

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

JOSHUA HONEA,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 76621

Electronically Filed  
Dec 07 2018 10:53 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S APPENDIX**

**VOLUME 12**

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JONATHAN MACARTHUR

STEVEN WOLFSON

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

JOSHUA HONEA

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

1 Q. How long.

2 A. Year-and-a-half.

3 MS. RHOADES: Permission to approach.

4 THE COURT: Yes.

5 MS. RHOADES: Thank you.

6 BY MS. RHOADES:

7 Q. Would it surprise you if Morgan testified  
8 under oath at a prior hearing that she didn't hang around  
9 you very often at all?

10 A. Hang around myself?

11 Q. Yes.

12 A. No. I wouldn't say she did at times. But I  
13 can say that she was always at our house.

14 Q. Publishing page 108 from State's admitted 67.  
15 Okay. Looking at this question that is asked of  
16 Morgan.

17 Question: Can you name those family members that  
18 you spent time with?

19 She names, Larry Honea, who is the dad. Lori  
20 Honea, who is his sister. Marty and Evelyn Coleman, who  
21 are his grandparents. Those are the only family members I  
22 know.

23 Would that surprise you that was what she testified  
24 to under oath?

25 THE WITNESS: That's who she knows. Basically

1       that is my family.

2       BY MS. RHOADES:

3           Q.       There is talk about the relationship with the  
4       sister. Then she talks about the time where she went over  
5       to the house when the air-conditioner went out. You  
6       talked about that on direct.

7           A.       Yes.

8           Q.       Larry Honea is Joshes' dad?

9           A.       Yes.

10          Q.       Did you ever hear about a jail call that was  
11       made in September 2015, that Josh had with his dad?

12          A.       No.

13          Q.       You never had a conversation with his dad  
14       about a jail call?

15          A.       No. We weren't living together.

16          Q.       Are you aware that in that conversation Josh  
17       told his dad to talk to mom?

18          A.       I have spoken to him. I called him when the  
19       incident happened, but, I mean, it's not -- I don't talk  
20       to him on a regular basis.

21          Q.       Do you have any reason to know why Joshes' dad  
22       would think Josh and Morgan were in a dating  
23       relationship?

24          A.       I have no idea why he'd say that.

25          Q.       Do you have any idea why Josh after he called

1 his dad, after being asked that question, said to talk to  
2 you?

3 MS. MCNEILL: Your Honor, that misstates the  
4 evidence. That is not what Josh responded.

5 MS. RHOADES: That's my recollection. There was  
6 a statement he made and he said immediately talk to mom,  
7 talk to mom.

8 MS. MCNEILL: He said we didn't date. We were  
9 friends.

10 MS. RHOADES: He said talk to mom. Talk to mom  
11 about it.

12 THE COURT: The question has come in. So based  
13 on the evidence in the case, you may answer.

14 MS. RHOADES: Do you remember the question.

15 THE WITNESS: Would you repeat it.

16 BY MS. RHOADES:

17 Q. Would it surprise you to know after Joshes'  
18 dad said to Josh -- well, she was upset because you broke  
19 up with her. He said no -- after a long pause, he said,  
20 no. We are just friends. Talk to mom.

21 Does that --

22 MS. MCNEILL: Objection.

23 THE COURT: Don't answer. Can I have counsel at  
24 the bench.

25 (Discussion held at the bench.)



1 THE COURT: Sustained. You can continue.

2 BY MS. RHOADES:

3 Q. In September 2015, did you have a conversation  
4 with your ex-husband about Morgan and Joshes'  
5 relationship?

6 A. I don't recall that, no.

7 Q. Did you ever have a conversation with your  
8 ex-husband about hiding what you both knew about Morgan  
9 and Joshes' relationship?

10 A. No.

11 Q. Your testimony on direct was that Josh treated  
12 Morgan like all his other friends, remember that  
13 testimony?

14 A. Yes.

15 Q. He treated her just like a sister?

16 A. Yes.

17 Q. Showing you 86. Do you recognize the people  
18 in this picture?

19 A. Yes.

20 Q. Who is that?

21 A. Josh and Morgan.

22 Q. Have you seen that picture before?

23 A. No.

24 Q. Did Josh and Morgan ever kiss in front of  
25 you?

1           A.       No. They never sat near each other.

2           Q.       Who would Morgan sit by when she came over?

3           A.       Sometimes they'd sit on the floor. We had a  
4 dog and she would play with him. Otherwise we had two big  
5 couches and a chair.

