

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSHUA HONEA,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 76621

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APPELLANT'S APPENDIX

VOLUME 6

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JOSHUA HONEA

By: /S/MONIQUE MCNEILL
MONIQUE A. MCNEILL
State Bar # 9862

1 Q. I'm going to ask you questions that are not
2 from the transcript.

3 Did the Defendant decorate your room for either
4 your 13th or 14th birthday?

5 A. Yes.

6 Q. Which one?

7 A. 13th.

8 Q. And he did that as a surprise for you?

9 A. Yes, with my mom.

10 Q. With your mom?

11 A. It was like something they all planned. So it
12 was part of like my mom. I believe it was either her
13 boyfriend or step dad at the time and Josh.

14 Q. Did you have pictures of the Defendant in your
15 room?

16 A. I did have pictures of the Defendant in my
17 room, yes.

18 Q. Framed pictures?

19 A. I don't remember.

20 Q. You don't remember having any of those visible
21 in your room?

22 A. I don't remember.

23 Q. Either when you were 11, 12, 13, or 14 did you
24 know any of Joshes' girlfriends?

25 A. No.

1 Q. Ever met any of Joshes' girlfriends?

2 A. No.

3 Q. Did he come to your house and watch TV?

4 A. Yes.

5 Q. Did you cook for him?

6 A. Yes. Mostly my mom.

7 Q. Did you ever go to his house and clean his
8 room?

9 A. Yes.

10 Q. Why did you do that?

11 A. Because it was a mess.

12 Q. Did you go to your freshman homecoming at
13 Desert Oasis?

14 A. No, I did not.

15 Q. Did you have a plan to go, then you changed
16 your mind?

17 A. I don't remember.

18 Q. Yesterday I missed a question from your
19 voluntary statement.

20 Do you have that up there still?

21 A. I do.

22 The COURT: For the record, the voluntary
23 statement, again, is Plaintiff's 66.

24 BY MS. KOLLINS:

25 Q. In your voluntary statement you indicated in

1 the time between you told detectives that nothing happened
2 and your July 22, the statement, that Josh told you he
3 would be eligible for the Metro Academy again in 2018.

4 Remember that?

5 A. Yes, I remember that. I don't remember
6 exactly the date or anything like that, but I do
7 remember.

8 Q. Would it refresh your recollection to look at
9 your statement?

10 A. Yes, it would.

11 Q. Look at page 74. I think that's what it was.
12 Not 74 -- 94. My apologies.

13 A. Okay.

14 Q. Can you review that to yourself and see if
15 that refreshes your recollection to when the Defendant
16 told you he would be able to reassume the Academy after he
17 was removed from the August 2015 Academy.

18 A. Okay. I reviewed it.

19 Q. Does it refresh your recollection as to the
20 date you gave?

21 A. Yes.

22 Q. What was that date?

23 A. August of 2018.

24 Q. So sometime between your discussion in May
25 with detectives where you say nothing happened and your

1 disclosure of July 22, 2018, he gives you -- he, Josh,
2 tells you he will be able to go to the Academy in the year
3 2018?

4 A. Yes.

5 Q. Do you know where that information came
6 from?

7 A. No. I just know that that is what Josh had
8 told me.

9 Q. That is what he told you?

10 A. Yes.

11 Q. That was during the course of time you were
12 talking to him about the investigation?

13 A. I don't know if it was exactly that timing,
14 but, I mean, I know that was a conversation at that point
15 in time.

16 Q. Are you aware that he became ineligible for
17 the 2015 Academy after May of 2015?

18 A. Yes.

19 Q. So if he would have been looking at new
20 eligibility dates does it ring somewhat true with you that
21 looking forward to a date that it happened sometime
22 between he was removed from Metro and you gave your
23 interview. Does that make sense?

24 A. It was such a common topic just talking about
25 him wanting to go to the Academy and everything like that,

1 I can't say for sure when that conversation took place.

2 Q. You knew he was no longer eligible for the
3 2015 Academy?

4 A. Right.

5 Q. You knew that at the time you told that to
6 Detective Cho?

7 A. Right.

8 Q. So that was true when you told that to
9 Detective Cho, that he told you he was no longer eligible
10 for the 2015 Academy?

11 A. Right.

12 Q. When we left off at the preliminary hearing
13 yesterday we started talking a little bit -- we are around
14 page 52 and 53 in that area.

15 A. Yeah. Grabbing it here.

16 Q. That's State's admitted --

17 THE COURT: 67.

18 BY MS. KOLLINS:

19 Q. Do you recall discussing the preliminary
20 hearing and going to Disneyland with the Defendant?

21 A. Yes.

22 Q. Do you recall telling us that your mom had
23 given you permission to go to Disneyland with Josh?

24 A. Yes.

25 Q. When your mom would give you permission for

1 these trips, would she write you notes?

2 A. Yes.

3 Q. Every time?

4 A. Every time.

5 Q. Is that what your mom is going say?

6 A. She -- I had written consent.

7 Q. You testified at the preliminary hearing that
8 at first you thought you were 14 when you went to
9 Disneyland. This is Christmas of 2013.

10 I'm looking at page 53.

11 A. Okay. Yes, I see this.

12 Q. Does that refresh your recollection?

13 A. Yes.

14 Q. Then you said it was actually December of
15 2012, when you were 13 years old?

16 A. Yes, I see that.

17 Q. Referring to page 56.

18 A. Oh, my bad. I see it here.

19 Q. It was correct, you went to Disneyland with
20 the Defendant alone in December of 2012 when you were 13
21 years old?

22 A. Now, with my recollection of timing now I'm
23 going say, yes. But that is very unsure because coming to
24 now in 2012, 2013, 2014 timing like that I wouldn't
25 remember now.

1 Q. Did you believe that portion of your story to
2 be true when you testified to it under oath at the
3 preliminary hearing?

4 A. As far as going to Disneyland?

5 Q. Yes.

6 A. Yes.

7 Q. You have no reason to dispute you were 13 and
8 the trip was in December 2012?

9 A. Right.

10 Q. You testified at preliminary hearing it was
11 supposed to be a single day trip; is that correct?

12 A. Right.

13 Q. You testified at preliminary hearing that your
14 mom gave you permission to go for one day?

15 A. Right.

16 Q. You testified that your mom would never have
17 given you permission to go to Disneyland had you been
18 boyfriend and girlfriend with the Defendant?

19 A. Right.

20 MS. KOLLINS: Permission to publish admitted
21 25.

22 THE COURT: It's admitted.

23 MS. KOLLINS: Yes.

24 THE COURT: Yes, you may. All admitted exhibits
25 you may publish as needed, Ms. Kollins.

1 BY MS. KOLLINS:

2 Q. Showing you what has been admitted as State's
3 25. Do you recognize that as a photograph out of your
4 album?

5 A. Yes.

6 Q. Did you label that photograph similar to the
7 other photographs that you inserted in that album as you
8 did trips and events with the Defendant?

9 A. Correct. Yes.

10 Q. What is the date on State's admitted 25?

11 A. 2012.

12 Q. Now, at that time, your mom testified at the
13 preliminary hearing your mom didn't know you had a
14 boyfriend, girlfriend relationship with the Defendant?

15 A. Right.

16 Q. You testified that you and the Defendant, the
17 Defendant rented a hotel room in his name and that you had
18 penis and vagina sex, correct?

19 A. That is what I said.

20 Q. You said you put your mouth on his penis in
21 California?

22 A. That is what I said.

23 Q. And he put his mouth on your vagina in
24 California?

25 A. That is what I said.

1 Q. You testified at preliminary hearing your mom
2 let you go. It was supposed to be a day trip. And by a
3 day trip, I mean, a turn around trip. Dive down. Go to
4 Disneyland. Drive back to Las Vegas.

5 A. Right.

6 Q. It did not turn out to be a day trip; is that
7 correct?

8 A. Right.

9 Q. You testified to that at preliminary hearing,
10 that it did not turn out to be a day trip?

11 A. Right.

12 Q. And that the Defendant got sick on a ride?

13 A. Yes.

14 Q. What ride did he get sick on?

15 A. It's not funny that he got sick, but the ride
16 itself was funny and just the play out of that is kind of
17 funny.

18 Q. So if you testified about him getting sick at
19 preliminary hearing, that was true?

20 A. Yeah.

21 Q. He got sick?

22 A. Yeah.

23 Q. Did Josh call your mom and tell her he was
24 sick and that you needed to stay, or did you call your
25 mom?

1 A. I don't remember.

2 Q. Did you have a conversation with your mom on
3 that time when she was concerned about your safety. Did
4 she ask you if you were safe?

5 A. I don't remember exactly. I'm sure she did
6 though. She is my mom. She cares.

7 Q. You testified that the Defendant rented the
8 room in his name. Do you recall that?

9 A. Yes.

10 Q. The next topic that you testified about at the
11 preliminary hearing under oath was being with the
12 Defendant on his 21st birthday. Do you remember that?

13 A. Yes.

14 Q. Is that, yes?

15 A. Yes that is.

16 Q. He would have turned 21 on May 4, 2014?

17 A. Yes.

18 Q. You would have been 14 on his 21st birthday,
19 ready to turn 15 on that June, correct?

20 A. Yes.

21 Q. And you testified to that at prelim?

22 A. Yes.

23 Q. And you testified you went to the Mirage
24 dolphin exhibit on his 21st birthday?

25 A. Yes.

1 Q. You also went to dinner at BJs?

2 A. Yes.

3 Q. You reviewed those pictures at the preliminary
4 hearing as well?

5 A. Yes.

6 Q. You testified at preliminary hearing those
7 photos were taken in celebration of Joshes' birthday and
8 that the Mandalay Bay dolphin exhibit trip was also for
9 Defendant's birthday, correct?

10 A. Correct.

11 Q. When you testified at the preliminary hearing
12 about Joshes' 21st birthday, you testified that you had
13 sex at his house near Oakey and Durango?

14 A. Right.

15 Q. Is that what you told the court?

16 A. Yes. That's what I see on the page.

17 Q. And that's what you testified to at the
18 previous hearing?

19 A. Yeah. Yes.

20 Q. By sex, did you mean penis, vagina
21 intercourse?

22 A. Yes.

23 Q. In fact, you told the court that later you had
24 penis, vagina intercourse at his house while no one was
25 home on his 21st birthday?

1 A. Sorry. I'm looking over this.

2 Q. That's fine.

3 A. Yes. I just got up there. Yes.

4 Q. You also said that the sex at his house when
5 no one was home, included on his 21st birthday in 2014
6 that you put your mouth on his penis and he put his mouth
7 on your vagina?

8 A. Yes.

9 Q. Did you indicate back then what room that
10 happened in?

11 A. If that was something I said, I don't
12 remember.

13 Q. You talked to the court -- the previous court
14 about the birthday party at BJs. That's something that
15 really happened. There was a birthday event at BJs?

16 A. Yes.

17 Q. You identified somebody from Johnson Middle
18 School that was there?

19 A. Yes.

20 Q. Anybody else you remember that was there?

21 A. Yes, there was a couple of Explorers I
22 believe. And there was -- I don't want to be quoted on
23 it. I don't remember exactly, but I believe it was some
24 Explorers and some of Joshes' family.

25 Q. So when Josh turns 21, that's generally when

1 kids leave the Explorers as a true Explorer, right?

2 A. I suppose. I don't remember.

3 Q. Didn't you used to go to Explorer meetings?

4 A. Yes. But that wasn't a subject I heard too
5 much about.

6 Q. By the time Josh turned 21, how long had you
7 been going to Explorer meetings?

8 A. Not very long. Like I only went to
9 probably -- less than 10 meetings. So I can't say.

10 Q. Where would you go to those meetings?

11 A. Enterprise Area Command.

12 Q. Where is Enterprise Area Command?

13 A. Enterprise Area Command is on the -- more
14 south side of town. Like southwest area, by Southwest
15 Career Tech Academy. That's where I would describe it for
16 me. I don't know where --

17 Q. Where is that at, Southwest Career Tech?

18 A. Streets, I'm not sure.

19 Q. Who would be at those meetings before Joshes'
20 21st birthday?

21 A. Metro advisors and Metro Explorers.

22 Q. Can we get more specific then that as to who
23 we are talking about?

24 A. Kevin Zafiris, I believe was there for a
25 couple of them -- Officer Wirey. I remember there being

1 two Austins -- there was Austin Cane and there was an
2 Austin -- I don't remember.

3 Q. Could it be Austin Herrera?

4 A. Yes, that was the one. And Stephanie Chavez I
5 believe was her first name -- Stephanie. A couple others,
6 but they kind of just didn't show up very much.

7 Q. Of the people that you just named, do you know
8 which of those people would have been advisors or
9 supervisors?

10 A. Officers, yeah, so Officer Wirey and Officer
11 Kevin Zafiris.

12 Q. What about Larry Samples?

13 A. Samples as well. That's one I didn't remember
14 the name, but, yes.

15 Q. Those would have been supervisors at some of
16 those meetings you went to?

17 A. All of them.

18 Q. Did you participate in role playing in a
19 couple of those meetings?

20 A. A couple times.

21 Q. What did those entail?

22 A. It's just played out scenarios. Like if they
23 show up on a call, so say the Explorer is acting as the
24 officer, and they're taking in the tactics and rules, you
25 know, what they learn from advisors. It's roles played

1 out. I kind of just took part in that as somebody who
2 would be like a run away suspect or suspect in --

3 Q. Kind of like police practice?

4 A. Yes.

5 Q. You weren't an Explorer by name, right.

6 A. Right.

7 Q. You were just going with Josh?

8 A. Right.

9 Q. You were acting like a suspect in these role
10 play things?

11 A. Yes.

12 Q. Did you learn about investigations?

13 A. Not so much. There wasn't very many meetings
14 where I would stay into long enough to know too much about
15 investigations or certain types.

16 Q. No specifics about investigations?

17 A. Right.

18 Q. Okay.

19 So the next topic we discussed at the preliminary
20 hearing was going to the Cher concert with the Defendant.

21 Do you remember that?

22 A. Yes.

23 Q. You told the previous court you went to a Cher
24 concert May 24th, 2014?

25 A. Right.

1 Q. We have the ticket stubs in there?

2 A. Yes.

3 Q. You told that court that you saved the ticket
4 stubs and took the pictures that we previously looked
5 at?

6 A. Right.

7 Q. You told that court that you were not sure if
8 there was sex that day?

9 A. Yes.

10 Q. If you are trying to get the Defendant in
11 trouble and you are benchmarking it with all these photos,
12 why did you say no sex at the Cher concert?

13 A. That would be consistent. I don't have an
14 exact reason as to why I can say for sure. There are going
15 to be times when you have sex and you don't have sex.

16 Q. That is State's 19 that we looked at before,
17 right?

18 A. Right.

19 Q. Is that correct?

20 A. Yes.

21 Q. You told that court that you went to his house
22 and got ready?

23 A. Yes.

24 Q. You took all of your stuff over there and he
25 drove to the concert?

1 A. Right.

2 Q. Now, you then, during the probable cause
3 hearing, we start discussing the trip to Carlsbad,
4 California?

5 A. Yes.

6 Q. That was the trip you and Josh took
7 together?

8 A. Yes.

9 Q. That was you two alone?

10 A. Right.

11 Q. Did you go to either the zoo or wild animal
12 park while you were there with Josh?

13 A. Yes.

14 Q. So all those things you told the court
15 previously, all those things really happened?

16 A. Right.

17 Q. You told them that you and Josh got a hotel
18 room?

19 A. Yes.

20 Q. Did your mom know that that trip was going to
21 be an over night trip?

22 A. Yes.

23 Q. Did she believe just you and Josh were
24 going?

25 A. Yes.

1 Q. Okay. You told the court previously that you
2 had sex in that hotel room?

3 A. That is what I said, yes.

4 Q. You told the court previously that that hotel
5 room was just across the beach in Carlsbad?

6 A. Right.

7 Q. When you testified previously you told the
8 court that that trip was in the summer of 2013?

9 A. Yes.

10 Q. You told the court that the sex included
11 penis, vagina sex?

12 A. Yes.

13 Q. And it included sex where the Defendant put
14 his mouth on your vagina?

15 A. Yes.

16 Q. Oral sex?

17 A. Right.

18 Q. You told the court at that point that your mom
19 did not know that you and the Defendant were having sex,
20 correct?

21 A. Correct.

22 Q. You told the court that had your mom known
23 that she would have never given you permission to go?

24 A. Right.

25 Q. You told the previous court that you went on a

1 family vacation with the Defendant to Laughlin?

2 A. Right.

3 Q. He accompanied you, your mom, and maybe your
4 step dad?

5 A. No, my aunt Lisa and my cousin Ashley and her
6 son Raker.

7 Q. So all of those people took the Laughlin
8 trip?

9 A. Yes.

10 Q. How long was the Laughlin trip?

11 A. Like a weekend.

12 Q. You didn't remember the date then, correct?

13 A. Right.

14 Q. Did do you remember as you sit here today
15 whether that was before or after the Carlsbad trip?

16 A. I don't remember.

17 Q. But that trip really happened?

18 A. Yes, it did.

19 Q. That was a couple of days at Laughlin?

20 A. Right.

21 Q. You stayed over at least one night in a
22 hotel?

23 A. Correct.

24 Q. You told the previous court -- so all that
25 stuff that we just talked about, that all happened?

1 A. Yeah.

2 Q. You told the previous court that you had sex
3 in Laughlin with the Defendant, penis and vagina,
4 correct?

5 A. Yes.

6 Q. Did you later clarify that you believed that
7 trip was in February of 2013?

8 A. Yes.

9 Q. That was based on a picture of you and the
10 Defendant in Laughlin?

11 A. Right.

12 Q. And you tagging that picture with a date?

13 A. Yeah.

14 Q. Is that what you believe?

15 A. That is what I believe.

16 Q. So you testified that there was a hotel room
17 that you had sex in. Do you remember what hotel that you
18 really stayed in?

19 A. No, I don't.

20 Q. Do you remember how you traveled to
21 Laughlin?

22 A. Yes.

23 Q. How?

24 A. Car.

25 Q. Whose car traveled to Laughlin?

1 A. I don't remember.

2 Q. Did you and your aunt Melissa and your cousin
3 Ashley and her son Raker -- is it Raker?

4 A. It's Raker, yeah. That says Ranker.

5 Q. I didn't think that was his name.

6 Your mom and Josh all drive in one car or two
7 cars.

8 A. Two cars.

9 Q. Did Josh drive his car down there?

10 A. Yes, he did.

11 Q. How many hotel rooms did you get?

12 A. Two.

13 Q. Did you testify at the preliminary hearing --
14 I'm jumping ahead a little bit, in case if you need to
15 refresh your recollection, that after you turned 14, sex
16 with the Defendant slowed down?

17 I'm on page 69, Morgan.

18 A. Okay.

19 Yes.

20 Q. Did you tell that court about a time you went
21 out to dinner, after you were 14, that you drove to the
22 Golden Coral and there was sexual activity before you went
23 in for dinner?

24 A. Yes.

25 Q. You were going to Desert Oasis High School and

1 you were in the 9th grade?

2 A. Yes.

3 Q. Defendant picked you up and drove you to
4 Golden Coral?

5 A. Right.

6 Q. There was oral sex in the parking lot. I mean
7 your mouth on his penis and he ejaculated in your mouth?

8 A. Yes. That is what I said.

9 Q. Did you tell the previous court that you met
10 Umberto and Edith for dinner at Golden Coral?

11 A. Yes.

12 Q. That Golden Coral was up near the Northeast
13 Area Command?

14 A. Yes.

15 Q. Umberto, who is that?

16 A. That was one of Joshes' friends he knew
17 through I believe Metro Explorers.

18 Q. Edith would have been his girlfriend?

19 A. Yeah. That was his girlfriends at the time.

20 Q. So that dinner where you talk about the Golden
21 Coral, did that really happen?

22 A. Yes, the dinner part did happen.

23 Q. The dinner part did happen?

24 A. Yes.

25 Q. There were no other individuals at that dinner

1 except for the two couples, you and Josh and Edith and
2 Umberto?

3 A. Yes.

4 Q. You went from middle school your freshmen year
5 to Desert Oasis?

6 I'm just asking. It's not from the transcript.

7 A. Yes.

8 Q. Where is Desert Oasis?

9 A. As far as Jones, south I believe in the Blue
10 Diamond area.

11 Q. So kind of Southern Highlands, that area?

12 A. Yeah.

13 Q. Was that within your district, Desert Oasis?

14 A. No.

15 Q. Did your mom have to do anything special to
16 get you to go to Desert Oasis when you were a freshman?

17 A. Yes. She had to get me a zone variance.

18 Q. Why did she or you or both of you together
19 want to get you into Desert Oasis?

20 A. Because the people I had been around for 3
21 years at Johnson were -- I was tired of being around them.
22 I was also done with like the 3 years of tension that was
23 built up with everybody around there, when I was choosing
24 to do bad things, choosing to do good, choosing to be bad,
25 it was too much to go into high school with. So instead

1 of going to Bonanza, my zoned schooled, I ended up going
2 to Desert Oasis.

3 Q. So you are talking about your time at Johnson
4 and you just said that there were times when you were bad
5 and times when you were good and times when you were bad;
6 is that right?

7 A. Yeah.

8 Q. So kind of my words not yours, clean slate and
9 go to Desert Oasis?

10 A. Yes.

11 Q. Did you and your mom have to wait for the
12 school district to say, Ms. Savage, it's okay for you to
13 go there?

14 A. Yes.

15 Q. How long did you actually go to Desert
16 Oasis?

17 A. One semester.

18 Q. Did you make friends?

19 A. Yes.

20 Q. Did you meet a boy?

21 A. Yes.

22 Q. Who is that boy you met?

23 A. Franco.

24 Q. Did you begin dating Franco?

25 A. Yes.

1 Q. Did you meet him in class?

2 A. Yes.

3 Q. And so all of those things we just talked
4 about, those are true?

5 A. Right.

6 Q. Did there come a point when you left Desert
7 Oasis?

8 A. Yes.

9 Q. Why did you leave Desert Oasis?

10 A. Because I got in a dispute with Franco and he
11 began to spread things around school that were not good
12 for my representation, so I decided that it's best to get
13 back to a school that's probably easier for my mom to
14 drive me to that provided me bus services to get to and
15 from.

16 Q. Did the things that you -- that Franco was
17 spreading about you include that you were dating a cop?

18 A. Yeah. I believe that's something I
19 mentioned.

20 Q. Did you have a friend named Brittany at
21 Desert Oasis?

22 A. Yes.

23 Q. And did there come a point where when things
24 blue up with Franco that Josh wanted you to go back to
25 Bonanza High School?

1 A. He had mentioned that he was in favor of me
2 going back to Bonanza because I mentioned it to him. It
3 wasn't because of him I went. Like I mentioned in this
4 preliminary.

5 Q. Did he talk to your mom about going back to
6 Bonanza?

7 A. We did it together, me, my mom, and Josh.

8 Q. So that when you told the court that the
9 Defendant wanted you to go to Bonanza High School, he went
10 to talk to your mom about it; is that true?

11 A. Right. With me involved.

12 Q. Sorry.

13 A. Right. With me involved.

14 Q. Did you tell the court that at this time you
15 were continuing to have sex with the Defendant?

16 A. That is what I said.

17 Q. Did you tell that court that -- when you
18 testified previously, that you wanted to stay at Desert
19 Oasis High School and not go back to Bonanza?

20 A. Yes.

21 Q. You told that court that the Defendant
22 convinced you to go back to Bonanza?

23 A. Yes.

24 Q. You told that court you were trying to date
25 someone named Franco?

1 A. Yeah.

2 Q. Yes?

3 A. Yes.

4 Q. And that the Defendant actually made contact
5 with Franco?

6 A. Right.

7 Q. You told that court that Franco had Tweeted a
8 picture of you and he kissing?

9 A. Right.

10 Q. And that Josh saw that picture, that's what
11 you testified to previously?

12 A. Yes.

13 Q. That you argued over that picture with
14 Joshua?

15 A. Right.

16 Q. Did you argue over that picture with Joshua?

17 A. There wasn't really an argument. It was a
18 conversation brought up, like I said before last week,
19 when it was brought up. Just the public display of
20 affection, and I was already against that. And I had told
21 Franco previously not to post a picture like that, just
22 because I don't agree with the way it puts the image upon
23 me. Yeah, there was a conversation, but not an
24 argument.

25 Q. So you were dating Franco at the time the

1 picture was Tweeted?

2 A. Right.

3 Q. And at least at the preliminary hearing, you
4 suggested at the same time you were dating the
5 Defendant?

6 A. Right.

7 Q. Now -- but then you and Josh got in an
8 argument or a discussion about the nature of what was in
9 that picture?

10 A. Right. I was the first to see it, so I
11 brought it up. It was kind of like a simultaneous thing
12 that was seen on my phone when I was going through my
13 Twitter, so it became a topic of conversation of things.

14 Q. Did you tell the previous court he made you
15 call Franco and they, being the Defendant, and Franco
16 argued on the phone?

17 A. That is what I said.

18 Q. Okay.

19 That you were afraid that the Defendant was going
20 to get mad?

21 A. Right.

22 Q. At that time Josh was telling you what friends
23 you could and could not have?

24 A. Right.

25 Q. That is what you testified to previously?

1 A. That is what I said previously.

2 Q. He was telling you what you could do on
3 weekends. He being Josh?

4 A. Which line are we at?

5 Q. Page 74.

6 A. Which line.

7 Q. I'll refer you to that paragraph starting at
8 line 12. Read that to yourself briefly. See if that
9 refreshes your recollection as to what you testified to
10 previously that the Defendant was controlling in terms of
11 your behavior and social life.

