, I'm dating your young daughter, and I
15 would like to continue it; but I also, without getting into details, there were some
16 other things that had happened that prevented that, previous situations in her life,
17 and I'm not going to get into that, because it's embarrassing to her. I respect her,
18 and I'm talking about the victim. I respect her. I love her, and I care for her, and if I
19 have to do life in prison, I just wish the best for her; and with that, Your Honor, I
20 submit.

21 THE COURT: All right. Thank you. The first speaker.

22 MS. BLUTH: Thank you, Your Honor. The State calls Cheryl Smith.

23 THE COURT: Hi, ma'am. I'm going to need you to raise your right hand to be
24 sworn in, please.

25 . . .

1 **CHERYL SMITH**

2 [having been called as a speaker and being first duly sworn, testified as follows:]

3 THE COURT CLERK: Would you please state and spell your first and last
4 name for the record.

5 THE VICTIM SPEAKER: Cheryl Smith, C-H-E-R-Y-L S-M-I-T-H.

6 THE COURT: Yes, ma'am.

7 THE VICTIM SPEAKER: I wrote down what I want to say, because I'm very
8 nervous, and --

9 THE COURT: Can you introduce yourself? I'm sorry. I don't remember you
10 from the trial. How are you related to --

11 THE VICTIM SPEAKER: I'm Jaysenia's grandmother --

12 THE COURT: Okay.

13 THE VICTIM SPEAKER: -- and I followed the whole trial. I was -- I live with
14 them. I was staying throughout the whole situation. I just didn't come into the
15 courtroom a lot.

16 THE COURT: I understand.

17 THE VICTIM SPEAKER: I'm here today to hopefully see Melvyn be put in
18 prison for a long time. This man totally turned our entire family upside-down for
19 more than a year of our lives -- actually it's more than four years now. He selfishly
20 took my granddaughter from our home and left her -- kept her hidden for two
21 months, lying to the police on several occasions.

22 He had many chances to say, yeah, okay, she's here, and he chose to
23 continue to lie; and also, you know, other stuff he just said, he was in prison. He
24 had time to think about his bad choices. He got out, and the first thing he did was
25 try to contact her again, so that's all nothing.

1 As a school teacher, someone we are supposed to trust our children with, he
2 intentionally kept Jaysenia out of school to fulfill his own desires. He tried to
3 brainwash her into hating her mother, so he could have total control over her.

4 I don't know if you're aware of this, but he used to take Jaysenia out in the
5 middle of the night, drive by our house, and talk about her mother to her, and just to
6 continue to make Jaysenia hate her and not want to return home; so all this things
7 he says about asking her if she wants to go home, he may have asked her, but it
8 was in the middle of brainwashing her, too.

9 If it wasn't for the persistence and the due diligence of my daughter, he may
10 have succeeded. My daughter didn't give up one day looking for her daughter; and
11 if it wasn't for the diligence that she showed, he may have gotten what he wanted,
12 and my granddaughter would have been lost forever.

13 The scariest part of this whole nightmare, which we still live with on a daily
14 basis, is throughout the entire process, he has shown no remorse and still believes
15 he did nothing wrong.

16 This is a grown man who lies, manipulates, and rationalizes like a child, so I
17 don't see any hope of his not doing the same thing to another child. I don't believe
18 that when he gets out of prison anything will change, and I hope that he sits there for
19 a long time and thinks about his actions. Thank you.

20 THE COURT: Thank you. Next speaker, please.

21 MS. BLUTH: Thank you, Your Honor.

22 MS. BLUTH: The State calls Kathryn Smith.

23 **KATHRYN SMITH**

24 [having been called as a speaker and being first duly sworn, testified as
25 follows:]

1 THE COURT CLERK: Would you please state and spell your first and last
2 name for the record.

3 THE VICTIM SPEAKER: Kathryn Smith, K-A-T-H-R-Y-N S-M-I-T-H, and I'm
4 Jaysenia's mother.

5 THE COURT: I remember you from the trial. Yes, ma'am.

6 THE VICTIM SPEAKER: She kind of took everything I wanted to say, but,
7 you know, when I woke up that day and my daughter was gone, and she had taken
8 her birth certificate and her social security card, to find out later he had instructed
9 her to do, I really thought she was on her way to get sex trafficked. Every day of my
10 life felt like I was in a living hell wondering where my daughter was. Nobody was
11 helping me look. I feel like he preyed on somebody. He knew I was a single parent.
12 We didn't have a lot of money. I was trying to do the best I could, and he got her out
13 of my house by saying he'd take care of her, and all this stuff. I never gave up
14 looking for my daughter, even though nobody would help me. He knew nobody
15 would help me. This whole rant that he went on about California and everything, he
16 was accused of hurting kids there. He came here and hurt more kids. He hurt my
17 kid. He hurt my younger kids that were in my home, because life was put on hold
18 wondering where Jay was, every day. We didn't know; little to know she was
19 around the corner. He knew. He's an adult. He's older than me.