6           Q.       Did you ever see Morgan and Josh holding  
7 hands?

8           A.       Never.

9           Q.       Showing you 95. Have you seen that Christmas  
10 collage of Josh and Morgan?

11          A.       I don't remember. Actually, I don't  
12 remember.

13          Q.       So you may have seen this picture of them  
14 kissing?

15          A.       No.

16          Q.       So is it, no, you have never seen the collage?

17          A.       It doesn't look familiar.

18          Q.       Did Josh call Morgan Baby in front of you?

19          A.       No.

20          Q.       Did Morgan ever call Josh Baby in front of  
21 you?

22          A.       No.

23          Q.       Showing you 97. Does that collage look  
24 familiar to you?

25          A.       No.

1 Q. How about 101. Seen that picture?

2 A. No. Josh takes a lot of pictures.

3 Q. You want to tell me stuff. Have you seen  
4 this, nothing better than the one of his laugh, along with  
5 a picture of them?

6 A. A lot of people say that about Josh.

7 Q. How about 102, every seen that one?

8 A. No.

9 Q. About 104?

10 A. No.

11 Q. 110?

12 A. No.

13 Q. Have you seen Josh do that with any of his  
14 other friends?

15 A. No.

16 Q. Have you seen Josh do that with his sister?

17 A. No.

18 Q. You worked at the middle school and that's how  
19 you met Morgan?

20 A. Yes.

21 Q. You knew how old she was?

22 A. Yes.

23 Q. You obviously knew exactly how old Josh was  
24 the whole time?

25 A. Yes.

1 MS. RHOADES: I have nothing further.

2 THE COURT: Thank you, Ms. Rhoades.

3 Ms. McNeill.

4 MS. MCNEILL: Just briefly. Nothing further.

5 THE COURT: Can I see by a show of hands if the  
6 jurors have questions for this witness. Seeing none, Ms.  
7 Coleman, you are excused. Thank you.

8 We'll recess for the evening. As the court explained  
9 yesterday we'll complete evidence and instruct and have  
10 closings and deliberation to commence tomorrow.

11 We'll resume at 9:00 a.m. in the morning.

12 JURY ADMONITION

13 During the recess, ladies and gentlemen, you are  
14 admonished not to converse among yourselves or with anyone  
15 else, including, without limitation, the lawyers, parties  
16 and witnesses, on any subject connected with this trial,  
17 or any other case referred to during it, or read, watch,  
18 or listen to any report of or commentary on the trial, or  
19 any person connected with this trial, or any such other  
20 case by any medium of information including, without  
21 limitation, newspapers, television, internet or radio.

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

25 See you tomorrow.

1 (Jury dismissed.)

2 MR. MACARTHUR: We have something related to the  
3 investigator.

4 THE COURT: Sorry. Mr. MacArthur, do us the  
5 benefit of reminding us.

6 MR. MACARTHUR: Sure.

7 First let me say that had it been articulated  
8 better we wouldn't finding ourself making this record now.  
9 But the reason why I don't believe that the testimony I  
10 was seeking from Tobbi Cappron was objectionable --

11 THE COURT: We are putting this in context of a  
12 bench conference, let's have context first. Then I have  
13 no problem with you elaborating.

14 MR. MACARTHUR: I asked a question to Tobbi  
15 Cappron about contact she had with Ashley Gruter, who is  
16 an older cousin of Morgan Savage, and the State earlier in  
17 the trial had suggested that Morgan Savage's testimony  
18 changed suddenly when we had contact with her on Tuesday,  
19 November 28th, the second day of trial. It was voir dire  
20 day. We went over the jail and spoke with her, as she was  
21 in custody on a material witness warrant.

22 Now, as the State's suggested theory, implied that  
23 somehow we had been responsible for the change in her  
24 testimony, namely the recantation it was relevant to that  
25 analysis for the jury to know what the order of operations

1 was that led us to want to speak with Morgan.