12 A. That's what I said.

13 Q. So you previously testified that he would tell
14 you what you could do on the weekends?

15 A. Right.

16 Q. Is that yes?

17 A. Yes.

18 Q. He would tell you whether you could cuss. I
19 assume you meant swearing?

20 A. Right.

21 Q. He was telling you what clothes to wear?

22 A. Right.

23 Q. He was telling you what make-up you could
24 wear?

25 A. Yes.

1 Q. He was telling you how to do your hair?

2 A. Yes.

3 Q. You told the previous court that is how it was
4 from the beginning?

5 A. Yes.

6 Q. Did the Defendant tell you any of those
7 things?

8 A. No.

9 Q. Never?

10 A. He'd suggest to me like people do, like advise
11 on -- like I said before, previously, like with friends.
12 And here where it says, like, when I would cuss. Like
13 there were times I would cuss like obnoxiously in public.
14 Just things that would help me, not anything that was used
15 against me.

16 Q. How about clothes and make-up and hair?

17 A. No.

18 Q. So why did you talk about him controlling all
19 of those things?

20 A. It was all -- just went together. If you are
21 controlling of everything, I watched my mom from a young
22 age be controlling in relationships. I kind of know how
23 the sequence goes.

24 Q. Up until now the story about his being
25 controlling over friends, hair, clothes, make-up and

1 getting angry over other boys, all those things, those all
2 make sense together?

3 A. Right.

4 Q. You testified at the previous hearing that in
5 late 2014, early 2015 you stopped talking to Josh for
6 awhile?

7 A. Yes.

8 Q. That actually happened, didn't it?

9 A. Yes, it did.

10 Q. You had a fight in late 2014, early 2015?

11 A. Yes.

12 Q. You told that court that at that point you
13 began to ignore messages and his calls and you blocked him
14 a couple of times?

15 A. Yes.

16 Q. Did all of those things really happen?

17 A. Yes. The blocking I don't remember exactly,
18 but, yes I did stop talking to him.

19 Q. Then you told the previous court -- all the
20 things really happened, and you told the previous court
21 Defendant was not okay with those things?

22 A. That is what I said.

23 Q. Was he okay. Because you guys were such good
24 friends, when you started to not talk to him and not take
25 his calls or texts or anything, was he happy about that,

1 mad about that?

2 A. I mean, he was kind of suspicious as to why.

3 Like being -- blocking, like blocking him suddenly.

4 Obviously, anybody would.

5 Q. Didn't you say the other day that this is when
6 the big fight was with you and him?

7 A. This is the time -- give me a second to think.
8 I'm thinking about the school years. I know what the
9 school years are.

10 Q. This time he's blocked and all that, that was
11 the fight we spoke about the other day?

12 A. Right. That was the argument. I don't
13 remember what it was about.

14 Q. So the argument you don't remember what it's
15 about. Did you tell the previous court that the Defendant
16 sent people to talk to you?

17 A. Yes.

18 Q. Did you tell the previous court that he sent
19 Stephanie Chavez?

20 A. Yes.

21 Q. That he sent Linda?

22 A. Yes.

23 Q. That he sent Renee?

24 A. Right.

25 Q. Have you seen Linda or Renee since you

1 testified in this case this time?

2 A. No.

3 Q. You told the previous court under oath that he
4 would come to your house during this time period?

5 A. Right.

6 Q. And you would not respond or go see him?

7 A. Right.

8 Q. You also told them that he would be in the
9 parking lot of your community at this time?

10 A. Yeah.

11 Q. Now, those things, sending people to talk to
12 you, being in the parking lot, repeatedly calling you, did
13 any of those things happen in the period of late 2014,
14 early 2015 when you were having this fight?

15 A. Not to the extent I said it, repeatedly, or
16 sending certain people. I remember Stephanie Chavez and
17 Linda reaching out to me making sure I was okay because
18 Josh was concern that there was something that I was --
19 maybe I was doing something like if I was going to hurt
20 myself or whatever, something like that. Because I had
21 been -- I told Josh previously I had mental health issues
22 with wanting to hurt myself.

23 So, yes, he did stop by a couple of times, but as
24 far as, like, lurking in the parking lot or sitting in the
25 parking lot, no.

1 Q. Do you know if your mom saw him driving
2 around?

3 A. No. She only knew what I knew. That is
4 whatever I told her.

5 Q. Did you tell the previous court during that
6 period of time you were walking dogs and ran into him in
7 your neighborhood?

8 A. Yes.

9 Q. You also ran into him on the Strip while you
10 were you out with your cousin?

11 A. Yeah.

12 Q. When you ran into him on the Strip while you
13 were out with your cousin, it caused you enough concern to
14 come home and tell your mom.

15 I'm not asking you from --

16 A. I was looking. Yeah, I suppose.

17 Q. He was in uniform that day?

18 A. Yes.

19 Q. Did you go home and tell your mom that caused
20 you concern when you ran into him on the Strip?

21 A. I don't remember saying that --

22 Q. Concern is my word.

23 A. I wasn't concerned about it. It didn't make
24 me worried or anything like that. But I'm not too
25 recollective on my memory of telling her.

1 Q. But you believe you did tell her?

2 A. There is a possible chance I did.

3 Q. So you told her in order to -- in order to
4 what, if you did tell her?

5 A. Just to let her know, I suppose. I'm not
6 sure.

7 Q. We switched discussion at the preliminary
8 hearing to the time frames that happened after you were 14
9 years old. Remember that?

10 A. Yes.

11 Q. Because we talked about things that happened
12 prior to you turning 14 and things that happened after you
13 turned 14 and less at 16. Do you remember when we
14 switched gears like that?

15 A. I see that here.

16 Q. We talked about regarding sex after 14 years
17 old. You corrected yourself after the Golden Coral trip
18 and said that happened after 14?

19 A. Yes.

20 Q. That would have been the sex you previously
21 described in the car and you were just changing the time
22 frame?

23 A. I believe when I said sex, it was oral sex
24 when I said back there. But, yeah, that is what I said.

25 Q. So to that court previously you made a

1 correction from what you had been saying?

2 A. Right.

3 Q. If this is part of your story, why are you
4 correcting and changing things? Why are you doing that?

5 A. I wasn't correcting or changing it. It was
6 just mentioning how it was what I had said to make sure
7 that for the record or whatever just to make sure that
8 it's clear. What I said specifically back then was what
9 I'm trying to make it clear here when we bring it up
10 here.

11 Q. So internally to that same court you said it
12 happened prior to 14 and later you go back and tell that
13 court it happened after 14; is that correct?

14 A. Right.

15 Q. What I'm asking you is if this is part of the
16 story, why are you even bothering to do that? Why do you
17 change inside your testimony there?

18 A. I don't know. I don't have a reason. I'm
19 just going with the flow, what we're trying to sort out
20 here.

21 Q. There is no magic answer.

22 A. I don't have the answer.

23 Q. At the preliminary hearing you said Defendant
24 would pick you up after school and take you home. That
25 was common, correct?

1 A. Yes.

2 Q. We were talking about a time after you turned
3 14 years of age you had sex at your house, correct?

4 A. Yes.

5 Q. He would -- he picked you up, both during the
6 time you were going to Desert Oasis and after you were
7 going to Bonanza, after you were 14 years old, correct?

8 A. Yes.

9 Q. He would picked you up after school?

10 A. Sometimes, yes.

11 Q. On this particular occasion that we discussed
12 you said that when the Defendant picked you up from school
13 and brought you home, you went upstairs and took a shower.
14 That's what you told the court?

15 A. Right.

16 Q. You told the previous court you had penis,
17 vagina sex on the couch at your house while your mom was
18 at work in the day time after school?

19 A. Most of the time he wouldn't even go up
20 there.

21 Q. Where?

22 A. Up into my house. I would just be dropped
23 off.

24 Q. That's what you told previously?

25 A. Right.

1 Q. You continue to tell the court he picked you
2 up after school. You had sex almost every day. Almost
3 every time at your house it would be after school?

4 A. Yes.

5 Q. You testified that another time after you were
6 14, at your house after school, this was a time when he
7 was waiting in your room undressed and waiting for you to
8 get out of the shower?

9 A. Yeah. That's what I said.

10 Q. These are details you testified to previously.
11 If you recall, you got on top and started kissing him,
12 then put your mouth on his penis?

13 A. Yes.

14 Q. And that you switched positions and he put his
15 mouth on your vagina?

16 A. Yes.

17 Q. You told the previous court that that was
18 followed by penis, vagina sex?

19 A. Yes.

20 Q. These are all what you testified to
21 previously?

22 A. Yes.

23 Q. You went on to discuss a time you had sex --
24 or you told the previous court under oath you had sex in
25 the parking garage at the Excalibur Casino. Remember

1 that?

2 A. Yes.

3 Q. You didn't remember exactly what night it
4 was?

5 A. No.

6 Q. You testified to that court you went to his
7 car. Got in the back seat. And put your mouth on his
8 penis?

9 A. Yes.

10 Q. Yes?

11 A. Yes.

12 Q. Then he put his penis in your vagina?

13 A. Yes, that is what I said.

14 Q. That that happened in the 9th grade, while you
15 were at Bonanza High School?

16 A. Yes.

17 Q. You testified at preliminary hearing you only
18 had sex one time at the SunCoast after you turned 14?

19 A. Where is this?

20 Q. Page 80 -- 80 through 82, unless I numbered it
21 wrong.

22 A. I see it here.

23 Q. And you testified that one of the last times
24 you had sex at the SunCoast that you were having dinner at
25 Archies with the Defendant; is that right?

1 A. Right.

2 Q. Where is Archies?

3 A. There is a couple locations. One of them is
4 on Sahara and Fort Apache. The other one is on
5 Flamingo.

6 Q. Sahara and Fort Apache and Flamingo and --

7 A. Something. I'm not sure what it is.

8 Q. You told the previous court -- is that a place
9 you and Josh would go eat is Archies?

10 A. Yes.

11 Q. On this occasion you told the court that you
12 and Josh were eating at Archies and he wanted to go have
13 sex, but neither your house or his house was available.
14 Is that what you told the court?

15 A. Yes.

16 Q. That you drove to the SunCoast?

17 A. Yes.

18 Q. That you got in the back seat put your mouth
19 on his penis?

20 A. What page are we on.

21 Q. We are on page 82.

22 A. Yes.

23 Q. And you told the previous court that when you
24 went to the SunCoast you parked in your old normal spot?

25 A. Yeah.

1 Q. Is that the same spot you drove detectives
2 to?

3 A. Yes.

4 Q. The normal spot?

5 A. The spot I made up, yeah.

6 Q. You said after -- you told the previous court
7 that after you put your mouth on his penis, he put his
8 penis in your vagina?

9 A. Correct.

10 Q. The next act we discuss with the previous
11 court is you're having sex at the Defendant's house; is
12 that right?

13 A. Yes.

14 Q. You told the previous court that while his mom
15 and dad were gone that you have sex on the couch at the
16 Defendant's house. That is penis to vagina sex?

17 A. That's what I said.

18 Q. That would have been when you were 14 years
19 old?

20 A. Yes.

21 Q. You, at the prelim, discussed the Defendant
22 wanting you to send him nude pictures?

23 A. I see that here.

24 Q. You tell that court, under oath, that on more
25 than 10 occasions you sent Defendant nude pictures with

1 your cell phone?

2 A. Yeah, I see that.

3 Q. Is that correct?

4 A. Yeah, that's what I said.

5 Q. You told that court you were sexting through
6 the whole relationship?

7 A. Yes.

8 Q. What is sexting?

9 A. You are talking about what would take part in
10 sexual intercourse between the two of the people messages
11 and/or maybe not two people messaging, whatever satisfies
12 you.

13 Q. But talking sexually between a couple, talking
14 about sexual stuff?

15 A. Right.

16 Q. Is that what you meant when you used the word
17 sexting?

18 A. Yeah.

19 Q. You discussed the Valley of Fire trip?

20 A. Yes.

21 Q. That's the trip we've seen in the pictures?

22 A. Yes.

23 Q. You told the court on that day you had sex at
24 your house because your mom wasn't home?

25 A. Yes.

1 Q. That's the house on Boseck?

2 A. Yes.

3 Q. On that day it included your mouth on his
4 penis. His mouth on your vagina. And his penis in your
5 vagina?

6 A. Yes.

7 Q. That happened at your house?

8 A. Yes.

9 Q. You talked about going to the Country Fest and
10 said there was no sex that day with Josh?

11 A. That is what I'm talking about.

12 Q. Why you are talking about the Country Fest and
13 being there's no sex on that day, when you're trying to
14 get him in trouble?

15 A. Among all of this you asked me did you have
16 sex that day. I answered your question as to Country
17 Fest.

18 Q. Did you go on to talk about sex at his
19 grandparents' house in 2013 or '14, when you had not yet
20 turned 16?

21 A. What page are we on.

22 Q. 89 to 90.

23 A. I see that. Yes.

24 Q. Now, during the course of this preliminary
25 hearing we read some of those questions yesterday back and

1 forth, right?

2 A. Right.

3 Q. Was it pretty easy for you to respond to my
4 questions back then in September 2015?

5 I'm not talking about specific questions on those
6 pages. Was it easy back then in general?

7 A. To come up with stuff, yeah. Yes.

8 Q. It was easy. Is there anything I did to trick
9 you or trick you up on any of your answers, anything like
10 that that happened at that hearing?

11 A. As far as trying to think of dates, you, no.

12 Q. So when you talked to me in that preliminary
13 hearing was it much like you are talking to Detective Cho
14 in that interview you watched?

15 A. Yes.

16 Q. I asked you open-ended question or pointed you
17 to a time frame and we talked about it?

18 A. Right.

19 Q. You were responsive with your answers. Did
20 you respond to my questions?

21 A. Yeah, I did.

22 Q. So I'm going back to having sex with Josh at
23 his grandparents' house. You told the court you were not
24 16 yet; is that right?

25 A. Yeah. Yes.

1 Q. It happened at a time when his grandfather was
2 ill and you were there when everyone was going?

3 A. Yes.

4 Q. You told that same story to Detective Cho?

5 A. Yes.

6 Q. You spoke about another time. We went back in
7 time where the Defendant wanted you to tell your mother
8 that you were sick and you needed to stay home from
9 school. Remember talking about that?

10 A. I see that.

11 Q. Page 91.

12 A. Yes.

13 Q. 90.

14 A. 90, yeah.

15 Q. When you were in 6th and 7th grade that he
16 would want you to stay home from school?

17 A. Right.

18 Q. He'd pick you up from CVS and took you to his
19 house?

20 A. Right.

21 Q. That happened when you were 12 in 7th grade?

22 A. That is -- yeah, that's what we came to the
23 conclusion of.

24 Q. On one of these times in 7th grade when he
25 insisted that you stay home sick, you told the court that

1 there was penis, vagina; mouth to penis; and mouth to
2 vagina sex?

3 A. Yes.

4 Q. You tell the court that on at least 4
5 occasions he had you stay home sick?

6 A. Yes.

7 Q. You talk about one time specifically in the
8 7th grade that it was the last time Josh had you tell your
9 mom that you were sick?

10 I'm on 93. Do you recall that?

11 A. Yes.

12 Q. Your mom seemed to tell the court -- your mom
13 didn't want you staying home from school sick and that
14 Josh told you to exaggerate how you felt so that you could
15 stay home?

16 A. That is what I said.

17 Q. You convinced your mom you were sick?

18 A. Yeah.

19 Q. On that last time, after you convinced your
20 mom you were sick, at Joshes' insistence, you met at CVS
21 and drove to his house. Parked in the garage and went
22 straight to his bedroom where sex happened?

23 A. Yes.

24 Q. At that time you had penis, vagina sex?

25 A. Yeah.

1 Q. Mouth and vagina sex and mouth on penis sex?

2 A. Right.

3 Q. Did you tell the court what Defendant said
4 would happen if he got caught, what he told you?

5 A. Yes.

6 Q. What did you tell the court?

7 A. I told the court that it was told to me that
8 he could be arrested and get in serious trouble and it
9 would ruin his life and career.

10 Q. That is what you told the court?

11 A. Right.

12 Q. If he was caught he would be in serious
13 trouble, ruin his life, and ruin his career?

14 A. Yes.

15 Q. You told the court that Josh Honea knew from
16 the beginning how old you were?

17 A. Yes.

18 Q. Did Josh know from the very beginning how old
19 you were?

20 A. Yes.

21 Q. Did Josh tell you he wanted to date you or
22 marry you when you turned 16?

23 A. No.

24 Q. Did Josh tell other people he wanted to date
25 you and marry you when you turn 16?

1 A. No.

2 Q. Right after you tell the court about Defendant
3 expressing distress if he gets caught, you told the court
4 the Defendant threatened to turn your mom in for being a
5 bad mom because she let you do drugs and drink?

6 A. Right.

7 Q. Did your mom let you do drugs and drink?

8 A. No.

9 Q. Were you worried about your mom when you said
10 that?

11 A. I don't know what I was thinking at that time
12 when I said that. I do know now my mom, she was aware
13 that I did drugs and was drink, but did she agree to it,
14 no.

15 Q. You did teen stuff, did drugs and drank
16 alcohol?

17 A. Yeah.

18 Q. When you were 14 are we talking about smoking
19 weed?

20 A. Yes.

21 Q. So you told the court that Josh said your mom
22 could get in trouble for knowing that you did smoke
23 weed?

24 A. Right. That is what I said.

25 Q. You said that Josh told your mom that he and

1 you were like brother and sister?

2 A. Yes.

3 Q. Did you tell your mom that?

4 A. I don't remember.

5 Q. You convinced her nothing was going on when
6 you were confronted by your mom?

7 A. A long ways towards the end, like, when I got
8 into an argument with Josh it wasn't really a convincing
9 position, just she brought up the concern that, like, why
10 Josh would be concerned for me. I told her there was
11 nothing going on. It was just that there was an
12 argument.

13 Q. So when we talked about yesterday if your mom
14 never confronted you, you said, no, that's kind of a
15 little different?

16 A. What I said yesterday there wasn't any
17 confrontation, any bringing up of it until the very end.
18 That is when I'm saying now as well.

19 Q. When is the last time you saw your mom?

20 A. A long time.

21 Q. Months. I didn't mean to upset you.

22 Do you need to take a break.

23 THE COURT: We've been at it a little over an
24 hour, let's have a brief recess.

25 JURY ADMONITION

1 During the recess, ladies and gentlemen, you are
2 admonished not to converse among yourselves or with anyone
3 else, including, without limitation, the lawyers, parties
4 and witnesses, on any subject connected with this trial,
5 or any other case referred to during it, or read, watch,
6 or listen to any report of or commentary on the trial, or
7 any person connected with this trial, or any such other
8 case by any medium of information including, without
9 limitation, newspapers, television, internet or radio.

10 You are further admonished not to form or express any
11 opinion on any subject connected with this trial until the
12 case is finally submitted to you.

13 Let's take about 20 minutes. We'll return here at 20
14 to 3:00.

15 (Brief recess taken.)

16 THE COURT: Please take your seats.

17 Ms. Kollins, when you are ready.

18 BY MS. KOLLINS:

19 Q. Did you get a break?

20 A. Yes. Yes.

21 Q. I don't know if I asked you this yesterday.
22 When is the last time you spoke to Franco?

23 A. Years.

24 Q. In relation to you going to Desert Oasis High
25 School, was it after that?

1 A. It was a little after that, but not much was
2 said.

3 Q. Okay. You don't remember the conversation
4 between Josh and Franco?

5 A. No, not specifically.

6 Q. Going back to do you remember telling the
7 story about Defendant having you walk out to the car and
8 that you guys would kiss and you were going out to the car
9 at school -- at Johnson Middle School?

10 A. Yes.

11 Q. You had to do it quickly so nobody would see.
12 Do you remember all of that discussion?

13 A. Yeah.

14 Q. Do you remember talking about a time the
15 Defendant was spoke to by the principal, principal
16 Suprearo (ph), don't take Morgan out there anymore?

17 A. Right.

18 Q. Did that happen?

19 A. Yes.

20 Q. So he was spoken to by the principal about
21 taking you out there?

22 A. Right.

23 Q. Not taking you to the car by himself?

24 A. Right. Just not taking me to the car because
25 of what it looked like.

1 Q. Do remember saying previously that Defendant
2 discussed with you theories about how people would find
3 out about you and the Defendant?

4 A. Yes.

5 Q. So you did say that?

6 A. I said that, yeah.

7 Q. You testified at that time of the prelim about
8 that your mom confronted you about Josh?

9 A. Yes.

10 Q. You convinced her that there was nothing
11 sexual going on between you and Josh?

12 A. Right.

13 Q. Did your mom confront you?

14 A. Yes. That was toward the end, but not
15 anything sexual.

16 Q. You testified at the prelim that Defendant
17 didn't like your friends and that at that time you had
18 very few friends?

19 A. Yeah. That is what I said.

20 Q. You told that court that he was all you had?

21 A. Yes.

22 Q. When he told you these things about your mom
23 you testified that you believed him?

24 A. Right.

25 Q. Is that the reason you were not honest with

1 police officers at first is because you wanted to protect
2 him?

3 A. Right.

4 Q. That's what you said under oath previously
5 that you were trying to protect him?

6 A. Yes.

7 Q. Are you trying to protect him now?

8 A. Now, for the better, like, for the truth, yes.
9 Well, not protect like tell the truth in order to get
10 justice where justice is needed.

11 Q. Did you tell the previous court that you
12 changed your mind because you realized that a big chunk of
13 your life had been taken away by the Defendant and it was
14 not right?

15 A. Can you tell me which page we are on.

16 Q. Page 100.

17 A. Yes.

18 Q. So it's true that you did tell that court that
19 you had changed your mind regarding being dishonest with
20 the prior detective because the Defendant took a big chunk
21 of your life away and that was not right?

22 A. Right.

23 Q. You told the previous court that you would see
24 the Defendant's mom because she was the dean's secretary
25 when you are in 6th grade?

1 A. Yes.

2 Q. And the reason you would be in there was dress
3 code violations and insubordination?

4 A. Right.

5 Q. That happened about 10 times?

6 A. It happened multiple times. I don't know 10,
7 30. I know I was there consistently weekly.

8 Q. Are those things mostly what you were in
9 trouble for back then?

10 A. Yes.

11 Q. So insubordination, is that talking back?
12 What does that mean?

13 A. It was just not doing what I was supposed to
14 be doing in class, or not doing or following school
15 rules.

16 Q. But you -- back then you were not caught
17 smoking pot at school in 6th grade?

18 A. No. No.

19 Q. And dress code violations in 6 grade. Like
20 you are wearing a spaghetti strap and you could see and
21 things like that?

22 A. Right.

23 Q. Did you tell them -- did you tell us at the
24 previous proceeding that you were suspended on one time in
25 6th grade?

1 A. Yes.

2 Q. That was for spitting on a girl?

3 A. Yes.

4 Q. That is the collective history of you being
5 such a bad kid in 6th grade?

6 A. That is a pretty good summary of it.

7 Q. Those are true?

8 A. Yeah.

9 Q. Did you testify at the prelim hearing that you
10 weren't that close with Defendant's family and that you
11 just had casual conversations?

12 A. Yes.

13 Q. And that you would text with his sister if you
14 and the Defendant were out, but didn't really talk to her
15 on the phone?

16 A. Right.

17 Q. You didn't discuss Facebook with her?

18 A. No.

19 Q. Were all those things true?

20 A. Yes.

21 Q. So you also testified at the preliminary
22 hearing you would only be around the Defendant's family
23 when the Defendant was around?

24 A. Right.

25 Q. True?

1 A. Yes.

2 Q. There was one time you went to a graduation
3 alone with his family?

4 A. Right.

5 Q. Without him?

6 A. Right.

7 Q. But other than that, you were only around his
8 family if he was around?

9 A. Right.

10 Q. You testified there was one time that he let
11 you stay over at the house when the air-conditioning went
12 out and your mom was out of town?

13 A. Correct.

14 Q. You testified that when you stayed there over
15 night you had to sleep on the couch because the family was
16 there?

17 A. Right.

18 Q. You testified about first meeting the
19 Defendant early on. He would be wearing a Metro Explorer
20 uniform?

21 A. Yes.

22 Q. Did he wear that uniform at school?

23 A. Yes.

24 Q. Did he wear that uniform when you went to
25 meetings with him?

1 A. Yes.

2 Q. And those meetings were at Enterprise in
3 northeast area command?

4 A. Not in 6th grade but later on in the school
5 years, yes.

6 Q. You did that at his invitation?

7 A. Correct.

8 Q. More than 5 times, less than 10 every week for
9 a while, right?

10 A. Right.

11 Q. That is what you told previous time you
12 testified, that is what you said under oath, correct?

13 A. Correct.

14 Q. That you didn't represent yourself by a fake
15 name or age when you'd go to these meetings?

16 A. No.

17 Q. That you went to a Metro gathering or party at
18 Officer Zafiris' house?

19 A. Yes.

20 Q. With the Defendant?

21 A. Yes.

22 Q. And that was after a funeral?

23 A. Yes, it was.

24 Q. That was all when you were 14?

25 A. Yeah.

1 Q. Are those things true? Did you actually
2 attend those functions, attend that funeral and attend
3 those meetings when you were 14?

4 A. Yes.

5 Q. So that part of your testimony is true?

6 A. Yes, it is.

7 Q. You testified that Josh did not want -- did
8 not want all of his friends to know you were hanging
9 out?

10 MR. MACARTHUR: Objection, your Honor. A lot of
11 these questions are asked and answered.

12 MS. KOLLINS: I'm done when I'm done.

13 THE COURT: I'm going to overrule the objection.
14 The way we have proceeded through the voluntary statement,
15 now the preliminary hearing transcript, we have had
16 questions asked of certain time frames, certain issues in
17 different ways. They may be covering similar ground, but
18 to the extent they were appropriate to complete the
19 questioning we'll allow it here. If it gets too redundant
20 or we are covering too much of same ground, we may
21 revisit. I'll let you proceed.