20 He sits here and says he wants to take -- he's taken responsibility for his
21 choices, but he's not. He just said he knows in the eyes of Jesus that he's okay.
22 This is not okay. My daughter is 20 now, but I have two younger daughters, and I
23 worry about if he was to get let out of prison; and not only mine, I worry about
24 everybody else's that he would come in contract with that would be put through the
25 same torment that he helped put my family through.

1 My daughter was 16. She wasn't 18. She was my responsibility, and being --
2 he wasn't counting on my determination as a parent. He thought that I was going to
3 give up. He thought that she was going to turn 18. He was going to emancipate her
4 and live this life where he was going to take my daughter away from college and
5 being a woman on her own; and I really think that he should be put in prison, not this
6 concurrent. He should get the longest time that you should -- that you could give
7 me. He has no understanding of what he did, and like my mother said, he thinks
8 and acts like a child; so, of course, he's going to gravitate to more children; and I
9 don't want to see anybody else's family or children get hurt the way me and mine
10 did, and I just -- I just -- I'm done. Well, this is my mother went through -- said
11 everything I was going to say.

12 MS. BLUTH: No, you can say it.

13 THE VICTIM SPEAKER: And, okay, I'm sorry. I'm really sorry. I'm nervous.

14 MS. BLUTH: Don't be.

15 He was a school teacher. He was someone that the community was
16 supposed to trust. He was a mandated reporter of abuse and neglect, and he was
17 committing that crime.

18 When my daughter came home, she hated me, and all I was doing was trying
19 to love her and keep her on the right track. He gained total control over her. It
20 wasn't for the -- oh, I'm sorry. He had the perfect plan in his mind of keeping --
21 taking and keeping my daughter. What he never anticipated was me and my
22 unconditional love for her, and the determination of knowing that I would never give
23 up until I found her. The scariest part of this whole nightmare, which we still live with
24 on a daily basis, is that throughout this time of his arrest, he's shown no remorse.
25 He questioned my daughter for hours and was able to victimize her again. He

1 blames everyone else for the choices he made. I think that you should give him the
2 maximum penalty so he can think about what he's done, and so he's not able to put
3 another family through the pain mine has endured, and I'm willing to be a taxpayer
4 that helps to keep him there.

5 THE COURT: Thank you ma'am.

6 Mr. Sprowson, can you stand up, please? Mr. Sprowson, sir, the Court finds
7 you guilty on Count 1, First Degree Kidnapping, a felony. The Court finds you guilty
8 on Count 2, Child Abuse, Neglect, or Endangerment with Substantial Bodily or
9 Mental Harm, a felony. The Court finds you guilty on Counts 3, 4, 5, and 6, Unlawful
10 Use of a Minor in the Production of Pornography, felonies.

11 In accordance with the law of the State of Nevada, the Court assess a \$25
12 administrative assessment fee, \$150 DNA analysis and testing fee, and a \$3 DNA
13 administrative assessment fee; Count 1, First Degree Kidnapping, the Court
14 sentences you to life with the possibility of parole, with eligibility of parole beginning
15 when a minimum of 5 years have been served. Count 2, Child Abuse, Neglect, or
16 Endangerment with Substantial Bodily Harm or Mental Harm, the Court sentences
17 you to a minimum term of 30 months, a maximum sentence of 96 months in the
18 Nevada Department of Corrections. Count 2 will run consecutive to Count 1. Count
19 3, Unlawful Use of a Minor in the Production of Pornography, a felony, the Court
20 sentences you to a minimum term of life with the possibility of parole, with eligibility
21 for parole beginning when a minimum of 5 years have been served. Count 3 will run
22 consecutive with Count 2. Count 4, Unlawful Use of a Minor in the Production of
23 Pornography, a felony, the Court -- I'm sorry. I go back on Count 3, there is a
24 mandatory fine of \$2,000. Count 4, Unlawful Use of a Minor in the Production of
25 Pornography, a felony, the Court sentences you to life with the possibility of parole,