2 Now, I knew there would be a potential hearsay  
3 problem with what Ashley Gruter said. Ashley Gruter had  
4 detailed that when Morgan lived there in Minnesota she'd  
5 been something of a pain in the ass, that she had  
6 developed a habit of stealing a lot of things, petty  
7 larceny type things. It's a small town. She got road  
8 out. She doesn't believe she's going to get arrested.  
9 She came back here and that's when she ends up at Monte  
10 Vista for a drug problem.

11 But the contact with Ashley Gruter was surprising  
12 because she had been very positive in the voluntary  
13 statement that was provided as part of the discovery. We  
14 didn't know if the State would be using her as a witness  
15 or not, we wanted to make sure we talk to her.

16 THE COURT: Positive, what do you mean.

17 MR. MACARTHUR: In the voluntary statement back  
18 in 2015, she had been supportive of Morgan detailing an  
19 incident where she felt as though Josh was asserting  
20 himself to have contact with Morgan when she didn't want  
21 to have contact with him.

22 THE COURT: Supportive of Morgan of Morgan's  
23 testimony previously.

24 MR. MACARTHUR: Yes. In a 2015 voluntary  
25 statement Ashley Gruter was supportive of Morgan Savage.

1           THE COURT: Generally, not trying to say  
2           supportive of Morgan's version of events just Morgan.

3           MR. MACARTHUR: She believed Morgan, although  
4           she had no personal knowledge as to whether they actually  
5           had an intimate relationship. She detailed, as I said, an  
6           incident where she believed that Josh had created an  
7           opportunity to have contact with Morgan that she felt  
8           uncomfortable about and she conveyed that story to  
9           Metro.

10          So, in preparation for trial we wanted to establish  
11          contact with Ashley Gruter because we thought the State  
12          might call her as a witness.

13          We were surprised with when the investigator got back  
14          to us and said that Ashley Gruter was now hostile and  
15          negative toward Morgan Savage. When we asked why that's  
16          when we learned the information about the petty theft and  
17          drugs up in Minnesota.

18          It was Ashley Gruter's statement that while she did  
19          not say so explicitly that based on things Morgan had said  
20          it led her to believe that the allegations against Josh  
21          may have been false. Now, that would have been the  
22          hearsay objectionable content. However, when our  
23          investigator learned that she contacted us, provided us  
24          with Ashley Gruter's phone number and our impression was  
25          if that's true then we need to find Morgan Savage as

1 quickly as possible in order to learn whether or not the  
2 allegations are now recanted.

3 We sent the investigator out. And let me say now  
4 that the answer I tried to give to the objection for  
5 hearsay was it shows the effect on the listener. We  
6 didn't know whether or not the recantation at that point  
7 was true. We just wanted to track it down because Ashley  
8 Gruter gave us a reason to believe that was the case.

9 So we sent Tobbi out to see if we could locate  
10 Morgan. We were unsuccessful. We got additional  
11 information from Stacey as to where they had success  
12 contacting her. Namely in an alley near Charleston and  
13 Torrey Pines. We then went out to that area. We located  
14 the alley referenced. We located her father's vehicle and  
15 his whereabouts, but were not able to locate Morgan  
16 herself. We left a card and information that she would be  
17 able to use to contact us. She never actually did that.  
18 It was our impression that the State was going to proceed  
19 to trial with her as an unavailable witness and prosecute  
20 the case using preliminary hearing testimony.

21 Tobbi then contacted us again and said that the State  
22 had applied for and successfully received a material  
23 witness warrant. We had some discussion as to whether we  
24 thought the State would do that. We thought their case  
25 would be stronger without her. So we weren't hopeful that



1 she would be in custody.

2 But Tobbi contacted us a third time and said she had  
3 actually been taken in custody into CCDC on the material  
4 witness warrant. We asked her if she was available to go  
5 over with us in order to interview Morgan. She said she  
6 was not. Monique and I decided this was an opportunity  
7 that we couldn't afford to miss. We went over.

8 Our recollection was we talked to her for 45 minutes  
9 or more, but the computer thing says half hour. We didn't  
10 record the date or time with that kind of specificity.

11 That was when we learned all of the information that  
12 was presented by Morgan Savage at the beginning of trial,  
13 which led to her receiving immunity.