22 MS. KOLLINS: Do you need to make a record, your
23 Honor.

24 THE COURT: If you wish to you may.

25 MS. KOLLINS: The issue now is Ms. Savage has

1 recanted, so the number of times she has given -- previous
2 times she's given consistent statements with the State's
3 theory of the case, I believe I'm entitled to ask her
4 about those and get them into the record completely.
5 Those are two separate occasions, the voluntary statement
6 and the probable cause hearing. There is going to be
7 information that matches up between the two hearings.

8 THE COURT: I'll allow the overlap on that
9 basis. It's stated somewhat differently, but we are
10 talking about the same thing. Do I think though that
11 Mr. MacArthur has a point. At some point if we are
12 continuing to cover on more than the two occasions there,
13 but multiple occasions on similar grounds which have
14 technically been asked and answered we may get into some
15 area there where we have redundancy where that would be
16 objectionable. We're not there yet.

17 Go ahead and proceed.

18 MS. KOLLINS: Thank you.

19 BY MS. KOLLINS:

20 Q. Did you tell the previous court that the
21 Defendant would parent you?

22 A. Yes.

23 Q. That he would become mad at you and yell at
24 you?

25 A. Yes.

1 Q. Did he parent you, Morgan?

2 A. Not really, no.

3 Q. Not really?

4 A. When I say not really, when I say that I mean
5 no more -- just guidance in direction. I needed guidance
6 sometimes.

7 Q. The same guidance you got from him, did you
8 ever ask your mom for guidance?

9 A. Yes.

10 Q. Did you ever ask your older siblings for
11 guidance?

12 A. Yes.

13 Q. Do you tell the previous court that you would
14 park on the second level of the SunCoast garage?

15 A. Which level-- sorry, which page.

16 Q. Page 138.

17 A. Yes.

18 Q. Did you tell the previous court having sex
19 made you feel mature?

20 A. Yes.

21 Q. Did you tell the previous court that you moved
22 Defendant belongings for him?

23 A. Yes.

24 Q. Did you move his belongings?

25 A. Yes, I did.

1 Q. Did you tell the previous court that you
2 assisted detectives in calling Josh Honea in order to get
3 some admissions out of him?

4 I'm on page 157.

5 A. Yes.

6 Q. Did you assist them in that phone call?

7 A. I sure did.

8 Q. Did you tell the previous court that you
9 argued with Josh about you using Instagram?

10 A. What page.

11 Q. Page 173.

12 A. Yes.

13 Q. And that your user name was 420?

14 A. Yes.

15 Q. Is that true?

16 A. At one point it was.

17 Q. Did you tell the previous court about the
18 first times you tried to have sex with the Defendant?

19 A. Yes.

20 Q. You told the previous court that you gave him
21 oral sex because you tried to have intercourse and he
22 could not?

23 A. Yes.

24 Q. You told that court that he could not get his
25 penis into your vagina?

1 A. Correct.

2 Q. And that he complained and became
3 frustrated?

4 A. Right.

5 Q. He wanted you to practice with something so it
6 was easier for him to get inside of you?

7 A. Yes.

8 Q. You also told the previous court that on
9 occasions he wanted you to masturbate over the phone for
10 him in pictures?

11 I'm on 177 and 178?

12 A. Yes.

13 Q. You testified at the previous hearing under
14 oath, you told your mom that he was gay so that she would
15 accept him, right?

16 A. Yes.

17 Q. You said that at some point you think you did
18 tell her that?

19 A. Yes.

20 Q. So that part is true?

21 A. Yes. For a brief trip.

22 Q. Morgan, we have been up here for a long time.
23 I just have a couple more things I want to ask you about.

24 I want to ask you about when you decided to change
25 your story?

1 A. Okay.

2 Q. You had a meeting, correct?

3 A. Right.

4 Q. Who did you have that meeting with?

5 A. Joshes' attorneys.

6 Q. The two individuals seated to the left with
7 Mr. Honea?

8 A. Yes.

9 Q. Do you remember there names as you sit here
10 today?

11 A. Mr. MacArthur and Ms. McNeil.

12 Q. And you said the other day you met with them
13 between 20 and 35 minutes, is that what you said?

14 A. Yes.

15 MR. MACARTHUR: Objection, misstates
16 testimony.

17 THE COURT: They did agree with the answer. You
18 may clarify.

19 THE WITNESS: It was not 20 minutes. I said 45
20 minutes to an hour beforehand, but 20 minutes is within
21 the hour so --

22 THE COURT: Fair enough.

23 BY MS. KOLLINS:

24 Q. So it could have been 20 minutes to an hour,
25 is that what you are saying?

1 MR. MACARTHUR: Objection, Judge. Misstates
2 testimony.

3 THE WITNESS: It was 45 minutes to an hour.

4 BY MS. KOLLINS:

5 Q. I guess I misheard you. I wasn't try to put
6 words in mouth.

7 So this 45 minutes to an hour, let's walk through
8 the conversation you had.

9 A. If I could actually have -- I don't know if
10 it's allowed for me to have the notes that Mr. MacArthur
11 made when we were speaking. I can't recollect upon --

12 Q. Let's just talk about what you can remember.

13 THE COURT: We appreciate that. If you need
14 your recollection refreshed on a specific question, we can
15 use the notes, but let Ms. Kollins ask her questions.

16 BY MS. KOLLINS:

17 Q. Did you take notes yourself?

18 A. No.

19 Q. Did you tell Mr. MacArthur what to write?

20 A. No.

21 Q. Did you agree previously that some of those
22 things that were written down were paraphrased and not
23 your words?

24 A. They were just a paraphrase of what I said,
25 but still correct.

1 Q. Do you remember -- do you remember today is
2 day 4 of you testifying, correct?

3 A. I guess, yeah.

4 Q. Do you remember answering questions where you
5 said punishment was never addressed in that meeting?

6 A. Right.

7 Q. Is that your testimony as you sit here
8 today?

9 A. Yes.

10 Q. Punishment was not addressed by Mr. MacArthur
11 nor Ms. McNeil?

12 A. No.

13 Q. Do you remember testifying in here just after
14 you were arrested?

15 A. Vaguely. It depends on which subject you are
16 talking about.

17 Q. Well, do you remember the day you testified in
18 here without a jury. You met Ms. Pandullo and you came in
19 here and you testified. Remember that day?

20 A. Not specifically. Like I remember the day,
21 yes, but not like -- you'd have to -- if you want to speak
22 upon specific information we talked about, that would have
23 to be brought up and repeated.

24 Q. That is what I'm getting to. Do you remember
25 the day you met Ms. Pandullo?

1 A. Yes.

2 Q. You came in here and there was no jury in
3 here. We had a discussion. We had a discussion with Mr.
4 MacArthur and Ms. McNeil and yourself, remember that?

5 A. Right.

6 Q. Now, in here that day you said that the topic
7 of was discussed between you and Mr. MacArthur and Ms.
8 McNeil about Josh. Remember that?

9 A. Vaguely.

10 Q. So was punishment discussed between the
11 defense attorneys when they came to see you at Clark
12 County Detention Center and yourself before you changed
13 your story, or was punishment of Joshua, should he be
14 convicted, not discussed in your meeting with Mr.
15 MacArthur during that meeting?

16 A. As far as the specifics, like, the actual time
17 due to what punishment could be put upon Josh, no, there
18 was no specifics.

19 Now what was said is something along the terms of
20 me -- I don't know if it was me who brought it up, I
21 believe it was -- but as far as me knowing that punishment
22 is a long time. Now they did bring to my attention that
23 we are not allowed to talk about specifics in what kind of
24 punishment could be put.

25 Q. Isn't it true that Mr. MacArthur told you that

1 it was a long time?

2 A. I don't remember if it was him, or I who said
3 it. If the notes say something, then so be it. But I
4 don't remember exactly. I can't say whether it was Mr.
5 MacArthur I or who it was.

6 Q. But the topic was discussed though?

7 A. Yes.

8 Q. Do you think it would refresh your
9 recollection if you watched a video of that hearing to see
10 whether you remember how the topic of punishment in that
11 conversation where you changed your mind was approached?

12 A. No. I would rather not. I don't believe it
13 to be necessary.

14 THE COURT: The question posed to the witness
15 is, would it refresh your recollection. Is there any
16 reason why the video would not refresh your
17 recollection.

18 THE WITNESS: No, because there is no reason to.
19 Because between either me or him, I don't think it make a
20 difference. So, no, it would not.

21 MS. KOLLINS: Well, with all due respect to
22 Mr. Savage, it's not her call whether it makes a
23 difference.

24 It's the court's decision.

25 THE COURT: I agree. Please proceed.

1 MS. KOLLINS: Morgan, I'm going to show you what
2 has been marked for identification State's 77-A.

3 MR. MACARTHUR: No objection to 77-A, Judge.

4 THE COURT: 77-A and content will be admitted.

5 MS. KOLLINS: They are marked. I guess if I
6 could have your clerk mark them as admitted.

7 THE COURT: 77-A is an envelop and 77 is the
8 disc, is that correct.

9 MS. KOLLINS: That's correct. Earlier this
10 morning we were unable to get the video and audio. I
11 didn't it -- I'll check.

12 BY MS. KOLLINS:

13 Q. While Ms. Rhoades is plugging that in, was
14 there conversation about Facebook?

15 A. I don't remember.

16 Q. You don't remember. Do you remember
17 discussing a couple of days ago me liking a Facebook
18 page?

19 A. I remember you and I's (sic) discussion about
20 Facebook.

21 Q. Okay.

22 A. And pictures.

23 Q. Do you know where those pictures came from?

24 A. Facebook.

25 Q. Did you give anyone permission to access your

1 page to get those?

2 A. I had to accept you as a friend.

3 Q. Did you give permission to defense counsel to
4 get on your page to get those pictures?

5 A. No. Not to my recollection.

6 Q. Not to your recollection. Okay.

7 I'm going to play the hearing from the other day,
8 Morgan. See if it refreshes your recollection about the
9 punishment Joshua Honea and discussions you had with
10 Mr. MacArthur and Ms. McNeil?

11 THE WITNESS: Okay.

12 THE COURT: Are you going to play the whole
13 hearing.

14 MS. COLLINS: Yes, ma'am.

15 THE COURT: What I wanted to explain when we had
16 the hearing that day Ms. Savage was seated where you all
17 are seated, which is why you don't have the audio of that.
18 I've asked counsel to bring the volume up, although that
19 won't make my voice very pleasant. It will be louder than
20 it already is. But hopefully you'll be able to hear the
21 other discussion.

22 I think counsel had moved around at various
23 times and Ms. Savage at different times was speaking at
24 different volumes, so I've asked her to bring the volume
25 up a little bit.

1 Thank you.

2 THE COURT: You may begin.

3 (Resuming playing court hearing in front
4 of the jury. Not reported.)

5 MS. MCNEILL: May we approach.

6 THE COURT: You may.

7 (Discussion held at the bench.)

8 THE COURT: With that clarification,
9 Ms. Kollins, you may resume questioning.

10 MS. KOLLINS: I have just a little bit, your
11 Honor.

12 BY MS. KOLLINS:

13 Q. So the discussion of punishment was discussed
14 between you and counsel?

15 A. Yes.

16 Q. The statements, you would agree, that were
17 written down by Mr. MacArthur were paraphrasing of what
18 you said that was your word?

19 A. If not word for word.

20 Q. So they were not word for word, or they were
21 paraphrased?

22 A. It was a combination of the two.

23 Q. What was word for word?

24 A. I made notes here. I would have to see the
25 notes, his specific notes in order to, like, go through

1 and say which was word for word because I don't remember
2 how he exactly wrote it for some things. But it was all
3 my word. It was all true.

4 Q. Didn't you just say in that hearing that we
5 just watched that I did not manipulate you?

6 A. Yes. I made a note here.

7 Q. I don't have what you are referring to. I'm
8 asking a question, Morgan.

9 A. Sorry.

10 Q. If you are using something to refresh your
11 recollection, I'm going to need a copy of it.

12 THE COURT: Let's clarify for the record what
13 you are looking at.

14 THE WITNESS: I wrote down kind of just review
15 of everything that was talked about through that whole
16 video. I kind of made kind of a chronological order of
17 every thing that went down to paper notes, as far as for
18 my -- just to remember what was said.

19 THE COURT: Let me ask you this. Did the act of
20 writing down the notes help you remember some things.

21 THE WITNESS: Yes.

22 THE COURT: Can you please try to testify from
23 your memory now of those things without referring to your
24 notes, if you can do that. If you can't remember
25 something and you must refer to your notes, then you need

1 to make the record you are doing that. Then counsel would
2 know whatever document it was you were using to refresh
3 your recollection.

4 Just like with the statement and other things you
5 have had to look at and read to yourself and then testify,
6 I think it's more appropriate to use your notes that way.
7 So we'd like you to proceed with answering the questions
8 without referring to any documents.

9 If you need to further refresh your recollection, we
10 can take a moment, review that document, then go from
11 there.

12 THE WITNESS: Okay.

13 Can I just say something. I think it would be
14 best to just put this in whatever record because it's
15 going to be helpful to refer to this.

16 THE COURT: We don't need to put anything in the
17 records, because any document can be used to refresh
18 recollection. But my point I'm trying to make is, I don't
19 have a problem as you are listening to that video things
20 coming to mind and you thinking through them writing down,
21 but that should have refreshed your recollection in and of
22 itself, right.

23 THE WITNESS: Yeah.

24 THE COURT: What we would like to do is as you
25 have been testifying, testify from your recollection If

1 you cannot -- I guess I'll ask you, Ms. Pandullo, why
2 don't you take custody of those notes for just a moment.
3 We'll see if Mr. Savage can answer the questions from her
4 recollection. If she cannot and needs to refer to them,
5 we can do so.

6 BY MS. KOLLINS:

7 Q. One of the lines of that note was that you
8 felt manipulated and then you testified you did not feel
9 manipulated. Is that correct?

10 A. Right.

11 MR. MACARTHUR: I'm going to object. It
12 misstates testimony.

13 THE COURT: Overruled.

14 MS. KOLLINS: He reviewed it.

15 BY MS. KOLLINS:

16 Q. The notion of Joshua being punished for what
17 happened to you, does that scare you?

18 A. It doesn't scare me. It more so puts me in a
19 position of feeling like I'm the reason to something that
20 doesn't just -- unfairness mostly.

21 Q. In the 45 minutes to an hour that you are
22 talking to Mr. MacArthur and Ms. McNeill were you asked,
23 have you told Stacey that this is a lie. Were you asked
24 that direct question?

25 A. Yes.

1 Q. You were asked?

2 A. Not that direct question. I believe that what
3 was said from Mr. MacArthur was have you made Stacey aware
4 of how you are feeling today about this whole thing.

5 Q. How you are feeling and whether it is a lie --

6 MR. MACARTHUR: Objection, your Honor. She cut
7 her off from the complete answer. I think she should be
8 allowed to continue.

9 THE COURT: Did you finish your answer.

10 THE WITNESS: I did finish my answer.

11 THE COURT: You may proceed.

12 BY MS. KOLLINS:

13 Q. So how you are feeling and whether or not it
14 was a lie on what he asked you in that regard that is two
15 different things in my mind.

16 Did either one of them ask you have you told
17 Stacey this is a lie, or have you told Stacey this isn't
18 true?

19 A. Have you made Stacey aware, yes.

20 Q. You told them, no?

21 A. Yes.

22 Q. Did you tell them why you hadn't told me
23 yet?

24 A. I don't remember.

25 Q. Did you ever tell them for months and months

1 you had been telling me that you didn't want to do this?

2 MR. MACARTHUR: Objection, leading. She is
3 testifying.

4 THE COURT: Sustained.

5 Rephrase it Ms. Kollins.

6 MS. KOLLINS: I don't have privy to the entire
7 conversation, so I don't know how else to phrase it.

8 BY MS. KOLLINS:

9 Q. Were you told at any point in the conversation
10 or did you tell them at any point in the conversation that
11 you had repeatedly told me this was a lie?

12 A. No.

13 Q. Mr. MacArthur said in the video that he
14 explained some ethical rules to you. What was explained
15 to you?

16 A. He didn't explain ethical rules. He just said
17 there would be an ethical issue when it comes to speaking
18 of the -- don't quote me -- on the time that would have to
19 be served when it comes to Josh being sentenced, if this
20 were to go through as that. But it was an ethical issue.
21 He didn't explain what ethical issue it was.

22 Q. But it was an ethical issue to discuss
23 punishment, essentially?

24 A. Right. It comes to the ethical issue.

25 Q. For several weeks before you ended up in

1 custody, how would you characterize your level of
2 responsibility in responding to me in order to prepare for
3 this trial?

4 A. I was -- okay. When it comes to responding to
5 you, I was not very responsive. I -- there were times
6 when I would try to be, but given the fact I was on the
7 streets and doing drugs and I was with my boyfriend who
8 wasn't really caring or responsible or supportive of what
9 I was going through and getting in contact with you made
10 it very, very much harder for me to want to really do that
11 as well.

12 Q. The day that we met in the alley that you
13 repeated for Mr. MacArthur that you had said you didn't
14 want to do this or you didn't want to come to court that
15 day?

16 A. Yes.

17 Q. Did we not have a discussion that day about
18 coming to court and, you know, that I would -- my office
19 would try to continue to make efforts to get you to
20 court?

21 A. Yes.

22 Q. Short of being arrested?

23 A. Yes.

24 Q. And we sent you taxi cabs, right, that you
25 didn't show up for?

1 A. Right.

2 Q. I met you on weekends on days I wasn't at work
3 to talk to you?

4 A. Yes.

5 Q. I sent text messages to your boyfriend, DJ, on
6 the phone you share?

7 A. Yes.

8 Q. Sometimes you would get those messages and
9 respond and sometimes you wouldn't?

10 A. Yes.

11 Q. When you were arrested, did you understand
12 that that was kind of the last straw that we were out of
13 options?

14 A. Yes.

15 Q. Did you think that that was something that I
16 was doing to control your testimony or control what you
17 were going to do in this case, other than show up?

18 A. No.

19 Q. I guess in the interest of full disclosure,
20 did I buy you lunch one time during one of those
21 meetings?

22 A. Yes.

23 MR. MACARTHUR: I'm going to object as to
24 leading, Judge. The question is did I buy you --

25 THE COURT: I understand the objection. There

1 have been leading questions. I think it would be very
2 difficult for Ms. Kollins to lay a foundation for the
3 question without it being leading. I'll give some leeway
4 for these questions.

5 Go ahead, Kollins.

6 BY MS. KOLLINS:

7 Q. Morgan, at one point did you make a request of
8 me to obtain your social security number and some clothing
9 to include shoes from your mom?

10 MR. MACARTHUR: Objection, relevance.

11 THE COURT: Hold on. Remember there might be
12 objections by counsel. Make sure we addressed it before
13 you respond.

14 MS. KOLLINS: To the extent there has been
15 anything offered her for her testimony that that was going
16 to be argued that we did some favors.

17 THE COURT: Overruled. You may answer.

18 THE WITNESS: Yes.

19 BY MS. KOLLINS:

20 Q. You came to my office and pick those up?

21 A. Yes.

22 Q. And spent about an hour-and-a-half with me
23 that day?

24 A. Yes.

25 Q. But you were several hours late that day?

1 A. Yes.

2 Q. I guess the last question I have for you,
3 Morgan, is did you ever tell your boyfriend, DJ, that this
4 was all a lie?

5 A. I didn't speak to him about it.

6 Q. Okay.

7 Last thing, Morgan. I apologize. When I met with
8 you, I always had my investigator present or Ms. Rhoades
9 was present, Ms. Rhoades and my investigator?

10 A. Yes.

11 Q. Those meetings were never just me and you?

12 A. No.

13 MS. KOLLINS: Thank you, your Honor. At this
14 point I'm going pass the witness.

15 THE COURT: Ms. Kollins, do you have items on
16 the podium there.

17 THE COURT: I'll ask counsel to approach on a
18 brief scheduling issue.

19 (Discussion held at the bench.)

20 THE COURT: What I broached with counsel in
21 terms of whether or not we might benefit from reconvening
22 today or tomorrow or continuing today, counsel would like
23 to begin questioning today. Obviously, you'll understand
24 that the State had an opportunity to inquire, now defense
25 has an opportunity to inquire. The State will have an

1 additional opportunity to inquire and so on until we
2 complete with the witness.

3 The jurors will have the opportunities to inquire
4 when questioning is completed.

5 Mr. MacArthur, when you are ready.

6 CROSS-EXAMINATION

7 BY MR. MACARTHUR:

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. How are you doing?

11 A. Good.

12 Q. Okay. You've testified for 4 days?

13 A. Yes.

14 Q. I'll see if I can get you done today. Will
15 that be all right.

16 A. I would like that.

17 THE COURT: We are not going to complete today.
18 Even if you had the opportunity to think about your
19 questions and decide what you wanted your inquiry to be
20 and you complete that in the next hour or so, as we know
21 we would not be able to complete redirect, any other
22 recross, and certainly the questions of the jurors today.

23 So despite any efforts to want to, as we all
24 believe we wanted to, be able to finish this necessary
25 line of questioning, we're not going to finish today.

1 MR. MACARTHUR: Understood.

2 THE COURT: I had instructed the jurors on that
3 and Ms. Savage that. Sorry we weren't on the same page
4 We are now.

5 You may proceed.

6 BY MR. MACARTHUR:

7 Q. You understand you're going to be here
8 tomorrow?

9 A. Yes.

10 Q. All right. Let's discuss in detail how you
11 got where you are. Okay?

12 A. Okay.

13 Q. You're currently in custody, right?

14 A. Correct.

15 Q. You're wearing a jumpsuit issued at CCDC,
16 correct?

17 A. Yes.

18 Q. You were arrested, what is today, Tuesday?

19 A. Yes.

20 Q. You were arrested last Monday at about 4:00 in
21 the afternoon; is that correct?

22 A. Yes.

23 Q. At the time you were arrested you thought it
24 was because you hadn't come to court that morning?

25 A. Right.

1 Q. You thought you had to come to court the next
2 morning?

3 A. Right.

4 Q. In fact, you intended to come to court the
5 next morning, didn't you?

6 A. Yes.

7 Q. You had had instances where you had met with
8 Stacey and Kristina and their investigator in the lead up
9 to this trial; is that correct?

10 A. Only 1, 2 -- yes.

11 Q. So you had more than 1?

12 A. Yes.

13 Q. But there were also some you missed?

14 A. Right.

15 Q. But it's your understanding that you had to
16 come to court for that subpoena?

17 A. Correct.

18 Q. You came to court to tell the truth,
19 correct?

20 A. Correct.

21 Q. But you got arrested first?

22 A. Yes.

23 Q. We saw a video that was played back, right?

24 A. Right.

25 Q. That was a hearing about your material witness

1 warrant. Is that fair?

2 MS. KOLLINS: Objection. That mischaracterizes
3 the hearing.

4 MR. MACARTHUR: I'll rephrase it, Judge. I
5 believe she's correct.

6 THE COURT: Sustained.

7 BY MR. MACARTHUR:

8 Q. We asked you questions about another issue,
9 but you had to come to court to be reviewed by the judge
10 with regard to your material witness warrant, correct?

11 A. Yes.

12 Q. You were informed that you had to remain in
13 custody until you were done testifying in this trial; is
14 that correct?

15 A. Yes.

16 Q. So you couldn't get out of custody until both
17 sides were done with you; is that correct?

18 MS. KOLLINS: Well, objection. That is not
19 accurate.

20 THE COURT: Sustained.

21 MR. MACARTHUR: I'll rephrase.

22 THE COURT: I'll sustain because there was a
23 basis upon which she possibly could get out of custody
24 that did not occur.

25 MR. MACARTHUR: Right, Judge. The State is

1 correct.

2 I'll rephrase.

3 BY MR. MACARTHUR:

4 Q. The judge set a bail of \$10,000.00?

5 A. Bail, yes.

6 Q. So if somebody paid a bail or a bail bondsman
7 posted bail, you'd get out of custody for that reason?

8 A. Right.

9 Q. But you're currently homeless?

10 A. Right.

11 Q. And recovering from a substance abuse
12 addiction?

13 A. Right.

14 Q. Is it fair to say you didn't have \$10,000.00?

15 A. Yes.

16 Q. Or anybody who could post that for you?

17 A. Right.

18 Q. So short of doing that, you had to stay in
19 custody until the State and I were done questioning you in
20 this trial, correct?

21 A. Yes.

22 Q. It took the State 4 days to question you; is
23 that fair?

24 A. Yes.

25 Q. You were in custody for all the time we had to

1 do other things that you weren't here for?

2 A. Yes.

3 Q. You think you would have gotten out sooner if
4 you had just agreed with the State?

5 MS. KOLLINS: Objection. Calls for speculation.
6 Argumentative.

7 MR. MACARTHUR: I'm asking what she thought.

8 THE COURT: Overruled.

9 BY MR. MACARTHUR:

10 Q. I'll rephrase.

11 Much of what we did for the past 4 court days was
12 the State asking you, did you say this?

13 A. Yes.

14 Q. You saying, yes, I said that?

15 A. Yes.

16 Q. No. It wasn't true. Or, yes, it was true?

17 A. Yes.

18 Q. On the next question.

19 A. Yes.

20 Q. Right?

21 A. Yes.

22 Q. Was it obvious to you that this process was
23 taking longer because you had disagreed with something you
24 said in the past?

25 A. Yes.

1 Q. Had it occurred to while you testified in this
2 trial that if you just went back to saying what you said
3 in 2015, you probably would have been done by now?

4 A. Yes.

5 Q. So because you told the truth, you have spent
6 a week in jail?

7 A. Yes.

8 Q. Have you been in jail before?

9 A. No.

10 Q. It is fun?

11 A. It's terrible.

12 Q. When you came to court there was an issue that
13 that we saw on that video about notes the I took when I
14 came to talk to, right?