1 with eligibility for parole beginning when a minimum of 5 years have been served.
2 There is a \$2,000 fine. Count 4 will run concurrent with Count 3. Number 5,
3 Unlawful Use of a Minor in the Production of Pornography, a felony, the Court
4 sentences you to a term of life with the possibility of parole, with eligibility for parole
5 beginning when a minimum of 5 years have been served. There is also a
6 mandatory fine of \$2,000. Count 5 will run concurrent to Count 4. Count 6,
7 Unlawful Use of a Minor in the Production of Pornography, a felony, the Court
8 sentences you to a minimum term of life with the possibility of parole, with eligibility
9 for parole beginning when a minimum of 5 years have been served. There is also a
10 mandatory fine of \$2,000. Count 6 will run concurrent with Count 5.

11 Sir, based upon the nature of the charge, you are also subject to a special
12 sentence of lifetime supervision, which will commence upon release from any term
13 of probation, parole, or imprisonment. Additionally, pursuant to NRS 179D.460, you
14 shall register as a sex offender within 48 hours of sentencing or release from
15 custody, and you'll receive 1,057 days credit toward this sentence. Thank you.

16 THE DEFENDANT: Well, Your Honor, --

17 THE COURT: Yeah?

18 THE DEFENDANT: -- there's a couple of other things.

19 THE COURT: Yes, sir.

20 THE DEFENDANT: Can you repeat the sentencing on the first one. The
21 second one is consecutive, with --

22 THE COURT: So, it's a total sentence, it would be -- a total consecutive
23 sentence, it would be 150 months to life.

24 THE DEFENDANT: 150 to life?

25 THE COURT: Yeah, because Count 1, 2 and 3, are all consecutive to each

1 other.

2 THE DEFENDANT: Okay, and then there's also an issue of -- before I sit
3 down, I would like to -- if it's possible for you to do a substitution of attorney, if I do
4 plan on filing an appeal. Can we do that?

5 THE COURT: You want to request an attorney for an appeal?

6 THE DEFENDANT: I want to have the public defender's office substitute me
7 as an attorney, and to do a substitution of attorney. Mr. Yohay was --

8 THE COURT: So we're going to put them as --

9 MR. YOHAY: And, Judge, I spoke to --

10 THE COURT: Wait, we're substituting him --

11 MR. YOHAY: -- Mr. Sprowson about this.

12 THE COURT: -- as attorney of record?

13 MR. YOHAY: If you could --

14 THE COURT: We're putting you --

15 MR. YOHAY: -- substitute us in as attorney of record for the appeal --

16 THE DEFENDANT: For appeal for appellate purposes

17 MR. YOHAY: -- for appellate purposes. We're fine. I've already spoken to
18 our appeals unit about that, and we were instructed if the district court would make
19 that finding that'll help us begin the process of the appeal.

20 THE COURT: Yeah. He would be appointed an attorney anyways, because
21 of the life tail on most of these charges, so the public defender's office will be
22 appointed for purposes of appeal, and he's already telling he's going to file an
23 appeal, so, you'll do the notice?

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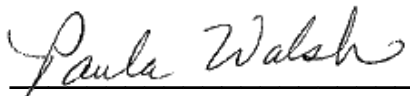
MR. YOHAY: Yeah. Absolutely, Judge.

THE COURT: Thank you.

[Proceedings concluded at 11:34 a.m.]

* * * * *

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



Paula Walsh
Court Recorder/Transcriber

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MELVYN SPROWSON,) No. 73674
)
 Appellant,)
)
 v.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)
 _____)

PHILIP J. KOHN Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610 Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 rd Floor Las Vegas, Nevada 89155 ADAM LAXALT Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538 Counsel for Respondent
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I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 2 day of May, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM LAXALT
STEVEN S. OWENS

DEBORAH L. WESTBROOK
HOWARD S. BROOKS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

MELVYN SPROWSON, #1180740
HIGH DESERT STATE PRISON
P.O. BOX 650
INDIAN SPRINGS, NV 89070

BY /s/ Carrie M. Connolly
Employee, Clark County Public Defender's Office