14 So, in the bench conference, I was trying to explain  
15 that it really was for the truth of the matter asserted.  
16 We were trying to find various means to get that in. It's  
17 not because we needed the jury to believe that Morgan  
18 actually recanted to Ashley. We just needed them to  
19 understand that starting around November 3rd or 4th, we  
20 had gotten this information that perhaps Morgan had been  
21 dishonest in 2015. That led us to look for her in the  
22 street, not having found her in the street that led us to  
23 avail ourselves of the opportunity to contact her as quick  
24 as possible while she was in custody. And, therefore, we  
25 did not think it was hearsay. It was just relevant to

1 show how we arrived at the information we did.

2 THE COURT: Okay.

3 MS. KOLLINS: Just briefly, your Honor.

4 It's classic hearsay, one. Two, I have spoken  
5 to Ashley Gruter. She never told me Morgan gave a  
6 recantation. Ever. She told me that the kid was getting  
7 in trouble. She's sneaking out. She's shoplifting.  
8 She's smoking weed and sneaking out with a guy. That's  
9 what Ms. Gruter told me.

10 What I find interesting of the conversation is  
11 they're saying they had recant information in their hands  
12 now weeks before we visited Morgan. I know that really  
13 doesn't have anything to do with the bench conference, but  
14 everything we've talked about, oh, my God, I never knew  
15 this was going to happen. Well, apparently they did know  
16 it was going to happen or they thought they knew it was  
17 going to happen. And they tried to get Ms. Gruter to  
18 buttress that and couldn't elicit the hearsay. I think  
19 it's hearsay, out of court statement, offered for the  
20 truth that there was some recant from Morgan. That's not  
21 the information that the State has from Ms. Gruter.

22 THE COURT: The court's ultimate ruling is, to  
23 just clarify was, it was hearsay and to the extent that  
24 this information got to come in through Ashley herself.

25 Any final remarks, Mr. MacArthur.

1                   MR. MACARTHUR: I'm uncomfortable with the  
2 State's response, because it implies that our version of  
3 events is -- briefly let me just say, there was every  
4 reason for the State to know that something might have  
5 been wrong with Morgan Savage's testimony, because I had  
6 text them -- well, before I text them we had had a  
7 conversation in the anti-room and I said that I thought  
8 this case was worth, blah, blah, blah 2, one to 6's, and  
9 Alford or not and right to argue. She knows we had that  
10 conversation. And at that time she staunchly says I'd  
11 rather go to trial and lose on all counts. I said I  
12 understand that. We're not that close together.

13                   Then I also sent another text, which she read  
14 into the record, where I made that, perhaps, not as funny  
15 as I intended it to sound, but, hey, my birthday is  
16 coming. We could resolve this case with a sexy 1 to 6.  
17 The reason I said that is because I knew that Morgan might  
18 not confirm what it was that the State thought she was  
19 going to testify to. Especially, if she was actually here  
20 to testify as opposed to using the preliminary hearing  
21 transcript. We both prepared our cases. I happen to  
22 arrived at the conclusion which ended up being correct.  
23 The State, for some reason, did not see that coming. That  
24 does not mean that they were at all duped or either party  
25 had to be dishonest.

1 MS. MCNEILL: When I said they had a duty to  
2 disclose, they didn't feel they did. I don't know why  
3 Morgan recanted.

4 MS. KOLLINS: When you say recant, I didn't know  
5 that was going to happen.

6 MS. MCNEILL: We don't have to disclose on the  
7 defense side, your Honor.

8 MS. KOLLINS: I do have some text messages of  
9 the banter about what was said.

10 THE COURT: I'd prefer not. We're done.

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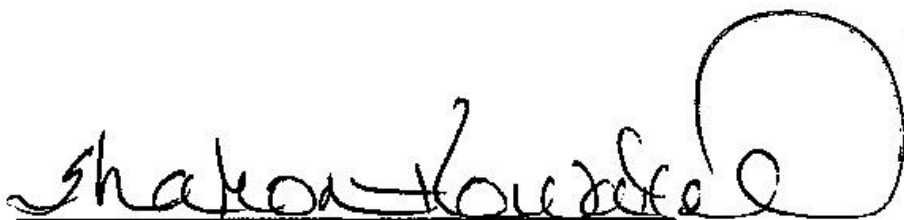
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CERTIFICATE  
OF  
CERTIFIED COURT REPORTER

\* \* \* \* \*

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, appearing to read "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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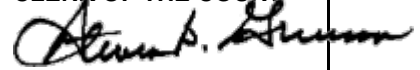
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CASE NO. C-15-309548-1  
DEPT. NO. 25

DISTRICT COURT

CLARK COUNTY, NEVADA

\* \* \* \* \*

THE STATE OF NEVADA,

Plaintiff,

vs.