15 A. Yes.

16 Q. Now, you get arrested Monday night, right. Am
17 I correct that the trial itself started on Monday?

18 A. Yes.

19 Q. You weren't in court, I'm assuming?

20 A. Right.

21 Q. But we did things without you here. We got
22 started after you arrived?

23 A. Right.

24 Q. So Ms. McNeill and I come and see you Monday
25 night or Tuesday night, do you remember? Was it the same

1 night you got arrested or the next day?

2 A. It was the next day after I got arrested.

3 Q. I'll ask you to do a little mental math here.
4 Trial going for two days before we come see you at the
5 jail?

6 A. Right.

7 Q. So whatever we're doing in court that you're
8 not here for has been done for two days before you meet
9 us?

10 A. Yes.

11 Q. Was that the first time you ever met me?

12 A. Yes.

13 Q. Was it the first time you ever met Ms.
14 McNeill?

15 A. Yes.

16 Q. When was last time you saw or talked to Josh
17 Honea?

18 A. It was July of 2015.

19 Q. Is that because that's when he got arrested?

20 A. Yes.

21 Q. We heard you in your recording testify that
22 you found out he had gotten out?

23 A. Yes.

24 Q. And you thought he was at Clark County
25 Detention Center, didn't you?

1 A. Yes.

2 Q. How did you feel about that?

3 MS. KOLLINS: I'm going to withdraw. Never
4 mind.

5 THE WITNESS: Having been here and having
6 knowing what kind of charges he was facing, considering
7 what kind of placement they'd put him in, it's pretty
8 scary situation to think about. I feel terrible to have
9 put somebody in a position like this.

10 BY MR. MACARTHUR:

11 Q. Do you now, at 18 years of age, have a better
12 appreciation of what jail is?

13 A. Very much.

14 Q. Now, you came to court and both sides got to
15 ask you questions about what you did or didn't say to me
16 or Ms. McNeill in the jail?

17 A. Right.

18 Q. At that time you informed the State that some
19 of the things you said in preliminary hearing hadn't been;
20 is that true?

21 A. True.

22 Q. That is what you said?

23 A. That is what I said.

24 Q. Without telling them what parts were true and
25 not true, Ms. Rhoades gave you immunity, right?

1 A. Yes.

2 Q. At that point you were informed that you could
3 be truthful about what you may have said that was false
4 and not have to worry about being prosecuted or punished
5 for that lie. Is that correct?

6 A. Correct.

7 Q. And after she gave you immunity is when you
8 shared all the information that we have been talking about
9 for the past 4 days?

10 A. Yes.

11 Q. When Ms. McNeill and I came and spoke with
12 you, did we offer you anything for your testimony?

13 A. No.

14 Q. Did we tell you how you could get out of
15 custody?

16 A. No.

17 Q. Did we tell you how long Josh could go to
18 prison?

19 A. No.

20 Q. Did you ask me about it?

21 A. Yes.

22 Q. Did I give you a definite answer?

23 A. No.

24 Q. Did I tell you there were ethical problems
25 with me giving you a definite answer?

1 A. Yes.

2 Q. We agreed that he could go to jail for
3 awhile?

4 A. Yes.

5 Q. Now, after having been booked in at CCDC, did
6 you start going through some medical treatments for
7 detox?

8 A. Yes.

9 Q. Did they give you prescriptions to help you
10 deal with withdrawal?

11 A. Yes.

12 Q. Has there been times in the past 4 days where
13 that has been difficult?

14 A. Yes.

15 Q. Were all of the days difficult or some harder
16 then others?

17 A. The beginning was difficult more so, but then
18 it -- by now I'm feeling like a normal person again.

19 Q. So is it fair to say you feel clearer now or
20 earlier in the trial?

21 A. I feel clear as far as my mind, but I have
22 body feelings like my physical feeling, it was way worse
23 at the beginning. Mentally though, I have been here. I
24 know what I'm talking about.

25 Q. Understood.

1 As part of medical treatment are you also receiving
2 a prescription for anxiety?

3 A. Yes.

4 Q. Now, just to be clear, Morgan, when
5 Ms. Rhoades gave you immunity Tuesday of last week, was
6 that the first time you could tell everybody the truth
7 without getting in trouble?

8 A. Yes.

9 Q. Were you scared of getting in trouble before
10 that point?

11 A. Yes.

12 Q. Morgan, one of the things we talked about is
13 your contact with the lead prosecutor, Stacey Kollins,
14 right?

15 A. Yes.

16 Q. In that amount of time there were
17 communications between you, right?

18 A. Yes.

19 Q. In various means, sometimes in person or on
20 the phone or through online social media?

21 A. Right.

22 Q. Is there a difference in your mind in how you
23 were treated by law enforcement back when you were
24 accusing Josh versus how you are treated now?

25 A. Yes. Yes.

1 Q. If you would please describe that for the
2 jury?

3 A. I'm being treated as an inmate right now. I
4 have -- just like my bunky (sic) across from me who's
5 charged with assault with a deadly weapon is how I'm being
6 treated.

7 Q. Did they treat you well before, back when you
8 were a witness for the prosecution?

9 MS. KOLLINS: Objection as to foundation.

10 THE COURT: Sustained.

11 MS. KOLLINS: Who is they. She is incarcerated.
12 I don't have access to her.

13 MR. MACARTHUR: Happy to rephrase, Judge.

14 BY MR. MACARTHUR:

15 Q. Back when they expected your testimony to be
16 against Josh, did you get free food?

17 MS. KOLLINS: Again.

18 THE COURT: Can't I have counsel at the bench
19 please.

20 (Discussion held at the bench.)

21 THE COURT: Sustained. I'll allow Mr. MacArthur
22 to rephrase.

23 BY MR. MACARTHUR:

24 Q. Phrasing it a different way.

25 Morgan, do you remember how it is that you and

1 Stacey became Facebook friends? Did you request her or
2 did she request you?

3 A. She requested me.

4 Q. When was that?

5 A. I would say a few years ago. Maybe 2 years
6 ago.

7 Q. You have had occasion where you met her away
8 from court?

9 A. Yes.

10 Q. I think she even asked you the question, did
11 she come to you near the alley where you were staying?

12 A. Yes.

13 Q. So she had seen you where you are at or
14 hanging out?

15 A. Yes.

16 Q. She's done that not just during business hours
17 but actually on weekends too?

18 A. Yes.

19 MS. KOLLINS: Objection. Mischaracterizes the
20 testimony. It was one weekend.

21 THE COURT: With that clarification you may
22 proceed, Mr. MacArthur.

23 BY MR. MACARTHUR:

24 Q. And isn't it, in fact, true that when she saw
25 you she offered to help get you a place to stay?

1 A. Yes. For the trial.

2 Q. Did she also -- let me make it open. Did
3 she -- she didn't ask you about -- when she was
4 questioning you this afternoon -- she didn't ask you about
5 helping you getting a place to stay?

6 A. No.

7 Q. Is there anything else that the jury or myself
8 aren't aware of that she offered to do for you or with you
9 that she didn't bring up?

10 A. Other than just the fact that it was an option
11 to me to have a hotel provided to me while I was going
12 through trial.

13 Q. Just while you were going through trial?

14 A. A place to sober up and/or go to a rehab like
15 Westcare for a couple of days before here. That was also
16 an option that was given to me, but I didn't.

17 Q. Understood. Was that from Stacey directly or
18 through a social worker?

19 A. That was from Stacey directly, but with her
20 people around.

21 Q. Did she put you in touch with a social worker
22 or anybody else?

23 A. No. I declined everything.

24 Q. You told the jury and we've seen the tape,
25 it's my turn to ask you. You informed them you didn't

1 want to proceed with this, didn't you?

2 A. Yes.

3 Q. That was before they gave you the immunity?

4 A. Yes.

5 Q. Did that seem to change the direction of
6 anything?

7 A. No.

8 MS. KOLLINS: Objection. Vague.

9 BY MR. MACARTHUR:

10 Q. Did it still appear as though Stacey still
11 wanted to prosecute Josh with your help?

12 A. Yes.

13 Q. Now, going back to the Tuesday night last week
14 when I came to visit you. We heard you testify that I had
15 paper and pen?

16 A. Yes.

17 Q. You still remember that?

18 A. Yes.

19 Q. What color was the paper?

20 A. Yellow.

21 Q. Did I take notes?

22 A. Yes.

23 Q. Did you see me take notes?

24 A. Yes.

25 Q. Did I let you read those notes when we were

1 done?

2 A. Yes.

3 Q. Did I ask you if they were correct?

4 A. Yes.

5 Q. Did I give you the option to tell me if there
6 was anything I should change?

7 A. Yes. My bad.

8 Q. Having read those notes, did you actually tell
9 me those things?

10 A. Yes. And if not word for word, they were
11 paraphrased of what I said.

12 Q. If at any point during the next questions you
13 don't remember what those notes were, I would like you to
14 ask me if you can refresh your recollection. Is that
15 fair?

16 A. Yes.

17 Q. Did you tell me that it was your mistake not
18 showing up Monday at 10:00 a.m.

19 A. Yes.

20 Q. Did you tell me that you got arrested November
21 27, at about 4:00 p.m.

22 A. Yes.

23 Q. Did you state that you didn't want to come to
24 court?

25 A. Yes.

1 Q. Did you tell me that Josh was a good person
2 and you cared about him a lot?

3 A. Yes.

4 Q. Did you say that you manipulated things a
5 lot?

6 A. Yes.

7 Q. Did you say that, in an example, that if you
8 love me, you'll do this, as an example of how you might
9 manipulate a person?

10 A. Right.

11 Q. Did you say that Stacey is making it sound in
12 court like Josh abused me?

13 A. Yes.

14 Q. Did you say that Stacey makes me not want to
15 go through with this?

16 A. Yes.

17 Q. Now, at this point in the conversation have
18 you told me yet or Ms. McNeill that your testimony was
19 false? Have we gotten to that point yet?

20 A. No.

21 Q. So when we start off this conversation you
22 don't know whether you can trust me or her or not yet,
23 right?

24 A. Right.

25 Q. This is before you get immunity, correct?

1 A. Yes.

2 Q. Were you, in fact, afraid that if you admitted
3 that you lied we might use that against you?

4 A. I didn't -- I'm not sure. I didn't think
5 about it.

6 Q. Fair enough.

7 A. Well, actually I take that back. Yeah,
8 because I was worried about being charged with perjury, so
9 that way you guys could have used that against me in order
10 to defend.

11 Q. Did we make it clear to you that we were not
12 there to help you or hurt you?

13 A. Yes.

14 Q. Did we make it clear to you that we were only
15 there because we defend Josh?

16 A. Right.

17 Q. And that the charges were serious?

18 A. Yes.

19 Q. Did you say that Stacey was using you to
20 prosecute Josh?

21 A. In a way, yes.

22 Q. Those were my words, not yours.

23 A. Right.

24 Q. When I say that, I'm reading from my notes,
25 not quoting you directly.

1 A. Right.

2 Q. But we had a conversation along those lines?

3 A. Yes.

4 Q. Did you tell me that every relationship has
5 jealousy?

6 A. Yes.

7 Q. Now, I didn't immediately follow up on you
8 with that, did I?

9 A. No.

10 Q. Did you say that you wanted out of CCDC?

11 A. Yes.

12 Q. Did you say that with all my heart I don't
13 want to come to court?

14 A. Yes.

15 Q. Did you say I regret saying anything?

16 A. Yes.

17 Q. Did you say I feel like I have to say what
18 Stacey wants to hear or I won't get out?

19 A. As soon, yes.

20 Q. And, in fact, you have been in custody for
21 over a week now?

22 A. Yes.

23 Q. Did you tell me that Josh wasn't as mature as
24 I was?

25 A. Refresh my recollection.

1 Q. Sure. Absolutely.

2 Refresh your recollection as to what I was talking
3 about.

4 A. I can't see it here. Yes. The second line
5 from the bottom of my notes. Yes, that is what I said.

6 Q. Okay. All right?

7 Is this a point which we started having a
8 conversation about you seem to be having some misgivings
9 or being conflicted?

10 A. Yes.

11 Q. And the last note here. Did you, in fact,
12 share with me -- I won't go into details. Did you share a
13 story with me about something you saw your dad doing when
14 you were younger?

15 A. Yes.

16 Q. Did we come back to that later? You do
17 remember a conversation along those lines?

18 A. Yes.

19 Q. When you were 8 or 9 years old?

20 A. Yes.

21 Q. And it was drug related?

22 A. Yes.

23 Q. Now, before we departed, did you, in fact, ask
24 me if I would or when was last time I had seen Josh?

25 A. Yes.

1 Q. Did you ask me when I would see him again?

2 A. I don't remember if that's what I said.

3 Q. Did you ask me if you could write him a
4 note?

5 A. Yes.

6 Q. What did I say?

7 A. You can refer -- if I wanted to say something,
8 you could refer it to him.

9 Q. I think I skipped something. When I saw you
10 at the jail, I, in fact, told you that --

11 MS. KOLLINS: Objection. It's hearsay.

12 MR. MACARTHUR: I'm not asking her if it's
13 true.

14 MS. KOLLINS: Approach or have an offer of
15 proof.

16 THE COURT: Please.

17 (Discussion held at the bench.)

18 THE COURT: I think we've clarified for the
19 record. I'll sustain the objection and allow you to
20 rephrase.

21 MR. MACARTHUR: Thank you, Judge.

22 BY MR. MACARTHUR:

23 Q. Morgan, I in fact informed you that I would
24 not share these notes with anybody other than Josh?

25 A. Yes.

1 Q. Clearly, they are not at issue. You are not
2 aware of why I may have shared the notes are you?

3 A. No.

4 Q. Do you feel like I lied to you at all?

5 A. No.

6 Q. Excellent?

7 All right. So there is a note you wrote at that
8 time at the bottom of my notes to Josh; is that correct?

9 A. Yes.

10 Q. Stacey showed you that note in front of the
11 jury during her direct. It was yesterday or the day
12 before?

13 A. Yes.

14 Q. Was that your handwriting?

15 A. Yes, it was.

16 Q. Everything you said in that note is true?

17 A. Yes, it was.

18 Q. Now, at some point in your testimony in
19 response to Stacey's question you said -- well, let me set
20 up foundation.

21 Do you remember the point in the conversation where
22 she asked you or told you that you guys contacted each
23 other on Facebook?

24 A. Yes.

25 Q. She showed you a whole bunch of pictures,

1 correct?

2 MS. KOLLINS: Objection. Mischaracterizes the
3 evidence.

4 THE COURT: Fair enough. I'll sustain it but I
5 appreciate Mr. MacArthur you are summarizing. We focused
6 on preciseness in this case so stay as precise as you can
7 be.

8 MR. MACARTHUR: Good.

9 THE COURT: I'll sustain on that basis.

10 BY MR. MACARTHUR:

11 Q. You remember there being 4 picture, about,
12 that appear to come from your Facebook?

13 A. Yes.

14 Q. Did those pictures each seem to reflect Stacey
15 at Christmas or liking a post or loving a post?

16 A. Yes.

17 Q. Did you think that was unusual?

18 A. She stayed pretty consistent with commenting
19 on pictures so, no.

20 Q. Okay.

21 At some point in your direct testimony with Stacey
22 you said that you thought that that interaction was
23 intimidating. Explain why?

24 A. Because it's that constant reminder of what is
25 going on with Josh.

1 Q. Based on your interaction with Stacey, did it
2 seem important to her that you testify against Josh?

3 MS. KOLLINS: Objection. Foundation.

4 THE COURT: And speculative. Sustained.

5 MR. MACARTHUR: Sounds like you ruled. I didn't
6 get a chance to argue back.

7 THE COURT: I don't need argument, but if you
8 would like to try to lay foundation you're welcome to do
9 so.

10 MR. MACARTHUR: Understood.

11 BY MR. MACARTHUR:

12 Q. You have had interaction with Stacey since
13 2015, correct?

14 A. Correct.

15 Q. You knew she's the prosecutor?

16 A. Yes.

17 Q. There has been a series of dates, court dates
18 since 2015 to present, correct?

19 A. Right.

20 Q. They were cases where you'd be expected to
21 attend or not expected to attend, correct?

22 A. Correct.

23 Q. Generally speaking, was Stacey the person who
24 told you you were supposed to come to court or somebody
25 else who worked in her office?

1 A. Generally speaking it was Stacey.

2 Q. Things you would discuss with her with regard
3 to this case in the past at least where of a serious
4 nature; is that fair?

5 A. Yes.

6 Q. Sometimes heavy types of topics?

7 MS. KOLLINS: Objection, foundation.

8 Again that's assuming every time there was a trial
9 date we had a protracted discussion. I'd ask he be
10 required to lay a foundation.

11 THE COURT: Let me have counsel at the bench
12 briefly.

13 (Discussion held at the bench.)

14 THE COURT: We are going to recess. We're
15 getting into lines of questioning that may require detail
16 and more foundation. It's sustained at this point. We
17 want to give Mr. MacArthur an opportunity to lay
18 foundation, but it's almost 5:00. We won't do that
19 today.

20 So we'll reconvene tomorrow at 1:00. Our goal being
21 obviously to have as much trial time as possible.

22 JURY ADMONITION

23 During the recess, ladies and gentlemen, you are
24 admonished not to converse among yourselves or with anyone
25 else, including, without limitation, the lawyers, parties

1 and witnesses, on any subject connected with this trial,
2 or any other case referred to during it, or read, watch,
3 or listen to any report of or commentary on the trial, or
4 any person connected with this trial, or any such other
5 case by any medium of information including, without
6 limitation, newspapers, television, internet or radio.

7 You are further admonished not to form or express any
8 opinion on any subject connected with this trial until the
9 case is finally submitted to you.

10 See you tomorrow at 1:00 o'clock.

11 (Jury dismissed.)

12 MS. PANDULLO: Can we address custody.

13 THE COURT: Go ahead.

14 MS. PANDULLO: At this point she was arrested
15 Monday. It's now Tuesday at 5:00. The State and defense
16 both had the right to adequately examine and cross-examine
17 Ms. Savage, however, I think that at this point, I mean,
18 this is a considerable amount of time in custody for an
19 18-year-old kid who's never been in custody before. As
20 she just testified, she is sitting in the same housing
21 unit and ultimately a cell as somebody accused of either
22 what was it battery assault with use of a deadly weapon.
23 She's housed with some pretty serious offenders. I know
24 that the court's prior ruling, based in part on ensuring
25 she'd be here, but also based in part on safety and

1 well-being. To that comment she's had a week plus now to
2 detox and she did represent to me this morning -- this
3 afternoon she spoke with her mother this morning and her
4 mother said she can come stay with her, She, in fact,
5 does want that.

6 I did try to reach out to her mother, Pam Savage,
7 when we were on break. I haven't heard back yet. Se has
8 a job to do, so it's possible she hasn't gotten my message
9 yet.

10 But I do think that that warrants redressing her
11 custody status, considering how long this has dragged on
12 for at this point. Considering the fact we don't have,
13 obviously, a set determination as far as when this is
14 going to end for her.

15 THE COURT: Before I hear from counsel, can I
16 have some clarification on who initiated the contact
17 between Ms. Savage and her mother.

18 THE WITNESS: I initiated it.

19 THE COURT: You were in the courtroom present
20 were you not, Ms. Savage, when we had that discussion
21 about the fact that there would not be any communications
22 with you while you were still providing testimony under
23 oath.

24 THE WITNESS: Yes. You are right. I just made
25 a collect call to her this morning. It was brief, about

1 60 seconds we get. I see solutions hung up on us.

2 THE COURT: Was there any discussion beyond you
3 being able to stay with her.

4 THE WITNESS: No.

5 MS. MCNEILL: I previously told Ms. Savage not
6 to have any communication whatsoever about her testimony
7 or the case or facts of the case with anyone.

8 MS. KOLLINS: If I might.

9 THE COURT: Ms. Kollins.

10 MS. KOLLINS: I talked to Pam Savage today,
11 because she indicated to me that Morgan tried to call her,
12 and she was trying to set up an account but it was a free
13 phone call, so it's consistent with what Morgan had to
14 say. She didn't realize there was a no contact order
15 while she was in custody and while she's still under oath.
16 I informed Pam Savage of the fact that Morgan can't
17 contact Pam because she's witness in this case. I don't
18 want to see her in custody either, but it's not -- it's no
19 one's fault. It's no one's fault.

20 THE COURT: The court will take responsibility
21 for signing the order that put Ms. Savage in custody so
22 she could be present and sober to give testimony for both
23 side's sake. I will take responsibility, and I will stand
24 by that decision.

25 The issue now is is there enough reason to believe

1 there would be -- Ms. Savage's return to provide the same
2 testimony sober if she were to be released from custody
3 today.

4 MS. KOLLINS: Well --

5 THE COURT: I'm not asking counsel to comment on
6 that. Anything to add.

7 MS. KOLLINS: I can tell you that I just asked
8 Ms. Savage if she told Morgan she could stay there and she
9 said, no. So I don't know if maybe Pam didn't hear her
10 question, because of the phone call was so quick but
11 unfortunately that makes me share in the court's concern
12 about Morgan being repeatedly contacted by her boyfriend
13 where she is and when is she getting out.

14 MS. PANDULLO: That's why I put in a call to her
15 mother was to go through everything with her and whether
16 or not she'd be able to stay with her for the duration of
17 trial. And to, again, obviously explain to both of them
18 they can't be discussing anything as it relates to the
19 case, her testimony. But I would say generally, a no
20 contact order I don't feel is accurate or appropriate
21 given the circumstances. When you have people who are
22 going to be witnesses in a trial that are also family
23 members. It's not for the time in which they would be
24 involved testifying during a trial, they aren't allowed to
25 be around one another in the same residence. It's mostly

1 discussing facts of the case for your testimony. It's
2 similar to what you would be telling the jury every single
3 time you are excusing them. I don't think that anything
4 is violated this morning. I specifically told Ms. Savage
5 previously she shouldn't be having any of those
6 conversations. And based on my understanding, the
7 substance of their conversations weren't -- had nothing to
8 do with her testimony. But I do believe there might have
9 been some discussion about her potentially coming to stay
10 with her. I can't tell you I'm positive of that, so I
11 wasn't able to verify with her mother.

12 THE COURT: Anything you'd like to add for the
13 record.

14 MR. MACARTHUR: No. I'm going to trust Ms.
15 McNeill to make that.

16 MS. MCNEILL: Your Honor, I think it's up to the
17 court, however, I do have, just as an officer of the
18 court, some concern with the appropriateness of Ms. Savage
19 isn't here because she is charged with committing a crime,
20 so it's a different standard when you are looking at
21 whether or not she's released. She -- while I share
22 concerns obviously with what using drugs before she
23 testified would effect her competency, I don't know if the
24 court is allowed to keep someone in custody because they
25 might use drugs. That's sort of speculative, looking at

1 we don't keep people in custody because they might commit
2 a crime.

3 She's here because the State issued a warrant even
4 though she never said she wasn't going to come to court
5 and that's ultimately what we are doing here. She has now
6 been in custody for a week due to -- she's never at any
7 point said I wasn't going to come to court. She wasn't
8 making meetings, but she knew when the trial date started.
9 I share Ms. Pandullo's concern that Ms. Savage is sitting
10 in custody on a material witness warrants that might not
11 have been that valid. Obviously it's up to the court to
12 make that decision. I think at this point it's kind of
13 getting into territory where -- the validity of her arrest

14 MS. KOLLINS: I appreciate that Ms. McNeill
15 needs to represent Mr. Honea as well as Morgan. Morgan
16 has her own attorney here to voice her concerns. The
17 bottom line is if she leaves and she doesn't come back
18 they are precluded from cross-examination. We are almost
19 at the end. She's almost done. The material witness
20 warrant was valid. I don't know that you can test the
21 validity since it was signed off by a judge. No one
22 contested prior to that. I don't think this is the
23 appropriate time for defense to try to have her
24 released.

25 MS. PANDULLO: If I may.

1 THE COURT: Are you finished, Ms. Kollins.

2 MS. KOLLINS: I guess I am.

3 THE COURT: If you have something else. I want
4 to complete the record. I'll let Ms. Pandullo have the
5 last word.

6 MS. KOLLINS: I don't want to hold her in
7 custody either. It's not like we're letting her out
8 because she is going to use drugs. It's because she is
9 not going to come back because she is using drugs. That's
10 that the issue. If she gets out and uses she won't be
11 back. So, I mean, she is an adult. She's free to go do
12 what she wants when she's done testifying in the case.

13 THE COURT: Ms. Pandullo, last word.

14 MS. PANDULLO: I don't think Ms. McNeill is
15 acting on behalf of my client. I think she's acting as an
16 officer of the court.

17 That being said, the State is saying they don't want
18 her in custody and clearly they are in requesting the
19 material witness warrant. It wasn't disputed or contested
20 prior to being signed off on because I don't think anybody
21 was aware of it. I wasn't appointed and she didn't have
22 an attorney who could come in at that point and argue for
23 her as to why it would not be appropriate to sign off on
24 it.

25 Beyond that, what I would say is everyone keeps

1 reiterating this notion that for one if she's under the
2 influence of drugs, so presuming that that's going to be
3 the choice she makes when she gets out of custody seems
4 contrary to our discussions I have had with her. Beyond
5 that, if she gets out of custody and she uses that she
6 won't show you up for future court appearances, she has
7 yet in this case on a single occasion to not show up for
8 court appearances. She has been to every single court
9 appearance that she was scheduled to be at. The one
10 exception being she was brought in in custody for her
11 necessary testimony here.

12 Everything that was done as far as material witness
13 warrant is concerned was premature in my opinion and when
14 you are discussing while she gets out of custody and she
15 uses she won't show back up. Interestingly enough, she
16 was using when she was showing up for those pretrial
17 meetings. She didn't show up for every single one but
18 she showed up for multiple ones. She showed up for half
19 of them. And she's not under legal obligation to show up
20 for those pretrial meetings.

21 Again, I don't want to be labor the point. I already
22 brought this up last week. The final issue I want to
23 address is everybody keeps saying, just a little longer.
24 We're almost at the end. That was said days ago. That's
25 being said again today.