JOSHUA HONEA,

Defendant.

REPORTER'S TRANSCRIPT  
OF  
JURY TRIAL

BEFORE THE HONORABLE KATHLEEN DELANEY  
DISTRICT COURT JUDGE

DATED: FRIDAY, DECEMBER 15, 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  
2 LAS VEGAS, NEVADA; FRIDAY, DECEMBER 15, 2017

3 P R O C E E D I N G S

4 \* \* \* \* \*

5  
6 THE COURT: Good morning.

7 Resuming in the trial of State of Nevada vs.  
8 Joshua Honea. Mr. Honea is present with his attorneys.  
9 State's attorneys are present. Jurors are not present  
10 with us at this time. We have the need to canvass  
11 Mr. Honea about whether or not he wishes to waive his  
12 right of self-incrimination and testify at trial. I would  
13 like to do that first, then depending on that outcome  
14 determine if we are finalizing with the jury  
15 instructions.

16 You may remain seated, if you wish, but I have some  
17 questions to ask you basically to make sure that I don't  
18 miss anything so we get it done exactly right I'm going to  
19 read some things, okay. You'll answer verbally so that  
20 the reporter can hear you.

21 Before I do that though, either Mr. MacAuthur or Ms.  
22 McNeill, do you want to make representations you've had a  
23 conversation -- not what the substance was of the  
24 conversation -- with your client about his right under  
25 the constitution of the United States not to be compelled

1 to testify in this case.

2 MS. MACARTHUR: We have, your Honor.

3 THE COURT: Mr. Honea, as I've said you have the  
4 right under the constitution of the United States and  
5 understand the constitution of the State of Nevada not to  
6 be compelled to testify in this case.

7 Do you understand.

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: That means no one can make you take  
10 the witness stand and make you answer any questions.

11 You understand that.

12 THE DEFENDANT: Yes.

13 THE COURT: You may, if you wish -- as I go  
14 through this kind of toggle back and forth, if you do and  
15 if you don't, if you have any questions at all let me  
16 know.

17 THE DEFENDANT: Okay.

18 THE COURT: You may, if you wish, give up this  
19 right and you may take the witness stand and testify. If  
20 you do, you will be subject to cross-examination by the  
21 district attorney, as well as your own attorney, and  
22 anything you say whether it is in answer to questions put  
23 to you by your attorney or by the district attorney will  
24 be the subject of fair comment when the district attorney  
25 speaks to the jury in final argument.

1           You understand that.

2           THE DEFENDANT:   Yes.

3           THE COURT:   If you choose not to testify the  
4       court will not permit the district attorney to make any  
5       comments to the jury concerning the fact you have not  
6       testified.

7           Do you understand that.

8           THE DEFENDANT:   Yes.

9           THE COURT:   If you elect not the testify, the  
10      court will instruct the jury specifically, should counsel  
11      request, and typically that is the request, we will  
12      instruct the jury if you choose not to testify and this is  
13      the instruction that will be given.

14           It is a constitutional   right of a defendant in a  
15      criminal trial that he may not be compelled to testify.  
16      Thus, the decision as to whether he should testify is left  
17      to the Defendant on advice of counsel of his attorney.  
18      You must not draw any inference of guilt from the fact he  
19      does not testify, nor should this fact enter into your  
20      deliberations in any way.

21           I typically read it with that same inflection in that  
22      way.   Do you have any questions about the instructions.

23           THE DEFENDANT:   No, your Honor.

24           THE COURT:   Do you have any questions you want  
25      to ask me or counsel at this time.



1 THE DEFENDANT: No, your Honor.

2 THE COURT: No questions about your  
3 constitutional rights up to this part of the canvass.

4 THE DEFENDANT: No.

5 THE COURT: There's is a few more discussions to  
6 have. Whether they're applicable or not will depend on  
7 the circumstances.

8 If you choose to testify and you have been convicted  
9 of a felony in the past 10 years or parole or probation  
10 for a felony within the past 10 years, the district  
11 attorney will be permitted to ask you 3 things. If you  
12 have been convicted of a felony. What was the felony.  
13 When it happened. No details can be gone into about the  
14 felony conviction. If you are to deny a felony conviction  
15 and had one, the State may impeach your testimony with  
16 certified copies of conviction, which may contain more  
17 information then what the felony was and when it  
18 occurred.

19 You understand that component.

20 THE DEFENDANT: Yes.

21 THE COURT: Those are the questions that I would  
22 have to ask you about your rights. One last chance if  
23 there is any questions you may have for the court or  
24 counsel separately.

25 THE DEFENDANT: No, your Honor.

1           THE COURT: At this time what is your decision  
2 as to your constitutional right not to be compelled to  
3 testify in this trial or wish to not testify in this  
4 trial.

5           THE DEFENDANT: I have decided not to testify in  
6 this trial.

7           THE COURT: I do have the instruction that I  
8 have read to the Defendant here, and I have included them  
9 in the instruction set understanding that counsel would  
10 wish to have instruction given.

11          MS. MACARTHUR: Fine, Judge.

12          THE COURT: I will tell you that where it was  
13 placed did change most of the numbers in the instructions  
14 so is anyone using instructions in the power point that  
15 they would need to know what the new numbers are.

16          MS. KOLLINS: No, not by number. We did find a  
17 typo.

18          THE COURT: I may have found it. It's a double  
19 C. I found that when I was finalizing the numbering and  
20 when I added that new instruction. I believe that is  
21 number 8 now, and everything thereafter will moving down  
22 one number.

23          If you don't need us to do that then, I know my JEA  
24 is listening. She'll going to produce the copy set for  
25 the jurors. I don't have them with them in here when I'm

1 reading instructions to them, but I do make sure they each  
2 have a copy set.

3 Here is how I chose to do the information. It's  
4 probably obvious. I left it in the instructions rather  
5 then having some short instruction No. 3, then attaching  
6 it. I left it in there.

7 The way I intend to read it is to read the initial  
8 part and indicate the parties have agreed that because it  
9 had been previously read and because it is available in  
10 each of their copy set. So I'm not going to read it again  
11 at that point. That is why I separated the two closing  
12 instructions that are typically with the information into  
13 a separate instruction so it would be run separately.

14 Other than that, are there any other changes from the  
15 State to the instruction set.

16 MS. KOLLINS: No, your Honor.

17 THE COURT: Anything from defense.

18 MS. MCNEILL: No, your Honor. Could we get  
19 proposed instructions marked as exhibits.

20 THE COURT: I have that. If you wish to do it  
21 differently, fine. Because I did include a number of  
22 yours I created from the e-mail you had sent and the  
23 document attached to that e-mail. What I styled  
24 Defendant's proposed not given.

25 MS. MCNEILL: Perfect.

1 THE COURT: I only included those not given.

2 MS. MCNEILL: Thank you.

3 THE COURT: Does the State want something  
4 similar. In all candor, I made some revisions to the  
5 State's, but I don't think any that I recall as I sit here  
6 now were substantive in a way that the State would want  
7 something in the record. But I did, you know, make  
8 further adjustments to the luring instruction. You may  
9 have seen it. I believe it completed the statute there.  
10 And at this point I'm not remembering anything else.

11 MS. KOLLINS: We're fine with them as drafted.  
12 Thank you.

13 THE COURT: Thank you.

14 I will make the Defendant's proposed not given  
15 the court exhibit next in line, which will be 6. All  
16 right.

17 Is that all we have before we bring the jurors  
18 in. My JEA is in addition to making the copy sets of  
19 instructions for them the form of verdict, let me confirm,  
20 that as well neither counsel had changes to the form of  
21 verdict. All I did was some pagination. I verified the  
22 luring instruction had the lesser included in that. I  
23 just changed the pagination up a little bit.

24 Any issues there.

25 MS. KOLLINS: No, ma'am.

1 THE COURT: Defense verdict form.

2 MS. MACARTHUR: No objection.

3 THE COURT: We'll have that. Then my JEA is  
4 ordering a lunch anticipating by the time we complete with  
5 reading of the closings that they'll need lunch.