1 We really have as your honor just mentioned when
2 Mr. MacArthur started cross-examination, he said I'm
3 hoping to get you out of here today. I'm sure everybody
4 noticed how much her face lite up, then your Honor had to
5 correctly state to Mr. MacAuthur because he hadn't heard
6 you, we have no idea how long the cross is going to take.
7 He is only going to be so well-positioned to make that
8 estimate, because a lot of it's based on her responses.
9 She doesn't know. The we have redirect and recross.

10 So I don't know realistically how much longer this is
11 going to take, and neither does the court, neither does
12 the State, neither does Mr. MacArthur. Because of that,
13 because of the fact she's been sitting in custody for a
14 week and a day already, not having committed any crime, I
15 think we need to let her out of custody. Obviously she's
16 not capable of posting a \$10,000.00 bail or she would have
17 done so by this point.

18 THE COURT: Okay.

19 The court was provided a material warrant request.
20 The court reviewed it. The court found it to be
21 appropriate. The court signed it. It is then and remains
22 now the court's decision to keep Mr. Savage in custody for
23 purposes of ensuring she's present here to testify.

24 A moment ago I made the comment that she would be
25 here to testify and be sober. I think it was, in my mind,

1 because she had indicated today at the beginning of her
2 testimony that she was sober. But the bottom line is we
3 have felt that she has been competent to and able to
4 testify each of the afternoons and the one full day she's
5 been here.

6 It's this court's determination then and it is still
7 now based on representations of the State based on
8 testimony of Ms. Savage since she has been in custody that
9 I do not have assurances that she would appear and
10 complete her testimony tomorrow, whether it be because she
11 would get out and use, or whether it would be because
12 she'd get out and have some belief that not returning
13 would somehow benefit the case in some way to some degree
14 to some person or otherwise. I don't know. But she will
15 remain in custody on the court's order until her testimony
16 is complete.

17 I believe it's appropriate. I believe it's
18 necessary. I stand by that decision that I made last
19 week. I stand by that decision today.

20 So we have completed the discussion. Ms. Savage, I
21 do from the representations made by counsel have reason to
22 believe you will complete tomorrow. We are very
23 appreciative of your time with us. And we'll have you
24 back here tomorrow at 1:00 o'clock.

25 Officer, since you are a different officer then we

1 had yesterday, I do believe there is a procedure during
2 Ms. Savage's testimony, if you would follow that.

3 The first bench conference that was substantive, Ms.
4 McNeill requested there be a jury instruction about
5 counsel's ethical responsibility as defense counsel to
6 interview State's witnesses.

7 While I declined to make a instruction at that time
8 in part because I wanted to be certain of my wording.
9 There is an instruction that exists in there in terms of
10 interviews. Attorneys have the right to interview
11 witnesses and those circumstances. I thought something
12 like that could be adapted. I did indicate that the court
13 would consider such an instruction in the court's
14 instructions on the law at the end of trial. And I am
15 going to consider that, whether it be proposed by counsel
16 or just something that we again ultimately put together
17 from a form of instruction similar to what's requested.

18 I think it's -- unfortunately it's both sides feel
19 the finger has been pointed at them about the
20 circumstances of what occurred within that interview with
21 Ms. Savage. All we have to do is what we're doing, which
22 is to get through the trial's inquiry on that. Playing
23 the video is removing the mystery of what that hearing
24 was. We'll go forward and complete the cross and go from
25 there. I think it needs to be something that's included

1 in the instructions as to how and why counsel may have
2 interviewed and why counsel may have -- the State may have
3 had communications as well.

4 Does anybody want to add to that.

5 MS. KOLLINS: Not at this time, but, obviously I
6 have the right to object the instruction.

7 THE COURT: We'll settle instructions somewhere
8 in this process.

9 Ms. McNeill.

10 MS. MCNEILL: No, your Honor. I don't know that
11 we'll be asking for an instruction. I think it's apparent
12 that the jury -- how the jury feels about what happened.

13 THE COURT: I'll remind the jurors they are not
14 to consider punishment as a circumstance.

15 The other bench conference we had substantive was
16 Ms. Kollins' objection that Mr. MacArthur was asking a
17 question that would have elicited witnesses confirmation
18 to an out of court statement. Upon clarification his
19 basis for asking the question was to ensure that it was
20 understood that she may not -- the witness may not have
21 had an expectation if him sharing his notes, but did in
22 fact share the notes. And that that somehow would pertain
23 to bias. I did allow the question to be rephrased and
24 asked. It was rephrased and asked. I don't think we had
25 further circumstances of that concern. So does either

1 counsel have a record to add to that.

2 MS. KOLLINS: There were two prior questions. I
3 probably should have objected as to hearsay because they
4 were statements that he made to Morgan offered for the
5 truth that are not contained in the documentation that
6 they turned over. Obviously anything that is not in the
7 paraphrased document that was turned over to the State
8 we're going to be objected to as hearsay.

9 THE COURT: That was resolved. Anything further.
10 Mr. MacArthur, you were the one that made the proffer of
11 the reason. I did overrule --- I guess I sustained, but
12 allowed you to rephrase show that that question could be
13 asked and answered.

14 MR. MACARTHUR: No, your Honor.

15 THE COURT: The last bench conference obviously,
16 we then sort of made a record when I advised the jury we
17 needed an opportunity to give you to lay additional
18 foundation. The objection was there were questions being
19 asked that were generally stated about things the State
20 may have said or done as far as offering supportive -- I
21 don't know what else to call them -- prior to trial in
22 order to secure to testimony. And that that would go to
23 bias. And the court indicated that the inquiry should be
24 allowed, but that the way the questions were being asked
25 perhaps either conflated things or lumped together things

1 in a way that just could not be fairly answered by a yes
2 or no. That it would be more appropriate, even if it
3 takes additional time, to lay foundation.

4 The court's expectation is if we don't pick up at
5 that point tomorrow, at some point tomorrow when defense
6 reassumes its cross that there will be some additional
7 foundation laid for those questions.

8 Anything further for the record.

9 MS. KOLLINS: No, your Honor.

10 THE COURT: See you all tomorrow.

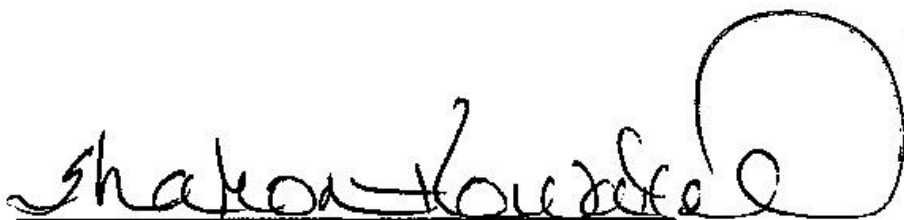
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CERTIFICATE
OF
CERTIFIED COURT REPORTER

* * * * *

I, the undersigned certified court reporter in and for the
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the
time and place therein set forth; that the testimony and
all objections made at the time of the proceedings were
recorded stenographically by me and were thereafter
transcribed under my direction; that the foregoing is a
true record of the testimony and of all objections made at
the time of the proceedings.

A handwritten signature in cursive script, reading "Sharon Howard", is written over a horizontal line. The signature is fluid and includes a large, circular flourish at the end.

Sharon Howard
C.C.R. #745

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Steven D. Grierson

TRAN
CASE NO. C-15-309548-1
DEPT. NO. 25

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	
)	REPORTER'S TRANSCRIPT
)	OF
vs.)	JURY TRIAL
)	
)	
JOSHUA HONEA,)	
)	
Defendant.)	
<hr/>)	

BEFORE THE HONORABLE KATHLEEN DELANEY
DISTRICT COURT JUDGE

DATED: WEDNESDAY, DECEMBER 6, 2017

REPORTED BY: SHARON HOWARD, C.C.R. NO. 745

1 APPEARANCES:

2 For the State:

STACEY KOLLINS, ESQ.

3 KRISTINA RHOADES, ESQ.

4
5 For the Defendant:

MONIQUE MCNEILL, ESQ.

6 JONATHAN MACARTHUR, ESQ.

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* * * * *

1 LAS VEGAS, NEVADA; WEDNESDAY, DECEMBER 6, 2017

2 P R O C E E D I N G S

3 * * * * *

4
5 THE COURT: We have counsel for the State,
6 counsel for defense and Ms. Savage's counsel are present
7 in the courtroom. I would like to make a record of a
8 chamber's conference that was just had before we
9 reconvened.

10 The chamber's conference related to the State
11 bringing to the court's attention that the attorney from
12 the track that the court oversees conflict counsel who was
13 appointed very last minute but appointed to represent
14 Ms. Savage had previously represented one of the defense
15 counsel in a case earlier this year or is on record as
16 having been so represented. The State wanted to make that
17 record to ensure that there was knowledge to the court
18 relating to possibility of there being any conflict or
19 concern there.

20 I noted when that was mentioned that there had
21 already been an issue raised about the possibility was
22 there any communication between Ms. Pandullo, respecting
23 Ms. Savage, and any member of defense counsel, at which
24 point it was confirmed with Ms. Pandullo she had abided by
25 her obligations and representation and understood what was

1 required of her and would continue in that regard. I have
2 no reason to believe, and I don't believe the State has
3 any reason to suggest that she has not complied with her
4 ethical obligations, but to the extent this information is
5 now known, I'll note that before Ma. Pandullo was
6 appointed when the court reached out to find out about her
7 availability she indicated a close friendship with one of
8 defense counsel, Ms. McNeill, but did not reference or
9 indicate there had been a prior representation of Ms.
10 McNeill. And I really honestly right now don't know in
11 hindsight if that would have changed things. Because the
12 court's ultimate desire was to have someone appointed who
13 was known to the court and who the court trusted, so to
14 speak, because of knowing that, not that I have any reason
15 not to trust other counsel who appear here, but just
16 working conflict counsel just eliminates a lot of other
17 factors.

18 Ms. Pandullo was available. We did appoint her.
19 And, again, I don't have any reason to believe there has
20 been any concerns of the actions of Ms. McNeill or Ms.
21 Pandullo in this matter, other than according to the
22 record there had been this prior representation.

23 Does the State want to add anything to the record the
24 court has made so far.

25 MS. KOLLINS: The only thing I want to add is

1 the State never suggested that anything had been
2 accomplished by Mr. Pandullo that was unethical. I was
3 informed that the case was still open. I was directed to
4 inform the court so there was not an appearance of
5 impropriety. Not that anyone had done anything wrong.
6 Not that Ms. Pandullo or Ms. McNeill had done anything
7 wrong. Just to avoid the appearance of impropriety that
8 there was an active representation by Ms. Pandullo of Ms.
9 McNeill while Ms. Pandullo was representing the victim in
10 this case.

11 She is there to be a buffer between everyone. Not
12 just the State, but defense counsel too. So we didn't
13 want that to come up later and there was an appearance of
14 impropriety. Certainly, anything I said in chambers and I
15 did in chambers is because I didn't want to have
16 necessarily this discussion in this form. But we never
17 suggested that Ms. Pandullo did anything wrong. We just
18 wanted the court to know. Because the court told us
19 because of the friendship with Betsy Allen and Ms. McNeill
20 she wouldn't be appointed. So I think it was incumbent
21 upon me as directed by my superiors that I let the court
22 know that if somebody was in active representation of Ms.
23 McNeill, the court should know about it. That's was the
24 purpose.

25 THE COURT: The only clarification the court

1 would give to your remarks, Ms. Kollins, is that when I
2 indicated the 3 track conflict counsel that I have and the
3 order in which I had identified them as possible
4 representatives for Ms. Savage, I indicated the intent to
5 start with Mr. Ruggeroli. By my own understanding,
6 although somewhat corrected by defense counsel in our
7 chamber's conference, that Mr. Ruggeroli had the least
8 amount of contacts with any member of defense counsel.

9 I had indicated Ms. Pandullo next, knowing there was
10 a friendship. But the reason Ms. Allen had been sort of
11 relegated to the possibility of third, but we never got
12 there. It wasn't my intention not to utilize her if I
13 said that, I didn't remember saying it that way. It was
14 she would have been my last go to before I went outside,
15 and I would have had to consider that she and Ms. McNeill
16 had been co-counsel for a defendant in a trial in the
17 department and I knew of that working relationship more so
18 then just sharing a track and having a friendship.

19 But in any event, I think obviously we're bringing it
20 up in this forum now, (a), to insure there's an official
21 record made of the conversation, but also Ms. McNeill
22 indicated she didn't have any concern with us making this
23 record and that she had some additional information to
24 add, which was that essentially she and Mr. MacArthur
25 handled her matter, but to have a counsel on the case. It

1 was Ms. Pandullo who stood in court with her when the
2 matter was ultimately resolved.

3 Ms. McNeill, do you have anything you want to add, as
4 far as, the record for the chamber's conference.

5 MS. MCNEILL: No, your Honor. It is an active
6 case in that if I ever get my AA meetings it will be
7 finished and closed. It's hard to do while in trial all
8 the time. So Ms. Pandullo doesn't have to appear for me.
9 The court is just waiting for me to get my requirements
10 done.

11 THE COURT: Ms. Pandullo, we had some
12 speculation in chambers as to why the representation was
13 not disclosed when the friendship was referenced. The
14 speculation was perhaps it was a non-event, such that it
15 didn't register as a retained type client situation.

16 Do you have anything to add to the chamber's -- since
17 you weren't in the chamber's conference, I needed to make
18 that record when we had this discussion. But I do want to
19 give you an opportunity to respond.

20 MS. PANDULLO: I guess I would clarify there are
21 no future court dates. There are status check dates that
22 Ms. McNeill noted that she handles directly. I was there
23 for one court appearance a matter of months ago.

24 THE COURT: The time frame given was June.

25 MS. PANDULLO: I don't remember off the top of

1 my head.

2 Beyond that I believe generally speaking within the
3 criminal defense community we all know each other somewhat
4 well and have good working relationships. I have good
5 working relationships on a whole with the DAs as well. I
6 do have a friendship with Ms. McNeill that we've had for a
7 while because we were on the JC 20 track. So a lot of
8 that is covering one another appearances. I'm friendly
9 with Mr. Ruggeroli as well. Beyond that, no, I don't have
10 additional representations to make.

11 MR. MACARTHUR: I do.

12 THE COURT: Mr. MacAuthur.

13 MR. MACARTHUR: Thank you, judge.

14 Because I'm defense counsel I have the same
15 ethical obligations to disclose conflicts as they occur to
16 me. I hadn't thought about it until Stacey brought it up.
17 But had we had a complete conversation where I was able to
18 think it through, for my part, I would have said the court
19 is well-aware I was former track counsel here. That Betsy
20 Allen and I were best of friends for many years. And that
21 James Ruggeroli I've known since 2nd grade. And he
22 represented me in a civil matter back when he first went
23 into private practice. I think it would have been
24 probably around '03, '04. And that escaped my attention
25 until we just had this conversation. So to the extent the

1 record is complete, I wanted the court to be aware there
2 would have been something to say about all 3 defense
3 counsel.

4 THE COURT: The way you're phrasing it, I know
5 what you mean to say, your sort of modifier of what the
6 court would know is tied to your prior track tenure. In
7 all candor, I don't recognize you as having previously
8 been on my track. And I'll tell you why. My recollection
9 of my track people from the minute I was taking over for
10 Judge Mosley was I went to lunch with Ms. Allen,
11 Ms. McNeill, and Mr. and Mrs. Pandullo, and then
12 eventually Ms. McNeill left the track and Mr. Ruggeroli
13 joined it. I don't have that connection, but obviously
14 you have had trials in here and all of those things.

15 But I would not have known about your connection to
16 Mr. Ruggeroli or necessarily your connection to Mr. Allen
17 that I recall. But, again, I think we all have made the
18 point we need to make and I think and appreciate, of
19 course, the State bringing it to our attention so it isn't
20 something that comes up later as a surprise and is
21 something known.

22 Again my confidence in the fact we have not had any
23 actual issues here resides in the fact that very early on
24 almost immediately after Ms. Pandullo's appointment on the
25 first day she was here with Ms. Savage there was a concern

1 because of a comment Mr. MacAuthur had made to Ms.
2 Pandullo to which she responded and the State brought to
3 the record at the time, are we sure what those parameters
4 are, what was that communication, was there any reason to
5 believe that it was anything separate that should not have
6 been communicated. It was clarified that it wasn't
7 anything to be of concern about and that Ms. Pandullo
8 reiterated she understood what her obligations were here.
9 I, again, feel comfortable we can proceed and complete.

10 That completes that chambers record. I appreciate
11 that. It did remind me though I had an additional brief.
12 I guess I'm trying to think of a better way to put --
13 better articulation of one of the bench conference records
14 I made late yesterday.

15 I want to do that now, because I think it's important
16 so that it's understood what the court's thought process
17 was. I don't know that I articulated it all that well, if
18 at all.

19 In one of the bench conferences that we made the
20 record of at the conclusion of the testimony yesterday
21 when it was already into the 5 o'clock hour, it was the
22 one with regard to there being objections and the court
23 sustaining that objection, but allowing Mr. MacAuthur to
24 rephrase.

25 Talking about sort of the distinctions between when

1 Ms. Savage was previously in communication with the State
2 and what benefit, so to speak, she may have received there
3 and then drawing a comparison to Ms. Savage now being in
4 custody and not having the same benefits.

5 I had concern about the sort of very general way the
6 questions were being asked and the inferences they
7 creating that I thought were inappropriate. I didn't
8 articulate the detail there. I did allow the questions to
9 be continued because I did perceive there was some
10 relevancy to some of that line of inquiry. And I think it
11 completed, and I don't think there was necessarily any
12 concern.

13 This is what I wanted to articulate. The line of
14 inquiry related to this possible bias because of some
15 inference that Ms. Savage perviously was cooperative with
16 the State, then she was somehow in custody and not
17 cooperative and that distinction be drawn. I don't think
18 it plays out by the testimony or the evidence.

19 Ms. Savage was cooperative with the State, inclusive
20 of when they requested the material witness warrant. She
21 was, in fact, by all account, still cooperative with the
22 State's investigator when they visited her the same day
23 that defense counsel visited her, which was when she was
24 already in custody. It was only following that visit with
25 defense counsel that she -- it became apparent that she

1 had changed her testimony.

2 So, again, I thought that it was inappropriate to be
3 trying to draw those types of bias comparisons. I thing
4 the inferences drawn from -- as she remains in custody she
5 has not changed her testimony and would she perceive and
6 would it have perceived and would it have been beneficial
7 for her she could have gotten out of custody if she
8 changed her testimony from what she articulated to defense
9 counsel, that's an inference based on the testimony and
10 evidence we have, but the court did not believe it was an
11 appropriate inference and that's why the court articulated
12 a sustaining of that objection and asked that those things
13 be rephrased.

14 I wanted to better articulate that where I believe
15 the evidence goes and where I don't believe the evidence
16 goes in that circumstance. Then I did, perhaps, yesterday
17 afternoon.

18 I don't think there is need to have any further
19 commentary to that record, but I don't obviously ever want
20 to eliminate the possibility of counsel commenting on
21 court record.

22 Ms. Kollins.

23 MS. KOLLINS: One thing I would like to say is
24 when the witness is cooperative with the State you don't
25 mean cooperative in that she was showing up and doing

1 everything she was supposed to do, such that a material
2 witness warrant wasn't necessary. When the court says
3 cooperative if understand your meaning you mean she had
4 not come to us and changed the facts she had been relaying
5 for the past 2-and-a-half years or so.

6 THE COURT: That is correct. The court made its
7 record as firmly as it possibly could that it believes it
8 was absolutely appropriate basis to issue the material
9 witness warrant and did so and continues as we speak.

10 But, yes, what I meant is the line of questioning an
11 argument was made that it was appropriate to show
12 potential biases that somehow there is a distinction
13 between when she was not under the material witness
14 warrant and what she had been advising the State and then
15 ultimately now she's in custody and those two
16 circumstances. But I think, again, the reason I didn't
17 allow that inquiry the way it was going and the inferences
18 that were being created between pre-custody and
19 post-custody was because the State pursued her material
20 warrant situation even believing she was going to come in
21 and testify the way they understood she was going to be
22 testifying. And that they confirmed that again that day,
23 in fact, while he was in custody with their investigator
24 and again the testimony changed subsequent to that.

25 So, again, I think the line of inquiry that created

1 inference of bias based on other facts or circumstances
2 that did not exist is not an appropriate line of inquiry
3 and that's what I meant to articulate.

4 Like I said, the other situation, and Mr. MacArthur
5 handle that very well, to suggest there could be
6 inferences drawn from Ms. Savage's testimony as she
7 remains in custody and staying consistent with what she
8 told defense counsel and could there have been some change
9 in circumstance had she not stayed consistent. That's a
10 fair inference, but I didn't believe the other one was.

11 Mr. MacArthur did you want to add anything to that
12 further clarification of the bench conference.

13 MS. MCNEILL: I think I made the record at the
14 bench, your Honor.

15 THE COURT: I don't remember. You made the
16 reference that goes to bias and I didn't disagree with
17 that, but I had a concern with the way the questions were
18 being asked.

19 MS. MCNEILL: I would just respond with this.
20 We're allowed to point out any bias or motive of a witness
21 as to why they may say something pretrial, during trial,
22 pre-arrest any motive they have say what they're saying
23 when they say it. And whether or not the inference is the
24 truth, we're allowed to make the inference and the jury
25 can do with that what they would like to.

1 THE COURT: I think it has to be based on some
2 actual record in the case. I don't want to belabor this
3 point at length, but the particular question there was an
4 objection and the court intervened, was so previously you
5 were getting hot meals and nows you are in jail. It just
6 simply was not an appropriate inference from the witness'
7 own testimony about where her communications with the
8 State was and what the State had been doing and why and
9 when that might have changed. That's an example of what
10 I'm pointing out and where I thought it was
11 inappropriate.

12 MS. MCNEILL: I would respectfully disagree with
13 the court because I think there surely is an inference
14 that she was cooperative with the State when they were
15 giving her things. And they stopped giving her things and
16 they're angry. And by the way, the State opened that door
17 by asking her and talking about the things they gave her.
18 I would note, just as a footnote here, they didn't
19 disclose all the things came out on cross-examination. So
20 I think we're allowed to ask the question and the witness
21 can disagree with us, but we're allowed the ask the
22 question.

23 I'll submit it on that.

24 THE COURT: I appreciate the opportunity to make
25 the record on that further determination.

1 Any thing else before we bring Ms. Savage in and
2 continue her cross.

3 MR. MACARTHUR: Not from the defense.

4 THE COURT: Let's have the witness, please. Did
5 the witness get a meal. Okay. Have a seat while the
6 remaining jurors have their seats.

7 Make sure your cell phones are off or silenced.
8 Mr. MacArthur, when you are ready. We're resuming in the
9 trial of State of Nevada vs. Joshua Honea.

10 Ms. Savage, will you acknowledge for the record you
11 understand you are still under oath.

12 THE WITNESS: Yes.

13 THE COURT: Mr. MacArthur, you may resume your
14 examination when you are ready.

15 MR. MACARTHUR: Thank you, Judge.

16 CONTINUED CROSS-EXAMINATION

17 BY MR. MACARTHUR:

18 Q. Good afternoon, Ms. Savage.

19 A. Good afternoon.

20 Q. How are you doing?

21 A. Good.

22 Q. When we last left our huros (ph) we had been
23 laying some foundation for a question. Remember we talked
24 about Facebook friendship?

25 A. Yes.

1 Q. Times when you had seen Stacey away from the
2 office or on weekends, food, transportation, and the
3 hotel?

4 A. Yes.

5 Q. Based on that interaction with Stacey, was it
6 clear to you it was pretty important for her for you to
7 come to court and testify against Josh?

8 A. Yes.

9 Q. Now, there had been one additional issue.
10 Remember we were talking about notes I took while speaking
11 with you?

12 A. Yes.

13 Q. And the last one had to do with your father
14 back when you were 8 or 9?

15 A. Yes.

16 Q. Let's get that out of the way. What is it you
17 had witnessed at the time? What is that about.

18 A. Back when I was 8 or 9, I had just seen my dad
19 having sex with his girlfriends.

20 Q. You said that that was drug related?

21 A. Yeah. I mean, there was many instances I
22 would see her doing drugs in front of me.

23 Q. So the interaction they had was part of her
24 getting drugs?

25 A. Right.

1 Q. Suffice it to say, that you had had a
2 knowledge of sex was before you ever met Josh or any of
3 the other people that we've discussed in this case?

4 A. Right.

5 Q. Now, after the jury left last night we
6 remained here longer; is that correct?

7 A. Yes.

8 Q. In fact, your attorney had made a motion to
9 the court to consider letting you out of custody,
10 correct?

11 MS. KOLLINS: Objection. Hearsay.

12 MR. MACARTHUR: It goes to --

13 THE COURT: Can I have counsel at the bench,
14 please.

15 (Discussion held at the bench.)

16 THE COURT: The objection is sustained. I will
17 allow Mr. MacAuthur to rephrase or ask a new line of
18 questioning.

19 BY MR. MACARTHUR:

20 Q. Putting it another way, after the jury left
21 yesterday, did your attorney make representations to the
22 court?

23 A. Yes.

24 Q. Did the State respond to those
25 representations?

1 MS. KOLLINS: Objection.

2 THE COURT: Sustained.

3 MR. MACARTHUR: Is the objection grounded in
4 something, like you're saying.

5 THE COURT: Mr. MacAuthur -- can I have counsel
6 at the bench, please.

7 (Discussion held at the bench.)

8 MS. KOLLINS: Is the objection sustained.

9 THE COURT: The objection is sustained, and I
10 will ask Mr. MacAuthur to engage in a new line of
11 inquiry.

12 MR. MACARTHUR: Yes, ma'am.

13 THE COURT: I will not require those prior
14 questions be disregarded. Those two questions, the
15 objection is overruled. It is as to any further
16 questioning in that regard to that which is sustained.

17 MR. MACARTHUR: Yes, ma'am.

18 BY MR. MACARTHUR:

19 Q. All right.

20 Morgan, we've had occasion to listen to you testify
21 for 4 days. This is your 5th day, correct?

22 A. Yes.

23 Q. Is it fair to say that the accounts you gave
24 to the police back in 2015 and again to the court in 2015
25 were based both in truth and in falsehood?

1 A. Yes.

2 Q. You grounded your testimony in certain
3 landmarks you could point to?

4 A. Yes.

5 Q. You explained that that would make you more
6 credible?

7 A. Yes.

8 Q. Now, it's been a cup of years since you made
9 those allegations, right?

10 A. Yes.

11 Q. As a matter of fact, it's been more than a
12 couple of years?

13 A. Yes.

14 Q. You shared with us in that interim you have
15 used some illicit substances at various times?

16 A. Correct.

17 Q. My question to you is to the best of your
18 recollection, what was your longest period of sobriety
19 when you first made the allegations against Josh until
20 your arrest for this case?

21 A. I would say December of 2015 to December of
22 2016.

23 Q. So approximately a year?

24 A. A year.

25 Q. During your testimony Stacey elicited answers

1 about disciplinary issues in middle school?

2 A. Yes.

3 Q. Primarily dress code violations and
4 insubordination?

5 A. Right.

6 Q. Some issues with fighting with other girls,
7 physical fights?

8 A. Fights that came close to that.

9 Q. Is it fair to say that at that time -- I'm
10 asking you specifically about that time, not any other
11 time -- you had a temper?

12 A. Yes.

13 Q. And you said that Taylor was your friend, but
14 not your best friend?

15 A. Right.

16 MS. KOLLINS: Objection. Foundation.

17 BY MR. MACARTHUR:

18 Q. During Stacey's questioning of you, at some
19 point in that 4 days, she asked and did you indicate that
20 you were friends with Taylor?

21 A. In the 4 day period of?

22 Q. Your testimony.

23 A. Yes.

24 Q. Before today?

25 A. Yes.

1 Q. You were friends with Taylor?

2 A. Yes.

3 Q. But she was not your best friend?

4 A. Right.

5 Q. That you did not tell her -- let me phrase
6 that another way.

7 The accusations you made to the police against
8 Josh, you didn't tell her anything about the substance of
9 those accusations until a couple of days before you talked
10 to Detective Cho?

11 A. Right.

12 Q. That is, in fact, because they hadn't happened
13 yet, or they hadn't happened at all?

14 A. Right. They hadn't been thought of.

15 Q. You shared these false accusations with Taylor
16 a day or two before you went to Detective Cho?

17 A. Right.

18 Q. Do you remember when that was approximately?
19 Do you remember when the date might have been?

20 A. Probably somewhere in the July of 2015.

21 Q. Now, thinking back to it, the night that
22 you -- well, let me set up more foundation.

23 Wasn't it, in fact, your intention to work out what
24 you were going to say to Detective Cho with Taylor?

25 A. I kind of turned to Taylor as advise on what

1 to say in the situation. I had given her information so I
2 wanted to see what she had to say about it, because she
3 was one of my friends I took what she had to say into
4 consideration and have here essentially help me.

5 MS. KOLLINS: I apologize. If we can have
6 Ms. Savage get close to the microphone.

7 THE COURT: The longer we talk we tend to finish
8 like -- I'm illustrating a diminishment of volume on how
9 we are articulating it. Make sure, even if you have to
10 take a pause to complete a sentence to speak up the best
11 you can.

12 THE WITNESS: Okay.

13 THE COURT: Thank you.

14 BY MR. MACARTHUR:

15 Q. Did you use -- let me back up.

16 When you related your account to Taylor there were
17 notes taken, correct?

18 A. Yes.

19 Q. Do you remember how many pages of notes there
20 would have been?

21 A. No, I do not.

22 Q. I didn't see any notes in the video of you
23 talking to Detective Cho, did you?

24 A. No.

25 Q. Did you take the notes with you to Detective

1 Cho?

2 A. No.

3 Q. Did you ever give them over to Detective
4 Cho?

5 A. No.

6 Q. Night you made the notes with Taylor, do you
7 remember any other details about that night?

8 A. Yeah. We just hung out, and we smoked weed.
9 I know that much. That's about it.

10 Q. Did you -- was it both of you that smoked
11 weed?

12 A. Yes.

13 Q. Do you remember if you documented that
14 somehow?

15 A. Smoking weed or taking notes?

16 Q. The smoking weed or things that you did that
17 night with Taylor?

18 A. I don't remember.

19 Q. Would it refresh your recollection if I were
20 to potentially show you a picture of that night?

21 A. Yes.

22 Q. Referring to Defense Proposed F and K.

23 If you could take a look at Defense F and K, and
24 let me no if you recognize what is depicted there.

25 A. Yes.

1 Q. Looking at F, what are we looking at?

2 A. We are looking at my friend Taylor, like the
3 bowel of weed.

4 Q. Does that fairly and accurately depict the way
5 she looked smoking weed that night?

6 A. Yes.

7 MR. MACARTHUR: Move to admit Defense F.

8 MS. KOLLINS: No objection, your Honor.

9 THE COURT: We'll admit Defense F. You may
10 publish, if you wish.

11 BY MR. MACARTHUR:

12 Q. So this is the night that -- who took that
13 picture?

14 A. I did.

15 Q. What did you use to take that, your cell
16 phone?

17 A. My cell phone.

18 Q. Are the pictures on your cell phone downloaded
19 to your computer?

20 A. Yes.

21 Q. Did you post that picture anywhere?

22 A. I don't remember. If I did it was probably on
23 Snap Chat or something like that or Instagram.

24 Q. Do you have any idea what time that was,
25 approximately?

1 A. It was nighttime. That's all I remember.

2 Q. Do you remember if you documented anything
3 else? When I say documented, took a picture of yourself
4 or Taylor doing anything else?

5 A. I don't remember.

6 Q. Would it refresh your recollection if I were
7 to show you another picture?

8 A. Yes.

9 MR. MACARTHUR: Referring to Defense J. Do you
10 recognize the black and whites depicted there.

11 THE WITNESS: Yes.

12 BY MR. MACARTHUR:

13 Q. As relates to Taylor, does anything on Defense
14 K refresh your recollection as to when that photo was
15 taken?

16 A. Yeah. All of these were the same night.

17 Q. Do you know what night that was?

18 A. July 20, 2015.

19 Q. That is 2 days before you went to speak with
20 Detective Cho?

21 A. Yes.

22 Q. And you said that it was July 20th. Do you
23 know what time it was?

24 A. Right here, based on what the picture says, I
25 don't know the exact time. I do know it was nighttime --

1 9:00, 10:00, 11:00.

2 Q. Okay. And does this refresh your recollection
3 as to whether there was anything else you were doing with
4 Taylor you documented?

5 A. Yes.

6 Q. What does that remind you that we did?

7 A. We went out to the desert where we used to
8 park and smoke weed, and we burned pictures of me and
9 Josh.

10 Q. Does this sheet fairly and accurately
11 represent 3 of the photos you took at that moment?

12 THE COURT: When you say this, are you referring
13 to J or K.

14 BY MR. MACARTHUR:

15 Q. I'm sorry. J -- does what's depicted on
16 Defense Proposed J fairly and accurately depict what you
17 did at that time?

18 A. Yes.

19 MS. KOLLINS: I apologize. Mr. MacArthur gave
20 us exhibits. I don't know what he's talking about that
21 depicts the burning of pictures. I don't have that in
22 what I was given. I wasn't given these. The State hasn't
23 seen this before, J. If I can get a copy, for my records,
24 before it gets admitted and I'm not able to have one.

25 MR. MACARTHUR: I don't mind. We're able to

1 make a copy. Just so we're aware, this came from Stacey's
2 discovery.

3 THE COURT: Understood. As we know, there can
4 be any number of documents in the discovery exchange.
5 What the party is using in the case, we should have ample
6 copies for the court as well as for counsel.

7 Do we need to --

8 MR. MACARTHUR: I can make a copy now or --

9 MS. MCNEILL: I probably have a copy. It's my
10 fault I provided them. I didn't have a copy.

11 THE COURT: We can continue the inquiry.

12 MR. MACARTHUR: Not yet.

13 MS. KOLLINS: No objection to its admission.

14 THE COURT: Do you want to admit now.

15 MR. MACARTHUR: Please.

16 THE COURT: I'll admit J. You may publish. It
17 appears a copies has been provided to the State at the
18 same time.

19 BY MR. MACARTHUR:

20 Q. Is this what we were locking at?

21 A. Yes.

22 Q. That appears to be a picture of you standing
23 next to Josh and it's on fire?

24 A. Yes.

25 Q. Who lit it on fire?

1 A. I did.

2 Q. Who took the picture?

3 A. I did.

4 Q. And you happen to -- you said it was at
5 night?

6 A. Yes.

7 Q. Do you know how to read military time?

8 A. Yeah, I do.

9 Q. Would you say that 23:27 hours might be 11:27
10 at night?

11 A. Yes, it is.

12 Q. Does that seem approximately correct, based on
13 your memory of where you were and what time you thought it
14 was?

15 A. Yes.

16 Q. And referring back to Defense Proposed K.
17 There are 3 photos here. One of which we have already
18 discussed with Taylor.

19 The other two photos, do those fairly and
20 accurately depict another moment in time of you burning
21 the pictures of Josh?

22 A. Yes.

23 MR. MACARTHUR: Move to admit Defense Proposed
24 K.

25 MS. KOLLINS: No objection.

1 THE COURT: Defense K is admitted. You may
2 publish.

3 BY MR. MACARTHUR:

4 Q. Are these those same footages?

5 A. Yes.

6 Q. Would it appear to be approximately the same
7 time 23:28 hours?

8 A. Yes.

9 Q. By your recollection did those things happen
10 close in time to you smoking marijuana together and
11 burning the pictures and taking pictures of that?

12 A. Yes.

13 Q. They are all a series of the same photos of
14 the same instance?

15 A. Yes.

16 Q. Do you remember if you were angry at Josh at
17 that time?

18 A. Yes.

19 Q. Now, I would like to shift to an individual by
20 the name of Franco Orduno?

21 A. Yes.

22 Q. Who was he?

23 A. One of my ex-boyfriends from 9th grade.

24 Q. Did you go to school with him?

25 A. Yes.

1 Q. What school was that?

2 A. Desert Oasis High School.

3 Q. As best you can recall, what were the dates of
4 your relationship with Mr. Orduno?

5 A. August of 2014, maybe.

6 Q. August of '14?

7 A. I don't want to be quoted on that. Maybe '13.
8 It was my freshman year of high school. It was the
9 beginning of August or September, until maybe December --
10 November.

11 Q. Okay. So your freshman year from August or
12 September until December?

13 A. Right.

14 Q. Now, is this Franco Orduno?

15 A. Yeah.

16 Q. Is that the same person that Stacey was asking
17 you about whether there was a time when Josh talked to him
18 on the telephone?

19 A. Yes.

20 Q. And they had some type of argument?

21 A. Yes.

22 Q. Were you present for that?

23 A. Yes.

24 Q. Do you remember the Stare also asking you
25 about a time when you transferred schools?

1 A. Yes.

2 Q. You transferred from what school to what

3 school?

4 A. Desert Oasis to Bonanza.

5 Q. Which school did Franco Orduno go to?

6 A. Desert Oasis.

7 Q. You left that school and went to Bonanza?

8 A. Right.

9 Q. Isn't it in fact true the reason you

10 transferred was because of something Franco Orduno had

11 done to you?

12 A. Right.

13 Q. Isn't it, in fact, true that he had obtained

14 from you pictures of you naked?

15 A. Yes.

16 Q. That he shared them with other people in the

17 school?

18 A. Yes.

19 Q. Were some of those people on the football

20 team?

21 A. Correct.

22 Q. Was that embarrassing?

23 A. Very.

24 Q. You told that to Josh, didn't you?

25 A. Yes.

1 Q. That made Josh angry he had done that?

2 A. Yes. It made him frustrated because,
3 obviously, I did something stupid.

4 Q. When you testified in response to Stacey's
5 questions you'd said Josh was kind of upset about the
6 nature of it being PDA -- public display of affection?

7 A. Right.

8 Q. But to be more specific, it wasn't just simply
9 PDA, right?

10 A. Right.

11 Q. I don't mean to embarrasses you. The photos
12 that people saw were of you naked?

13 MS. KOLLINS: Objection, speculation. We don't
14 know who saw what.

15 THE COURT: Sustained. Rephrase.

16 BY MR. MACARTHUR:

17 Q. How did you know people had seen these photos
18 of you?

19 A. It was told to me at school.

20 MS. KOLLINS: Objection, hearsay.

21 MR. MACARTHUR: Effect on the listener, not for
22 the truth.

23 THE COURT: Overruled.

24 THE WITNESS: I had been told they were seen.

25 And not only that, but somebody from the football team had

1 showed me the pictures that I sent. And not only that,
2 but Brittany, my friend at the time, informed me and
3 showed me the same picture.

4 Q. As far as you know it was one picture or
5 more?

6 A. There was at least two.

7 Q. Okay. Isn't that in fact the reason why Josh
8 was talking to Orduno on the telephone?

9 A. Right.

10 Q. At the time what was the nature of Joshes'
11 job? What did he do for Metro at that point?

12 A. I believe he was working for the gang unit, I
13 know that. He was doing some office work with the gang
14 unit, and he was also doing VPSR so he going out on the
15 streets with the officers.

16 Q. He had not gone to the Academy?

17 A. No.

18 Q. He was not an officer?

19 A. No.

20 Q. But he wore a uniform?

21 A. Right.

22 Q. And he responded to call?

23 A. Right.

24 Q. And he had a radio?

25 A. Correct.

1 Q. In the story you told you said that Mr. Orduno
2 could hear the radio when Josh was talking to him on the
3 phone?

4 A. Right.

5 Q. To you knowledge, did what happened scare Mr.
6 Orduno?

7 A. I don't know. I can't say whether it did or
8 not.

9 Q. Okay. Morgan, how old were you when you were
10 in that relationship with Franco?

11 A. 14.

12 Q. So you were still 2 years under age of
13 consent?

14 A. Yes.

15 MS. KOLLINS: Objection. He's asking her to
16 draw a legal conclusion.

17 MR. MACARTHUR: Do you know what the age of
18 consent is.

19 THE WITNESS: 16.

20 MS. KOLLINS: I guess we don't let the judge
21 rule before we ask another question.

22 THE COURT: That has been in short supply. What
23 I would like to do is when there's an objection, sometimes
24 the court pauses to have a thought. Before the follow up
25 question is asked and the witness answers, if everyone can

1 please wait for the court to respond, I'd appreciate it.

2 I think we have resolved this one.

3 You may proceed.

4 BY MR. MACARTHUR:

5 Q. You know what age of consent is?

6 A. Yes.

7 Q. You were two years younger than that?

8 A. Yes.

9 Q. How old was Franco?

10 A. Is now or was.

11 Q. At the time in the relationship?

12 A. He was 17 -- 16 maybe.

13 Q. Do you remember when he graduated?

14 MS. KOLLINS: I'm going to object as to
15 relevance. I'd ask that we approach.

16 THE COURT: Please.

17 (Discussion held at the bench.)

18 THE COURT: The objection is overruled.

19 You may proceed.

20 BY MR. MACARTHUR:

21 Q. All right. Morgan, during your first 4 days
22 of testimony in response to Stacey's questions you
23 remember that you went through a voluntary statement --

24 A. Yes.

25 Q. -- that you had given to Detective Cho?

1 A. Yes.

2 Q. In that voluntary statement do you remember
3 talking about Franco Orduno?

4 A. Yes.

5 Q. And the fact he was your boyfriend?

6 A. Right.

7 Q. And the fact you guys had had sex together?

8 A. Correct.

9 Q. Okay. I'm not asking for specifics. Was that
10 ongoing or just one time?

11 A. Ongoing.

12 Q. Now do you remember what grade Franco Orduno
13 was in?

14 A. He was in 12th. He was a senior.

15 Q. This was from August or September until
16 December?

17 A. Yes.

18 Q. Do you know when graduations take place?

19 A. June of the next year or so. Like -- yes,
20 June.

21 Q. As you sit there now you don't actually know
22 how old he was?

23 A. I do remember he was 17 then. I believe he
24 turned 18 in the months of the time we were together.

25 Q. There was a brief period of time where were

1 you 14 and he was 18, and you were sexually active,
2 correct?

3 A. Yes.

4 Q. And you told -- you gave that same information
5 to Detective Cho?

6 A. Right.

7 Q. As far as you are aware, Franco Orduno was not
8 arrested, right?

9 A. Right.

10 THE COURT: Did she answer.

11 THE WITNESS: I said, right.

12 THE COURT: I didn't hear. Sorry.

13 BY MR. MACARTHUR:

14 Q. Do you know if Mr. Orduno graduated in June of
15 2015?

16 A. I believe so. I'm not sure if he did for sure
17 or not.

18 Q. Okay. Given you don't know, if he comes here
19 would it be better for me to ask him?

20 A. Yes.

21 Q. Did Stacey make you aware of whether or not
22 she was going to call him as a witness in this case?

23 A. Yes.

24 Q. When did you find that out?

25 A. Within the last couple of weeks that -- before

1 this -- before I got arrested and before the trial
2 started.

3 Q. When was the last time you spoke with Franco
4 Orduno?

5 A. Years.

6 MS. KOLLINS: Sorry. I didn't hear the
7 response.

8 MR. MACARTHUR: Years.

9 THE WITNESS: Years. So probably since
10 December-ish, of 2013, '14. Whichever the beginning of my
11 freshman year.

12 BY MR. MACARTHUR:

13 Q. When the conversation between Josh and Franco
14 happened, were you with either of them?

15 A. I was with Josh.

16 Q. So you could hear his side of the
17 conversation?

18 A. Right.

19 Q. Could you hear Franco's side of the
20 conversation?

21 A. No.

22 Q. Didn't Josh, in fact, threaten him saying that
23 he could get in trouble for what he had done?

24 A. Yes.

25 Q. Did he imply that somehow him being associated

1 with Metro, he could make that happen?

2 A. Right.

3 Q. But in reality he didn't have any sort of
4 authority at all, did he?

5 A. No.

6 Q. Based on your recollection, did that work? Did
7 Franco leave you alone?

8 A. Yes.

9 Q. All right.

10 Thinking about your statement to Detective Cho and
11 your testimony back in 2015. Would you agree with me that
12 there were multiple places where you said back then that
13 Josh made you keep your relationship a secret?

14 A. Yes.

15 Q. Any part of it, brother or sister or boyfriend
16 and girlfriend, however it was described back then, that
17 was supposed to be a secret, correct?

18 A. Yeah.

19 Q. Now, there were, in fact, many, many instances
20 inside of your own photo collage of the two of you
21 together in public; is that correct?

22 A. Right.

23 Q. There are pictures with other people, other
24 then just the two of you, not just the two of you,
25 correct?

1 A. Yes.

2 Q. You in fact attended many of the same Las
3 Vegas Metropolitan Police Department functions that he
4 did; is that correct?

5 A. Yes.

6 Q. You made friends with those people?

7 A. Yes.

8 Q. And they knew who you were?

9 A. Yes.

10 Q. They knew things about you personally?

11 A. Correct.

12 MR. MACARTHUR: Approaching with Defense
13 Proposed A.

14 THE COURT: Yes.

15 BY MR. MACARTHUR:

16 Q. Do you recognize what is in this photo,
17 Morgan?

18 A. Yes.

19 Q. Can you explain to the jury what's happening
20 in that photo?

21 A. It was a car wash for metro Explorers.

22 Q. And are there other people present, other than
23 just you and Josh?

24 A. Yes.

25 Q. Do you recognize the people inside of the

1 photo?

2 A. Some of them, yes.

3 Q. If you could explain to jury the ones you
4 recognize by looking at this?

5 A. I just recognize Austin Cane. He is the one
6 that is wearing the division north shirt. Then the girl
7 next to him is Sarah Corlar --

8 Q. Let me interrupt you, Morgan so I don't have
9 to do the same thing twice.

10 Does that fairly and accurately represent the way
11 things appeared at the Explorer car wash?

12 A. Yes.

13 Q. Do you know approximately when that was?

14 A. I don't remember.

15 MR. MACARTHUR: Move to admit Defense A.

16 THE COURT: Any objection.

17 MS. KOLLINS: State has no objection. That is
18 another exhibit.

19 MS. MCNEILL: That was emailed to you
20 yesterday.

21 MS. KOLLINS: I was not present when it printed.
22 Thank you.

23 THE COURT: Defendant's A have a date.

24 MS. KOLLINS: We don't have the date.

25 MR. MACARTHUR: We don't.

1 BY MR. MACARTHUR:

2 Q. Starting from left to right who can you
3 identify for the jury having recognized. Don't skip
4 yourself or Josh?

5 A. Four. I recognize all of them, but their
6 names -- I don't remember all their names as I point them
7 out.

8 Q. How many do you recognize?

9 A. Well, from the whole day all of them. But the
10 ones I knew mostly was Sarah Coulor, Austin Cane. Those
11 were two I knew the most.

12 Q. But you recognize in some capacity all of
13 them?

14 A. Yes.

15 Q. Was this some sort of fundraiser?

16 A. Yes.

17 Q. Do you remember what it was for?

18 A. Metro Explorer.

19 Q. What were they raising money to accomplish, do
20 you know?

21 A. I don't remember.

22 Q. Is there any truth to the claim that you
23 weren't allowed to be seen in public with Josh?

24 A. No.

25 Q. Is this the only time that you ever interacted

1 with the other Explorers that he knew?

2 A. No.

3 Q. How long, as far as you remember, was Josh an
4 Explorer? What is your recollection of that?

5 A. My recollection of that was 3 years, maybe 2,
6 given the fact that he sort of took on advisor role for
7 about a year or so.

8 Q. Out of those 3 or so years you recall, how
9 many of those years did you participate in those things
10 with him?

11 A. All within the same year.

12 Q. Your participation was all in the same year?

13 A. Yeah.

14 THE COURT: The court doesn't have the ability
15 to clear the screen, if you could. Thank you.

16 BY MR. MACARTHUR:

17 Q. Approaching with Defense Proposed B. During
18 the State's opening statement to the jury, they had like a
19 power point with this picture in it.

20 Do you recognize that picture?

21 A. Yes.

22 Q. Does it come from the photo collage you
23 created?

24 A. Yes.

25 Q. Do you remember the event of what that was?

1 A. Joshes' 21st birthday.

2 Q. Where was that?

3 A. BJs Restaurant.

4 Q. That is the one on West Charleston?

5 A. Yes.

6 Q. Who are the 3 people in photo?

7 A. Me, Josh, Linda Suko (ph).

8 Q. Were you, Josh, and Linda Suko the only people
9 at BJs?

10 A. No.

11 Q. The other people at BJs also include Joshes'
12 supervisor at Metro, Luann?

13 A. Yes, it did.

14 Q. If you would explain to the jury, who is
15 Luann, and how you know her?

16 A. Luann was Joshes' gang unit, I guess, you
17 could say manager. The person who worked above him. So
18 the one that basically advised him what to do.

19 Q. Were there any other people from Metro from
20 work other than Luann?

21 A. There were Metro Explorers.

22 Q. Who else?

23 A. There may have been a couple officers from
24 Metro Explorers, advisors.

25 Q. Do you happen to remember which officers those

1 might have been?

2 A. Wirey.

3 Q. Wirey?

4 A. It was either Wirey, Samples, or Zafiridis. It
5 could have been all 3 or just 1 or 2, but I know I vaguely
6 remember them showing up.

7 Q. You vaguely remember Wirey, Samples, and
8 Zafiridis having been present?

9 MS. KOLLINS: Objection. That mischaracterizes
10 the answer. She said one of them, 2 of them, not all 3
11 of them.

12 MR. MACARTHUR: I'll change the question to
13 and/or.

14 BY MR. MACARTHUR:

15 Q. Would you agree that photo taken earlier would
16 not show all of the other people present?

17 A. Right.

18 Q. Morgan, I want to direct your attention to
19 approximately March of 2015. Somewhere in the past 4 days
20 the State asked you a question where you responded that
21 something happened at work between Josh and Kevin
22 Zafiridis?

23 A. Right.

24 Q. But you didn't know exactly what that was?

25 A. No.

1 Q. As you sit there now you still don't know
2 exactly what that was?

3 A. No.

4 Q. How did you find out about that?

5 A. Josh told me.

6 Q. Is it, in fact, true that within a matter of
7 days you were contacted by sex assault detectives?

8 A. Yes.

9 Q. When you spoke with them they asked about the
10 nature of your relationship?

11 A. Yes.

12 Q. You told them it was brother and sister and
13 nothing inappropriate?

14 A. Right.

15 Q. Did those same detective contact you again?

16 A. I don't know if it was those exact same
17 detectives.

18 Q. That is poorly worded on my part.

19 You spoke with them, right?

20 MS. KOLLINS: Objection, foundation as to who
21 them is. There is many detectives involved in this
22 case.

23 THE COURT: Sustain. I'll ask you to rephrase,
24 Mr. MacAuthur.

25 BY MR. MACARTHUR:

1 Q. Morgan, as far as you know was that discussion
2 with whoever they were recorded?

3 MS. KOLLINS: Objection, foundation.
4 Speculation. Which conversation are we talking about.
5 Are we talking about the phone call. Are we talking about
6 the later interview.

7 MR. MACARTHUR: I'll do the best I can. I don't
8 know who they are, Judge.

9 THE COURT: Let me rule.

10 I'm going to overrule in terms of foundation, I
11 think, in part. I think if you can be more precise not
12 about who was in the conversation but what you know of the
13 conversation to help us make sure the record is clear and
14 of course the testimony response is clear as to what we
15 are talking about, but not knowing exactly the names is
16 not an impediment.

17 You may proceed.

18 BY MR. MACARTHUR:

19 Q. Understood.

20 At some point around March of 2015, Josh told you
21 that he had had some sort of problem?

22 MS. KOLLINS: Objection, hearsay.

23 MR. MACARTHUR: She already answered that. It's
24 already in the record.

25 THE COURT: Can I have counsel at the bench,

1 please.

2 (Discussion held at the bench.)

3 THE COURT: The objection posed is overruled.

4 You may proceed.

5 BY MR. MACARTHUR:

6 Q. So we know what we're talking about, at some
7 point around March 2015, Josh told you he had some problem
8 with Officer Zafiris?

9 A. Right.

10 Q. You don't know the specifics of that?

11 A. No.

12 Q. You still don't know the specifics of that?

13 A. No.

14 Q. Soon after that, I mean within a matter of
15 days, you were contacted by detectives from Las Vegas
16 Metropolitan Police Department sex assault division?

17 A. Yes.

18 Q. Remember who they were?

19 A. No.

20 Q. Was there -- how many of them were there?

21 A. I believe it was two.

22 Q. And, if you know, was that statement
23 recorded?

24 A. Yes.

25 Q. Have you seen it since then?

1 A. No.

2 Q. Have you heard it since then?

3 A. No.

4 Q. Why do you believe it was recorded?

5 A. Because he brought it to my attention that
6 right before they even got to speaking they said this is
7 something that had to be recorded, just for legal
8 purposes. So I would suppose, I don't know. I do know it
9 had to be recorded -- whatever I would say would be
10 recorded.

11 Q. And where were you when you had the
12 conversation with the detectives?

13 A. I was in San Francisco on a trip.

14 Q. By phone?

15 A. Yeah.

16 Q. They called you or you called them?

17 A. They called me.

18 Q. Do you remember when, approximately, you were
19 in San Francisco in 2015? I know it's asking a lot, but
20 if you know.

21 A. It was spring break, so --

22 Q. So whenever spring break was?

23 A. Yes.

24 MR. MACARTHUR: Court's indulgence.

25 THE COURT: Yes.

1 BY MR. MACARTHUR:

2 Q. Would you agree with me that at no point has
3 Ms. Kollins played any recording for us of that
4 interaction?

5 A. Yes.

6 Q. And in that same interaction you told them
7 that there was nothing inappropriate about your friendship
8 with Josh?

9 A. Yes.

10 Q. Did they also, in fact, contact your mother?

11 A. Yes.

12 Q. Do you know if they interviewed her as well?

13 A. I don't remember exactly.

14 Q. This would not be the only time that you spoke
15 with personnel from Las Vegas Metropolitan Police
16 Department, correct?

17 A. Right.

18 Q. At some point in the future, I believe July
19 22, 2015, you went to talk to them?

20 A. Yes.

21 Q. You told them the same thing that we've seen
22 in your first voluntary statement and in the preliminary
23 hearing transcript?

24 A. Yes.

25 Q. Thinking back -- I'll rephrase.

1 During Stacey's examination at some point in the
2 past 4 days, you said that you were fearful for your
3 mom?

4 A. Yeah.

5 Q. I'm not asking you for specifics. You said
6 that there were things you had done involving drugs and
7 alcohol?

8 A. Yes.

9 Q. You said -- without being specific -- there
10 are things your mom had done and you were concerned that
11 there could be a problem with law enforcement?

12 A. Right.

13 Q. You didn't want that to happen to her?

14 A. Correct.

15 Q. You also stated that at this point in 2015 you
16 and Josh were on again off again as friends?

17 A. Right.

18 Q. Is that still true?

19 A. Yes.

20 MR. MACARTHUR: Approaching with Defense
21 Exhibits C, D, and E.

22 MS. KOLLINS: Okay.

23 BY MR. MACARTHUR:

24 Q. Beginning with Defense Exhibit E. Do you
25 recognize what's depicted there?

1 A. Yes.

2 Q. If you could, could you describe what is that
3 that we're looking at?

4 A. That is just a picture that I saved from the
5 internet.

6 Q. Okay. Did you use it in a social media
7 context?

8 A. Yes.

9 MS. KOLLINS: Could we have it admitted before
10 we have her talk about it.

11 MR. MACARTHUR: All right.

12 THE COURT: I'm assuming you'll lay foundation
13 if you want to inquire.

14 MR. MACARTHUR: Her objection is good. I was
15 getting ahead of myself.

16 BY MR. MACARTHUR:

17 Q. Is that something we refer to as a meme?

18 A. Yes.

19 Q. Does it fairly and accurately depict the meme
20 you used?

21 A. Yes.

22 Q. As you sit there now, do you remember when you
23 posted it to social media?

24 A. No.

25 MR. MACARTHUR: Defense moves to admit Defense

1 Exhibit E.

2 THE COURT: Any objection.

3 MS. KOLLINS: With qualification, there is no
4 time frame for it.

5 MR. MACARTHUR: I'll get to that.

6 THE COURT: Lay more foundation.

7 BY MR. MACARTHUR:

8 Q. Is that the meme?

9 A. Yes.

10 Q. You don't remember when it was you posted
11 it?

12 A. Right.

13 Q. I'm going to direct your attention to Defense
14 Exhibit D. I'll lay this in front of you. Does that
15 refresh your recollection at all as to when it may have
16 been posted?

17 A. Yes. July 20th, 2015.

18 Q. Say that again?

19 A. July 20th, 2015.

20 Q. So two days before you went in to speak with
21 Detective Cho?

22 A. Yes.

23 Q. Defense C, does that refresh your recollection
24 as to when, about on July 20th, you did that?

25 A. Yes.

1 Q. When was that?

2 A. About 10:00, 12:00 -- about 9:40 p.m. on July
3 20th, 2015.

4 Q. 9:40 p.m.

5 A. Yes.

6 Q. That was about 2-and-a-half hours before you
7 and Taylor go to smoke weed in a special place where that
8 was?

9 A. Yes.

10 Q. When you burned Joshes' photo?

11 A. Yes.

12 Q. In fact, this meme is related to how you felt
13 about Josh at that evening, isn't it?

14 A. Yes.

15 THE COURT: Any of these requested be admitted,
16 Mr. MacAuthur.

17 MR. MACARTHUR: Just the one currently
18 displayed. The others I used were to refresh
19 recollection.

20 THE COURT: Is that E.

21 MR. MACARTHUR: E.

22 THE COURT: Return it and get it marked.

23 MS. PANDULLO: May we approach for a second.

24 THE COURT: Yes.

25 (Discussion held at the bench.)

1 THE COURT: We'll take a brief cease.

2 Let's go ahead and give it 20 minutes. I want
3 to make sure we have an opportunity to cover things we
4 need to address without the jurors present and make sure
5 everybody is ready to proceed. So we'll plan to start at
6 3:00. We'll take a 20 minute recess.

7 JURY ADMONITION

8 During the recess, ladies and gentlemen, you are
9 admonished not to converse among yourselves or with anyone
10 else, including, without limitation, the lawyers, parties
11 and witnesses, on any subject connected with this trial,
12 or any other case referred to during it, or read, watch,
13 or listen to any report of or commentary on the trial, or
14 any person connected with this trial, or any such other
15 case by any medium of information including, without
16 limitation, newspapers, television, internet or radio.

17 You are further admonished not to form or express any
18 opinion on any subject connected with this trial until the
19 case is finally submitted to you.

20 See you back here at 3:00 o'clock.

21 (Brief recess taken.)

22 THE COURT: I have a bench conference to make --
23 I don't have a problem if Ms. Savage wants to wait in the
24 other area. I'm will to address it while Ms. Savage is
25 still here. Your counsel requested at the bench, I'm sure

1 she may have advised you, your request to take notes was
2 declined. The reason Ms. Savage is it's one thing from
3 the court's perspective to be listening to an hour long
4 video or having something being played and having some
5 recollections for yourself that might be refreshed from
6 that anticipating questions to that and if you have it you
7 know when you did take notes they were available for you
8 to refresh recollection.

9 It's another thing entirely if it's live testimony
10 and questions back and forth. I think it is more
11 appropriate that you answer the questions to the best of
12 your ability. If you cannot and there's something that
13 might refresh your recollection, we'll try to identify
14 what that would be. But I declined to have note taking
15 happening at this time.

16 THE WITNESS: Okay.

17 THE COURT: We'll have Mr. Savage wait in
18 back.

19 I have 3 substantive bench conferences I would like
20 to make a record of. If I can have counsel's attention
21 while I do it to see if counsel wishes to add, so that we
22 don't have to repeat it.

23 The first bench conference of substantive nature that
24 wasn't otherwise clear from the record as to what was
25 discussed is the objection regarding the line of inquiry

1 related to last night's motion by Ms. Savage's counsel to
2 have her released from custody that the court declined in
3 that motion. And the argument that this was something
4 that the State had opposed and that going toward bias that
5 there could be and should be a line of inquiry related to
6 that.

7 The State objected on grounds of hearsay, out of
8 court statements, offered for the truth. The court
9 ultimately sustained that objection. Offered to allow the
10 line of inquiry as to Ms. Savage's feelings about being in
11 custody and other aspects that may wish to be covered in
12 that regard, but did not allow a line of inquiry to have
13 her testify as to what was stated last night and certainly
14 ultimately the court's ultimate decision to deny the
15 motion and keep her in custody, which was based on the
16 court's determinations alone.

17 So ultimately that objection was sustained and the
18 line of inquiry was concluded. Mr. MacAuthur proceeded to
19 another topic.

20 Ms. Kollins, do you wish to add to the record.

21 MS. KOLLINS: I do not, your Honor. Thank
22 you.

23 THE COURT: Mr. MacAuthur, anything you'd like
24 to or Ms. McNeill, like to add to the record.

25 MS. MCNEILL: No, your Honor.

1 THE COURT: Okay.

2 Bench conference number 2 of a substantive
3 nature was the line of inquiry regarding Franco Orduno and
4 the circumstances of the relationship between Franco and
5 Ms. Savage that could have implicated rape shield. The
6 counter argument from defense, that was the State's
7 objections. And there may have been a door opened, but
8 limited and should not be detailed inquiry into a
9 relationship she had with Franco.

10 Ultimately Mr. MacAuthur indicated it was not
11 his tension to go into details. He and Ms. McNeill
12 advocated at the bench to open door was the complete
13 reading of the voluntarily statement. The court
14 determined that the door had been opened, that the inquiry
15 did not implicate and would not be able to be precluded by
16 the rape shield argument. And ultimately Mr. MacAuthur
17 wasn't going into details nor did he appear to do so.

18 Ms. Kollins, again, your objection. Do you have
19 anything to add.

20 MS. KOLLINS: Well, your Honor, the only
21 reason -- well, the primary reason is we still had an
22 outstanding motion and out outstanding ruling to be made.
23 So just to make sure that I understood the perimeter of
24 what we were going into, that is why I approached.

25 THE COURT: Can you identify for the record the

1 outstanding motion. The court indicated it believed all
2 outstanding matters were resolved, save for the issue
3 raised towards the comment of trial with regard to the
4 possible testimony of Lieutenant Hughes. The court was
5 not cognizant there still being anything outstanding to
6 rule on.

7 If there was indication at bench that this was a
8 ruling that was intended to be addressed at the time
9 Franco was called to the stand that the court did not have
10 presently at this time, but --

11 MS. KOLLINS: Your Honor, it was defense motion
12 to admit prior -- to admit information that constituted
13 victims basis of knowledge of sex. Essentially that's the
14 type that might be articulately.

15 There were two components to that. One was Franco
16 Orduno. The other one was the information regarding what
17 Morgan may have seen as a child regarding her dad and
18 someone else. So the dad portion was withdrawn and
19 because I believed Mr. MacAuthur and Ms. McNeill could not
20 get in touch with Franco in order to have a hearing timely
21 before trial, we all agreed that if you still want to have
22 the hearing the day he comes in to testify, it would be
23 very brief. We'd wait for it.

24 THE COURT: That's why when I hear outstanding
25 decision I'm thinking I have all the information I need to

1 make a ruling and that's what caught me off guard. What
2 you are speaking to now, the court does recall that we
3 deferred the final determination to receive any
4 information from Franco that was necessary to make the
5 determination.

6 But I think, again, it wasn't implicated by the line
7 of questions and anticipatory objection. There was a
8 comment made at the bench conference about appropriateness
9 of anticipatory objections. The court stated that it
10 believes these are very necessary and would encourage both
11 sides to engage in them to ensure that we are not
12 eliciting testimony that we have not instructed be
13 disregarded and try and unring a bell. But in that
14 regard, I appreciate that clarification.

15 Anything defense wishes to add as to that bench
16 conference.

17 MS. MCNEILL: Yes, your Honor. It makes it
18 sounds that we went into a line of questioning that we
19 weren't allowed to go into. I would like the record to
20 reflect that the State opened the door. That testimony
21 was allowed in. That the motion was moot. Mr. MacAuthor
22 wasn't going into anything beyond information that had
23 already been put into the report.

24 THE COURT: On thing I would -- I'm not trying
25 to quibble with the record, but I want to clarify the

1 record a bit here.

2 I didn't perceive that the door being opened
3 necessarily made the entire issue moot. Maybe that is
4 something we need to discuss, but not here when we wanted
5 to have a break. We need to make the record on the bench
6 conference. Ultimately, the line of specific questioning
7 as to relationship and the details of the relationship
8 between Franco and Ms. Savage were not inquired about and
9 to the extent there is a desire to go into some of those
10 details, we may have to have that discussion.

11 But I did acknowledge I did believe the door had been
12 opened to the inquiry and that rape shield and the other
13 arguments made would not prevent it. Maybe we're
14 splitting hairs.

15 MS. MCNEILL: Just to -- I should have said
16 this. When I say moot, we're not going to be using that
17 as prior knowledge. Just the information had come out so
18 we wouldn't have been allowed to say it regardless because
19 of rape shield. Just that the State opened the door.
20 We're not going to be arguing prior knowledge with that
21 information.

22 MS. KOLLINS: I don't want to argue either. I
23 acknowledged at the bench the door was opened giving the
24 entire statement in explain the relationship with Franco.
25 It's hard to explain why Defendant was yelling at Franco.

1 They're not stupid. They know that somebody is having a
2 reaction because there is an underlying relationship.

3 I wasn't imputing any fault, I was just making sure
4 that what are the parameters of what we're going into.
5 We're talking about fellatio, cunnilingus and intercourse
6 course and details of that fashion with this young man. I
7 was trying to figure out and be clear at the bench, not
8 imputing fault on anyone.

9 THE COURT: The third one had to do with
10 anticipatory objection to a question that was eliciting
11 Ms. Savage's commentary and discussions she had with Mr.
12 Honea about his issues -- I'll leave it generalized that
13 way for purposes of this bench record -- with Officer
14 Zafiridis. And the concern that the details of what
15 Mr. Honea might have had to say about all those details
16 that Ms. Savage would not have direct knowledge of would
17 only be coming from Mr. Honea, not be inquired into.
18 Mr. MacAuthur said he was not going to go into that line
19 of inquiry at this time, and so the objection was
20 overruled. Mr. MacAuthur continued with his line of
21 questioning.

22 Does the State have any further record to make
23 there.

24 MS. KOLLINS: No, ma'am.

25 THE COURT: MacAuthur or Ms. McNeill.

1 MR. MACARTHUR: No, your Honor.

2 THE COURT: I want a brief discussion -- we
3 still need a break -- about the surprise expressed at the
4 bench in terms of scheduling and how much more time is
5 left and Mr. MacArthur stated he would finish today.

6 Coming in here today my hope, I won't say
7 expectation, because those have long since gone away in
8 this matter, but my hope was that we would have a
9 reasonable opportunity to complete entirely with the
10 witness today with defense, with redirect by the State,
11 and recross by the defense and juror's questions. That
12 hope is rapidly fading in the sense of understanding there
13 still may be an hour of inquiry the defense has.

14 I will give whatever time defense needs. That's not
15 my point. My point is there was representations made
16 yesterday, I believe, or whatever point in time this week,
17 the defense thought, based on the change in testimony,
18 their inquiry might be an hour-and-a-half. We understood
19 that that could change. And of course there are
20 objections being posed and that does take time away from
21 inquiry. But there was about an hour-and-a-half -- maybe
22 an hour inquiry yesterday, maybe more, that we had with
23 the witness on defense, so in my mind I'm thinking we have
24 about an hour, hour-and-a-half here today. We did a hour
25 and now I'm informed there's another hour. I'm really

1 trying to get a fair estimate from counsel, are we going
2 to finish with this witness today. It doesn't seem
3 possible at this time.

4 MR. MACARTHUR: I can't speak for the State. I
5 do have good news to deliver. I don't like to be the
6 attorney that says 10 minutes and end up to be 20. I
7 don't have credibility. When I said an hour, I vastly
8 overshot. I'm looking at what I have left and it's not
9 close to an hour.

10 I can't speak for the State. There is no reason we
11 can't finish.

12 THE COURT: If you're not going till 4:00, we
13 might have a shot. I know it's difficult for the State.
14 I'm trying to anticipate things. What does the State
15 think it might have redirect.

16 MS. KOLLINS: As of right now, 20 minutes.

17 THE COURT: So we do have a reasonable
18 opportunity to conclude this witness today, including
19 juror questions. It's hard to know what's going to happen
20 there. We'll see.

21 Thank you. Let's take that break and resume.

22 (Brief break taken.)

23 THE COURT: Let the jurors get their seats.

24 Mr. MacAuthur, you may proceed.

25 MR. MACARTHUR: Thank you, Judge.

1 BY MR. MACARTHUR:

2 Q. Court's indulgence.

3 Morgan, we're at the home stretch. I just left the
4 topic when we were talking about Franco. I can't remember
5 what it was, but I'll come back to it. I may jump around
6 a little.

7 A. Okay.

8 Q. We saw the meme you posted about Drake on July
9 20th?

10 A. Right.

11 Q. So it's clear in the jurors' minds, this is
12 after you had been contacted by sex assault detectives the
13 first time?

14 A. Correct.

15 Q. In that statement you told them that nothing
16 was inappropriate?

17 A. Right.

18 Q. This is during the period where you are on and
19 off again friends for an argument you testified you don't
20 remember?

21 A. Yes.

22 Q. All of that still true?

23 A. Yes.

24 Q. Okay. Now, we've seen a voluntary statement
25 that you gave to Detective Cho, right?

1 A. Yes.

2 Q. If there was a recording, we have not heard or
3 seen a document of that first contact you had with the
4 detectives, fair?

5 A. Right.

6 Q. So getting into July of 2015, and you
7 expressed the concerns you had about your mom and whether
8 she could get trouble, right?

9 A. Right.

10 Q. Isn't it, in fact, true that the detectives
11 told you that Josh said something that your mom could get
12 in trouble for?

13 MS. KOLLINS: Objection, hearsay.

14 MR. MACARTHUR: It's in the voluntary
15 statement.

16 THE COURT: But Mr. MacAuthur, you posed the
17 question in a way -- I'll sustain the objection.
18 Rephrase.

19 BY MR. MACARTHUR:

20 Q. Remember the substance of the voluntary
21 statement you gave to Detective Cho?

22 A. Yes.

23 Q. Is there a point where you related to her that
24 the detectives told you that Josh said something about
25 your mom that could potentially get her in trouble?

1 A. Right.

2 Q. My question to you is, isn't it, in fact, true
3 you got that information from detectives? Does that make
4 sense or is that confusing?

5 A. That's confusing. I believe I understand what
6 your question is.

7 Q. Let me -- I'll ask it a different way.

8 Josh didn't tell you he was going to try to get
9 your mother in trouble, did he?

10 A. No.

11 Q. So where did you get that implication, or who
12 gave you information that made you think that?

13 A. Well, having knowing what I did through Josh,
14 I mean, honestly we -- just learning about the police
15 department in general I thought that some of the things my
16 mom was doing, that I was doing, could potentially get us
17 in trouble, me and -- my mom specifically as well.

18 THE COURT: Can I ask you the keep your voice
19 up.

20 THE WITNESS: Yes. My bad.

21 BY MR. MACARTHUR:

22 Q. If Josh didn't say to you, hey, I'm going to
23 get your mom in trouble, where did you get the impression
24 that your mom might get in trouble because of something
25 Josh said?

1 MS. KOLLINS: Asked and answered.

2 THE COURT: Overruled.

3 THE WITNESS: My -- I just thought that Josh
4 might say something about my mom, considering what I
5 saying about him. I thought he would try to say something
6 about my mom. My mom isn't the number one parent. She
7 makes mistakes. I thought he would use that as
8 retaliation against me.

9 BY MR. MACARTHUR:

10 Q. Let me make sure I'm clear on the time line.
11 I'm not talking about after you'd gone to talk to
12 Detective Cho. I'm talking about the time frame March
13 2015, where there was some issue between Josh and
14 Detective Zafiridis. That's the beginning point. And the
15 ending pointed is when you went to talk to Detective Cho.

16 Is that clear?

17 A. Yes.

18 Q. So say the end of March 2015 and mid to late
19 July 2015, right?

20 A. Right.

21 Q. Okay. You'd already spoken to sexual assault
22 detectives one time?

23 A. Right.

24 Q. That is when they came to you?

25 A. That is when they called me.

1 Q. They called you in San Francisco and reached
2 out to you?

3 A. Yes.

4 Q. Isn't it, in fact, true that you got the
5 impression that your mother could get in some kind of
6 trouble from them not Josh?

7 MS. KOLLINS: Observation. Calls for a hearsay
8 response.

9 THE COURT: Overruled.

10 THE WITNESS: Yes.

11 BY MR. MACARTHUR:

12 Q. Do you know if that was true, what the
13 detective said to you?

14 MS. KOLLINS: Objection, hearsay.

15 THE COURT: I'm going to sustain on another
16 basis, that it's speculative. You may ask a subsequent
17 question.

18 MR. MACARTHUR: All right.

19 BY MR. MACARTHUR:

20 Q. Okay.

21 Morgan, you made it abundantly clear in your
22 testimony that your friendship or relationship, whatever
23 word you want to use, with Josh existed between 2011 when
24 you were in 6th grade and 2015 when he got arrested,
25 fair?

1 A. Right.

2 Q. And you describe that as a brother and sister
3 relationship?

4 A. Yes.

5 Q. You made it clear to the jury that you and
6 Josh never had sex with each other?

7 A. Correct.

8 Q. But would you agree with me, there's a big
9 space between brother and sister and having sex with
10 people?

11 A. Correct.

12 Q. Are there relationships between brother,
13 sister and having sex with people?

14 A. No.

15 Q. If you are not brother, sister you must be
16 having sex with people?

17 A. Oh, no. If you are brother and sister, you're
18 not have sex with each other.

19 Q. I don't mean to be confusing.

20 Would you agree with me that there are
21 relationships that aren't quite as platonic as brother and
22 sister, but they don't include sex?

23 A. Right.

24 Q. I would like to talk -- you've also stated
25 that despite your best efforts you can't remember exactly

1 what the fight was about --

2 A. Right.

3 Q. -- that ultimately made you so angry you went
4 to police?

5 A. Right.

6 Q. Have you ever been angry at somebody in your
7 life?

8 A. Of course.

9 Q. Have you seen other people who are angry with
10 each other?

11 A. Yes.

12 Q. Would you agree with me that sometimes people
13 you fight hardest with are the ones you are closest to?

14 A. Of course.

15 Q. Would you agree with me that when you are
16 really close to somebody, if they hurt you, it hurts more
17 then if a stranger hurts you?

18 A. Yes.

19 Q. When the events of the time line started, you
20 are in 6th grade; is that correct?

21 A. Yes.

22 Q. You didn't have boyfriends yet?

23 A. No.

24 Q. You hadn't had sex before?

25 A. No.

1 Q. By the time Josh was arrested, you're
2 physically and mentally in a different place; is that
3 fair?

4 A. Right.

5 Q. And, in fact, we do know that you had a
6 boyfriend in that time, correct?

7 A. Correct.

8 Q. Mr. Orduno being one?

9 A. Correct.

10 Q. Those relationships involve physical
11 intimacy?

12 A. Yes.

13 Q. Thinking about when you broke up with
14 Mr. Orduno and Josh stood up for you, did you appreciate
15 that?

16 A. Yes and no. Yes, given that it was for the
17 better because of what he -- Franco did in retaliation to
18 me, but as far as when I say, no, I say no because at the
19 time I was stubborn and didn't see it in the eyes I do
20 now.

21 Q. That's Fair. You had mixed feelings at the
22 time?

23 A. Right.

24 Q. There were parts of you that didn't appreciate
25 him getting involved in your business?

1 A. Right.

2 Q. But he stood up for you?

3 A. Right.

4 Q. Morgan, isn't it in fact true that in 2015 you
5 started feeling stronger about Josh in a way that wasn't
6 just brother and sister?

7 A. Yeah. Like, I don't know what you mean. Like
8 in a relationship kind of way, stronger in 2015, not so
9 much because in 2015 is when we fell out and I got mad at
10 him. I would say 2015 was not a time I felt strong about
11 Josh, just brother sister.

12 Q. I don't mean to caste 2015 as all one feeling.
13 You made it clear there was some back and forth.

14 A. Right.

15 Q. Isn't it in fact true that one of the problems
16 between the two of you is that you did, at some point,
17 want to be in a relationship with Josh?

18 A. There could be a time possibly I did and
19 didn't, or at least I treated it like that.

20 Q. And wouldn't one of the problems have been the
21 age difference?

22 A. Right.

23 Q. Another problem with that would have been he
24 worked for Las Vegas Metropolitan Police Department?

25 A. Yes.

1 Q. Did you know at the time that the age
2 difference would make it illegal to have that kind of
3 relationship?

4 A. Of course, yes.

5 Q. Was that, thinking about it honestly, was that
6 frustrating?

7 A. At times, yes.

8 Q. Thank you.

9 Now the State had asked you questions about whether
10 or not Josh was preventing you from having friends your
11 own age or relationships with people your own age.
12 Remember those questions?

13 A. Yes.

14 Q. Back in 2015, you said that those things are
15 true, right?

16 A. Yes.

17 Q. More recently you testified to the jury that
18 those were not true?

19 A. Right.

20 Q. Is it fair to say you took a lot of pictures
21 of your life at the time?

22 A. Yes.

23 Q. You know how to take a selfie?

24 A. Yes.

25 MR. MACARTHUR: Approaching with Defense O and

1 M.

2 I'm going to ask you what's depicted in the following
3 3 pictures.

4 THE WITNESS: Yes. I saw it as you were laying
5 it down. I know what these are.

6 BY MR. MACARTHUR:

7 Q. Are these photos you took of yourself or did
8 somebody else take them?

9 A. Photos I took myself.

10 Q. Do they fairly and accurately depict you and
11 other people in the pictures?

12 A. Yes.

13 MR. MACARTHUR: Motion to admit Defense O, N,
14 and M.

15 MS. KOLLINS: I guess I'm just asking for more
16 foundation when they were taken and who they are.

17 MR. MACARTHUR: Sure.

18 BY MR. MACARTHUR:

19 Q. Let's start with do you recognize these photos
20 and who is in them?

21 A. Yes.

22 Q. Does each photo have you in it?

23 A. Yes.

24 Q. Does each photo have a man in it?

25 A. Yes.

1 Q. Do you know who these men are?

2 A. Yes.

3 MR. MACARTHUR: Renew the motion.

4 THE COURT: During what time.

5 BY MR. MACARTHUR:

6 Q. Based on what is shown in the photos, do you
7 know when they are taken?

8 A. All within this would be my freshman year, I
9 believe that was.

10 MS. KOLLINS: Freshman year, which.

11 MR. MACARTHUR: Freshman year for M, State.

12 MS. KOLLINS: Thank you.

13 THE WITNESS: This one was freshman and
14 sophomore year. And this was freshman.

15 BY MR. MACARTHUR:

16 Q. So these 3 pictures, two are freshman year and
17 one of them appears to be freshman or sophomore year?

18 MS. KOLLINS: Any individual's names.

19 MR. MACARTHUR: I was going to do that after
20 publishing.

21 THE COURT: Defendant's M, N, and O, you may
22 publish.

23 BY MR. MACARTHUR:

24 Q. Publishing Defense M. Morgan, I'm not going
25 to ask you any embarrassing questions.

1 Who is the individual with you in this photo?

2 A. Franco.

3 Q. Who is the individual depicted in Defense N?

4 A. Austin Shanks.

5 Q. And who --

6 THE COURT: Spell the last name.

7 THE WITNESS: S-h-a-n-k-s.

8 THE COURT: Thank you.

9 BY MR. MACARTHUR:

10 Q. And Defense O?

11 A. Dillon Powell.

12 Q. Dillon Powell?

13 A. Yes.

14 Q. Are these evidence of relationships you were
15 having at the time?

16 A. Yes.

17 Q. When I say relationships, these are boyfriends
18 as opposed to people you knew?

19 A. Right.

20 Q. It would appear you have normal relationships
21 in your freshman, sophomore year?

22 A. No more? You said no more?

23 Q. Normal. You had people you were able to
24 see?

25 A. Yes.

1 Q. Nobody stopping you from having relationships
2 with these gentlemen?

3 A. No.

4 Q. Normal high school relationships?

5 A. Yes.

6 Q. Morgan, isn't it, in fact, true you had a
7 discussion with Josh in 2015 where you thought the two of
8 you should explore a relationship?

9 A. I don't remember.

10 Q. Okay. Isn't it, in fact, true -- well let me
11 back up.

12 A few questions ago I said that if you had wanted a
13 relationship you knew that was problematic because of the
14 age difference?

15 A. Right.

16 Q. And that he wanted to be a police officer?

17 A. Right.

18 Q. So for you to know that, makes sense you would
19 have had a conversation about it, right?

20 A. Yeah. Way back at the beginning. Like way
21 back when I was young, and I said -- mentioned something
22 about it. Then, yeah, but that was made clear from early
23 on.

24 MS. KOLLINS: I didn't hear the last answer.

25 THE WITNESS: That was made clear from early on

1 there was no relationship because of Josh wanting to be in
2 Metro and being the age I was.

3 MR. MACARTHUR: Okay.

4 BY MR. MACARTHUR:

5 Q. Do you read a lot?

6 A. Do I read a lot?

7 Q. Books and entertainment?

8 A. Yes.

9 Q. Have you always been an avid reader?

10 A. Yes.

11 Q. Specifically back in 2014, 2015, did you like
12 to read Romance novels?

13 A. I had read some by then, but not specifically.
14 Not so much.

15 Q. Would it refresh your recollection about books
16 may have been reading at the time if I showed you
17 exhibits?

18 A. Yes.

19 MR. MACARTHUR: I'll refer to Defense G and H
20 and I.

21 BY MR. MACARTHUR:

22 Q. Do you happen to recognize these?

23 A. I recognize this one.

24 MS. KOLLINS: Which is that.

25 THE WITNESS: Easy Innocence.

1 MR. MACARTHUR: Before you read what's on it,
2 Defense I.

3 THE WITNESS: I didn't read those. I never read
4 those.

5 MR. MACARTHUR: You didn't read these.

6 THE WITNESS: No.

7 BY MR. MACARTHUR:

8 Q. Do you remember you took pictures of the
9 covers?

10 A. Yes, I do.

11 Q. Did you take pictures of the covers because
12 you wanted to read them?

13 A. Yeah.

14 Q. Had you read them?

15 A. I wanted to read them.

16 Q. But as far as you remember, you didn't read
17 this one and this one?

18 A. Right.

19 MR. MACARTHUR: By this one, this one is Defense
20 G and Defense Exhibit H.

21 Then as far as the one you had read, Defense Exhibit
22 I.

23 BY MR. MACARTHUR:

24 Q. But do you recognize all of these as being
25 pictures you took?

1 A. Yes.

2 Q. Okay. Do you know approximately when you
3 might have taken the photos of these books?

4 A. I mean, it was during the end of time talking
5 to Josh, but I don't remember when exactly.

6 Q. Okay.

7 MR. MACARTHUR: Move to admit Defense G, H, and
8 I.

9 MS. KOLLINS: State has know objection to I. I
10 would object to G and H. She said she didn't read them.
11 They're just photographs. I don't know what the relevance
12 is.

13 THE COURT: What's the relevance,
14 Mr. MacAuthur.

15 MS. MCNEILL: Court's indulgence.

16 MR. MACARTHUR: I identified them as --

17 THE COURT: Ms. McNeill wants to speak with you.

18 BY MR. MACARTHUR:

19 Q. Perhaps more foundation, Judge.

20 Morgan isn't this in fact true that these are books
21 that were downloaded to your phone on a reading app?

22 A. Yes.

23 MR. MACARTHUR: So their evidentiary purpose is
24 the fact she's aware of them and she obtained them, not
25 that she knows necessarily what is in the top two.

1 THE COURT: The relevancy, however, as I
2 understood the line of inquiry, my understanding was you
3 were asking about content of books she may have read not
4 simply she was aware of book titles.

5 To the extent that was the line of inquiry, "I" can
6 be admitted. I don't see the relevancy of G and H.

7 You may publish "I" if you wish.

8 MR. MACARTHUR: I'll see if I can provide
9 additional foundation for the first two.

10 BY MR. MACARTHUR:

11 Q. You downloaded books to your phone, correct?

12 A. Yes.

13 Q. When you downloaded them, isn't it in fact
14 true you would have had some sort of summary or basic idea
15 of what they were about?

16 A. Right.

17 Q. That is why you bought them -- or downloaded
18 them?

19 A. Downloaded, yes.

20 MR. MACARTHUR: I renew the motion.

21 THE COURT: Objection still.

22 MS. KOLLINS: Yes. The objection remains the
23 same. If you want me to do a speaking response, I'd be
24 happy to approach.

25 MS. MCNEILL: Court's indulgence.

1 THE COURT: May I have counsel at the bench so
2 we can make sure we can wrap it up.

3 (Discussion held at the bench.)

4 THE COURT: The objection is sustain to Exhibits
5 G and H. "I" is admitted. If you wish to publish, you
6 may.

7 BY MR. MACARTHUR:

8 Q. Publishing Defense I. Do you remember this
9 book, Morgan?

10 A. I don't remember it honestly. I've read so
11 many books since then, I'm kind of up with a couple other
12 books I read similar to it. I don't want the be quoted on
13 it.

14 Q. Understood. Would it refresh your
15 recollection if I asked you, isn't this book about some
16 girls and private school investigating --

17 MS. KOLLINS: Objection.

18 MR. MACARTHUR: You're allowed to refresh with
19 anything, Judge. It either rings a bell --

20 THE COURT: Approach the bench, please.

21 (Discussion held at the bench.)

22 THE COURT: The objection is sustained. You may
23 continue your line of inquiry.

24 BY MR. MACARTHUR:

25 Q. Speaking directly, Morgan, you now at least

1 some time in the past you liked to read books about woman
2 solving crime, true?

3 A. Yes.

4 Q. Do you know if this is one of those books?

5 A. Yes.

6 Q. Morgan, isn't it in fact true that one of the
7 reasons -- you said there was more than one -- one of the
8 reasons that you and Josh where on-and-off-again friends
9 is because of the frustration from the fact you guys
10 couldn't have a full blown relationship?

11 A. Right.

12 Q. Yes?

13 A. That is what I said, yeah.

14 Q. Now, when I come to see you at the jail a
15 Tuesday ago, didn't you in fact tell us that back then you
16 were more mature then Josh?

17 A. Yes.

18 Q. Isn't it in fact true that at that time you
19 had had more sexual experience then Josh?

20 MS. KOLLINS: Objection. Speculation.

21 THE COURT: Can we pause and you can lay a
22 foundation, but it certainly is speculation. Overruled.
23 You may rephrase.

24 BY MR. MACARTHUR:

25 Q. Based on your relationship with Josh from 2011

1 through 2015, you knew he was a virgin?

2 A. Right.

3 Q. You were not?

4 A. Right.

5 Q. Isn't it in fact true that you were angry at
6 Josh for losing his virginity to Brisa Perez in June
7 2015?

8 A. Yes.

9 MS. KOLLINS: Sorry, I didn't catch the name.

10 MR. MACARTHUR: Brisa Perez, B-r-i-s-a,
11 P-e-r-e-z.

12 BY MR. MACARTHUR:

13 Q. Remind the jury what your birthday is?

14 A. June 30, 1999.

15 Q. So he did this with Brisa, it was close to
16 your birthday?

17 A. Right.

18 Q. You hadn't been able to have a relationship
19 with Josh because of the age gap?

20 A. Right.

21 Q. You were just about to turn 16?

22 A. Yes.

23 Q. And you would been able to have consensual sex
24 at that point, is that your understanding?

25 A. Yeah.

1 Q. Morgan, isn't it true that you felt betrayed
2 by him starting a relationship with somebody else?

3 A. Yes.

4 Q. When you say that you didn't remember exactly
5 what the fight was about, isn't that a major part of what
6 the fight was about?

7 A. It was one of them.

8 Q. Now, were there in fact times Josh was mad at
9 you too?

10 A. Right.

11 Q. There was a time when you actually had a
12 profile on a dating app called OK Cupid?

13 MS. KOLLINS: Objection, foundation.

14 MR. MACARTHUR: I'm not sure how you --

15 THE COURT: Can we have counsel at the bench,
16 again, please.

17 (Discussion held at the bench.)

18 THE COURT: Objection sustained. Lack of
19 foundation for time frame which this may have occurred.

20 BY MR. MACARTHUR:

21 Q. Morgan, between say February 2015 and July
22 2015, isn't it true that you had a profile on a dating app
23 called OK Cupid?

24 A. Yes.

25 Q. This was at the same time where there was some

1 frustration why you couldn't have a relationship?

2 A. Yes.

3 Q. Did that make Josh angry?

4 A. Yes.

5 Q. All right.

6 Now, we've heard about statements you've made to
7 many people. I want to make sure we all know which ones
8 we're referring to.

9 You were contacted by Metro's sex assault
10 detectives around the end of March 2015, yeah?

11 A. Yes.

12 Q. Then, on your own, in July 2015, you reached
13 out to Detective Cho?

14 A. Yes.

15 Q. That's the first time you said that the
16 relationship was improper and Josh had done things that
17 were wrong?

18 A. Right.

19 Q. Then, you met with Stacey Kollins before going
20 to the preliminary hearing?

21 A. Right.

22 Q. And you conveyed that same information to
23 her?

24 A. Right.

25 Q. Then you went to justice court, in this

1 building, different floor, and gave testimony we've heard
2 about, correct?

3 A. Yes.

4 Q. I skipped a step. On July 20th, you'd also
5 gone to Taylor's house and worked out the details?

6 A. Before the --

7 Q. Before going to see Cho?

8 A. Yes.

9 Q. So the first detectives, where nothing
10 happened. But after that it was discussing with Taylor?

11 A. Right.

12 Q. Telling it to Detective Cho?

13 A. Yes.

14 Q. Telling it to Stacey?

15 A. Yes.

16 Q. Telling it to the justice court?

17 A. Right.

18 Q. So by the time you gave your testimony in 2015
19 in the previous court, you had run through this 4 times;
20 is that correct?

21 A. Right.

22 Q. Would you agree with me that it's difficult to
23 keep your details straight when they are not all true?

24 A. Yes.

25 Q. Do you remember sometime in the 4 days when

1 the State was questioning you that you said the first time
2 you had sex with Josh was when you were 11. You said
3 there was oral sex?

4 A. Right.

5 Q. Do you remember telling Detective Cho the
6 first time you'd ever had sex with him was when you were
7 12 in the involuntary statement?

8 A. Right.

9 Q. Do you remember telling Detective Cho that
10 there was sex by some sort of Skyp app?

11 A. Yeah.

12 Q. Do remember telling -- testifying at
13 preliminary hearing there was no sex on Skype?

14 A. Yes.

15 Q. Before I go on, the statement to Detective Cho
16 is July 22, 2015. And the preliminary hearing is
17 September 15?

18 A. Yes.

19 Q. So there had been approximately 2 months
20 between what you told Detective Cho and what you told the
21 court?

22 A. Right.

23 Q. Do you remember testifying at preliminary
24 hearing that your mom didn't know anything about the
25 relationship?

1 A. Yes.

2 Q. Do you remember saying in the voluntary
3 statement that your mom did know about it?

4 A. Yes.

5 Q. Or that you told her before you told Detective
6 Cho?

7 A. Right.

8 MR. MACARTHUR: Defense L.

9 BY MR. MACARTHUR:

10 Q. Do you recognize the following?

11 A. Yes.

12 Q. I saw you smile. Is that because it's
13 funny?

14 A. Yeah.

15 Q. Did you post that meme on social media?

16 A. Yes.

17 Q. Remember when you posted it?

18 A. No.

19 Q. This is your meme?

20 A. Yes.

21 Q. Okay.

22 MR. MACARTHUR: Motion to admit Defense L.

23 MS. KOLLINS: May we approach.

24 THE COURT: Sure.

25 (Discussion held at the bench.)

1 THE COURT: Objection, sustained.

2 MR. MACARTHUR: Thank you, Judge.

3 BY MR. MACARTHUR:

4 Q. All right. How long -- I guess I should ask,
5 do you know what social media profile you posted that
6 on?

7 A. Twitter?

8 Q. When did you start having a Twitter account?

9 A. 2013, '14, '15.

10 THE COURT: Can want to clarify. You're not
11 sure when you started it or it was during that time
12 frame.

13 THE WITNESS: It was from 2013 to 2015.

14 BY MR. MACARTHUR:

15 Q. So a couple years between 2013 and 2015?

16 A. Yes.

17 Q. I'm going to guess you post a lot of memes?

18 A. Yes.

19 Q. Do you remember by looking at that meme what
20 may have been going on in your life at the time?

21 A. I was just sexually active. I know that for
22 sure.

23 Q. Were you sexually active in 2013?

24 A. I don't remember.

25 MR. MACARTHUR: With that, Judge, I'll withdraw

1 it. It was a pretty funny meme, wasn't it.

2 THE WITNESS: Yeah.

3 BY MR. MACARTHUR:

4 Q. Morgan, during your testimony for the State
5 you said that you didn't always share intimate details of
6 your life with your mother?

7 A. Right.

8 Q. Was that a consistent theme?

9 A. I never did.

10 Q. Is this meme about that?

11 A. Yes.

12 Q. Is this meme reflective of the fact that you
13 didn't always share information with your mother?

14 A. Right.

15 MR. MACARTHUR: I renew the motion to admit
16 judge.

17 MS. KOLLINS: Same objection, your Honor.

18 THE COURT: Sustained.

19 BY MR. MACARTHUR:

20 Q. Now, when you went to speak with Stacey about
21 this accusation for the first time it was before the
22 preliminary hearing?

23 A. Yes.

24 Q. Did she give you access to your voluntary
25 statement, the transcript that had been made of what you

1 said to Detective Cho?

2 A. I don't remember. I don't remember.

3 Q. Understood.

4 Now, throughout your testimony there were instances
5 where when I was reading from the transcript you said we
6 had sex and he put his penis in my vagina?

7 A. Yes.

8 Q. Remember those types of questions?

9 A. Yes.

10 Q. There were a few times where you busted some
11 key 4 letter words. Remember what I'm talking about?

12 A. Yes.

13 Q. Isn't it true that those are the words that
14 Stacey wanted you to use as opposed to the words you
15 normally use?

16 A. Right.

17 Q. She told you to use those terms?

18 A. Yes. To make it clear.

19 Q. When did she tell you to use those terms?

20 A. Before coming in to court and during court
21 when we were going through it, she would say by that you
22 mean.

23 Q. Referring to State's A. You remember your
24 photo collage, correct?

25 A. Yes.

1 MS. KOLLINS: For the record, we don't have A.
2 That might be 6 D.

3 MR. MACARTHUR: I may have misread it.

4 THE COURT: The State's photo has been marked as
5 an exhibit and admitted. It's on the inside, back cover
6 at the bottom right.

7 MR. MACARTHUR: 76.

8 BY MR. MACARTHUR:

9 Q. I'm going to be referring to individual pages
10 of State's 76.

11 You recognize the photo album, right?

12 A. Yes.

13 Q. You made that photo album yourself?

14 A. Yes.

15 Q. Now, isn't it, in fact, true -- I'm going to
16 ask the question, you tell me if it's confusing.

17 Was this made contemporaneously with what was going
18 on in your life? Does that make sense?

19 A. Yes.

20 Q. Was it made contemporaneously with what was
21 going on in your life?

22 A. Yes.

23 Q. Correct my if I'm wrong, but it would appear
24 that every page is made with the same type of pen?

25 A. Yes.

1 Q. Correct?

2 A. Yes.

3 Q. So whenever you made entries in this it would
4 appear you used the same pen each time?

5 A. Right.

6 Q. Do you remember when you started making this
7 photo collage?

8 A. No.

9 Q. Do you think it might have been when you
10 started having stronger feelings for Josh then just the
11 brother sister type of relationship you had?

12 A. It's possible, but I don't know.

13 MS. KOLLINS: It's positive, but -- I didn't
14 hear.

15 MR. MACARTHUR: She said it's possible, but I
16 don't know.

17 MS. KOLLINS: Thank you, Mr. MacAuthur.

18 BY MR. MACARTHUR:

19 Q. There was a page where there was a picture
20 missing when we reviewed it.

21 MR. MACARTHUR: Just so the jury is aware,
22 permission to publish 76, Judge.

23 THE COURT: Yes.

24 BY MR. MACARTHUR:

25 Q. There is a note to the left of it, say's

1 Morgan's 13th birthday, June 30, 2013. And that's crossed
2 out and there's a 12, right?

3 A. Right.

4 Q. Hopefully this isn't a confusing question.
5 You know what year it is now, right?

6 A. Yes.

7 Q. So if you had made that when it was your
8 birthday you probably wouldn't have gotten the year
9 wrong?

10 A. Right.

11 Q. So is it fair to assume that this photo album
12 was made after 2012?

13 A. For sure.

14 Q. It was also made after 2013?

15 A. For sure.

16 Q. You would have known the year it was, right?
17 Because you would have known what year it was.

18 A. Right.

19 Q. So when you say that it was made
20 contemporaneously, it is fair to say it was made
21 contemporaneously after you started it?

22 A. Yes.

23 Q. If that's true, then, isn't it true you would
24 have had to take lot of stuff to put into it at the
25 beginning and you'd add onto it after, as life happened.

1 A. Yes.

2 Q. Is that the reason why it's the same pen on
3 every page?

4 A. Yes.

5 Q. Most of this was done at the same time?

6 A. Correct.

7 Q. Just so the jury can see what we're talking
8 about. Is this consistent with what we're talking
9 about?

10 A. Yes.

11 Q. Before we get to that point, still the same
12 pen?

13 A. Right.

14 Q. Still the same pen. Still the same
15 handwriting or similar pen?

16 A. Right.

17 Q. Morgan, there's a point in your voluntary
18 statement to Detective Cho where she asks you to describe
19 Joshes' penis. Remember that?

20 A. Yes.

21 Q. Remember what your answer to that was?

22 A. Yes.

23 Q. You said that it was wide. That it was
24 groomed. That there was some kind of mole or blemish?

25 A. Yes.

1 MS. KOLLINS: I'll object. Blemish is not what
2 it says.

3 MR. MACARTHUR: Mole.

4 THE COURT: Sustained.

5 BY MR. MACARTHUR:

6 Q. You said there was some kind of mole?

7 A. Yes.

8 Q. Morgan, do you remember going to the hospital,
9 Mountainview Hospital, back in September 2013?

10 A. Yes.

11 Q. Can you tell the jury why you went to the
12 hospital?

13 A. I had gone to the hospital because I had a
14 3-way infection from my kidneys to my -- that it was a
15 3-way infection from my bladder, to my kidney -- UTI.

16 Q. UTI?

17 A. Yes.

18 Q. Didn't you get some kind of an antibiotic
19 shot?

20 A. Yes.

21 Q. Where did they give you that shot?

22 A. I don't -- in my arm, or -- I don't
23 remember.

24 Q. Wasn't it in your butt?

25 A. It may have been. I really don't remember.

1 Q. Who took you to the hospital that day?

2 A. Josh.

3 Q. Because your mother wasn't available?

4 A. Yes.

5 Q. Josh was your emergency contact at school?

6 A. Yes.

7 Q. Do you remember your mother met you at the
8 hospital?

9 A. Yes.

10 Q. Do you remember if you had a discussion about
11 weird blemishes people have that are embarrassing?

12 MS. KOLLINS: Objection, hearsay.

13 MR. MACARTHUR: I'm asking if it was had not if
14 it's true.

15 THE COURT: Overruled as to the question. It's
16 form.

17 THE WITNESS: I don't remember.

18 BY MR. MACARTHUR:

19 Q. Could you remember your mom described a tattoo
20 on her butt?

21 A. Yes.

22 Q. Remember you described a freckle you have on
23 your butt?

24 A. Yes.

25 Q. Remember Josh telling --

1 MS. KOLLINS: Objection, hearsay.

2 THE COURT: What's it being offered for Mr.
3 MacAuthru, other than the truth of the mater asserted,
4 which is hearsay.

5 MR. MACARTHUR: Okay. Judge, the truth would be
6 whether it's there not whether the conversation happened.
7 So it's non-hearsay, Judge. That is the short of it.

8 THE COURT: Objection sustained.

9 MR. MACARTHUR: Understood, Judge.

10 BY MR. MACARTHUR:

11 Q. But your mother was there for that, correct?

12 A. Right.

13 Q. Was she there for the conversation we're
14 talking about?

15 A. Yes.

16 Q. Was Josh there for the conversation we're
17 talking about?

18 A. Yes.

19 Q. Did you feel less embarrassed to find out that
20 people had weird spots on themselves?

21 A. Yes.

22 Q. During your testimony there seemed to be a lot
23 of repetition where when you described the acts of sex
24 that you and Josh purportedly had you'd say, I put my
25 mouth on his penis. He put his mouth on my vagina. He put

1 his penis in my vagina. Remember that?

2 A. Yes.

3 Q. Would you agree it was the same thing over and
4 over and over again?

5 A. Yes.

6 Q. You described it happening in the same place
7 over and over again?

8 MS. KOLLINS: Objection, mischaracterizes the
9 testimony that it was the same place.

10 THE COURT: Sustained.

11 BY MR. MACARTHUR:

12 Q. It happened at the SunCoast a bunch of
13 times?

14 A. Multiple, yes.

15 Q. You mentioned the Rampart?

16 A. Right.

17 Q. Maybe another place?

18 A. Yes.

19 Q. Would you agree with me, you didn't name a lot
20 of different places?

21 A. No.

22 Q. You wouldn't or would?

23 A. I would agree with you.

24 Q. You described the same activities over and
25 over again?

1 A. Right.

2 Q. Now, that you are 18 years of age, you have
3 had adult relationship. Would you agree with me that sex
4 isn't necessarily like that, where it's always the same
5 thing over and over?

6 MS. KOLLINS: Objection, speculation.

7 THE COURT: The form of the question is far too
8 vague. Sustained.

9 BY MR. MACARTHUR:

10 Q. In your experience just yourself, not other
11 people, does sex have the tendency to be the same over and
12 over again?

13 A. No.

14 MS. KOLLINS: Objection, relevance.

15 THE COURT: Overruled.

16 BY MR. MACARTHUR:

17 Q. Thank you.

18 A. No.

19 Q. Just so everybody understands what you're
20 saying no to, can you make that into a sentence.

21 A. No, sex is not the same over and over again
22 now that I have had adult relationships.

23 MR. MACARTHUR: Court's indulgence.

24 BY MR. MACARTHUR:

25 Q. Would you agree its easier if you can use