6 MS. KOLLINS: I didn't bring all of my equipment  
7 to close, because we were told he was testifying, so I  
8 have to check to see. We have rebuttal, so we have some  
9 time, but I wanted to let the court know.

10 THE COURT: That's fine. I'm happy to take a  
11 few more minutes.

12 MS. MCNEILL: Your Honor, can we bring in Mr.  
13 Honea's family now since it's closing and there is no more  
14 witnesses.

15 THE COURT: Is that okay with the State.

16 MS. KOLLINS: State is not calling any rebuttal  
17 witnesses, your Honor.

18 MS. MCNEILL: Thank you, your Honor.

19 THE COURT: We'll remove the exclusionary rule  
20 and the family may join.

21 (Brief recess taken.)

22 THE COURT: Mr. MacArthur.

23 MS. MACARTHUR: I was going to seek permission  
24 or leave from the court to reopen with Dara Coleman for 45  
25 seconds. I forgot to establish a fact in the time line

1 before we closed.

2 THE COURT: We haven't officially rested in  
3 front of jurors.

4 Resuming in the trial in State of Nevada vs.  
5 Joshua Honea. We have counsel for the State. Defense  
6 counsel is present with Mr. Honea. Our jurors are present  
7 with us. We appreciate your patience while we finish up  
8 final matters this morning to get started.

9 Defense have any additional witnesses to call.

10 MS. MACARTHUR: There were 2 additional  
11 questions we forgot for Dara Coleman.

12 THE COURT: We can recall Mr. Coleman to the  
13 stand. Come and take the witness stand. I'll re-swear  
14 you since we excused you yesterday from your testimony.

15 THE CLERK: You do solemnly swear the testimony  
16 you are about to give in this action shall be the truth,  
17 the whole truth, and nothing but the truth, so help you  
18 God.

19 THE WITNESS: I do.

20 THE CLERK: Be seated. State and spell your  
21 name for the record.

22 THE WITNESS: Dare Coleman, D-a-r-a,  
23 C-o-l-e-m-a-n.

24 THE COURT: I think you have your chair. Fine.  
25 Mr. MacArthur.

1 MS. MACARTHUR: Thank you, Judge.

2 CONTINUED REDIRECT

3 BY MS. KOLLINS:

4 Q. We forgot to ask a couple of questions  
5 yesterday. What kind of vehicle did Josh drive in 2014?

6 A. A Ford 150 truck.

7 Q. What color was it?

8 A. Blue.

9 Q. What kind of car did he drive before that  
10 trunk?

11 A. A Mustang.

12 Q. What color was that?

13 A. Red.

14 Q. Do you remember when it was that Josh got that  
15 blue Ford F-150?

16 A. May 2014.

17 Q. How do you remember it as having been  
18 purchased in May 2014?

19 A. It was my dad's birthday on the 15th. We went  
20 a couple of days after that.

21 Q. Were you able to see something this morning  
22 that helped refresh your recollection as to when that  
23 occurred?

24 A. Yes.

25 Q. What was that?

1           A.       It was an Instagram that was posted by Josh.

2           MS. MACARTHUR: No further questions.

3           THE COURT: All right. Ms. Kollins.

4                   CONTINUED RECROSS-EXAMINATION

5 BY MS. KOLLINS:

6           Q.       Ms. Kollins, when did you and your ex-husband  
7 file for divorce?

8           A.       My divorce became final in, oh, gosh, it  
9 was -- now you caught me off guard. It was 2 years ago.

10          Q.       Did you file on July 8, 2015, does that sound  
11 about right?

12          A.       Um, yes. I believe it was somewhere around  
13 there.

14          MS. KOLLINS: Thank you. Nothing else.

15          THE COURT: Mr. MacArthur.

16                   CONTINUED REDIRECT EXAMINATION

17 BY MS. MACARTHUR:

18          Q.       Pursuant to the State's question, were you  
19 separated before you filed for divorce?

20          A.       Yes.

21          Q.       Do you remember -- I realize it's difficult.  
22 Do you realize when you separated from your husband before  
23 filing?

24          A.       Probably, maybe like 6 months after we  
25 separated.



1 MS. MACARTHUR: Thank you, ma'am.

2 THE COURT: Ms. Kollins.

3 MS. KOLLINS: Nothing further, your Honor.

4 Thank you.

5 THE COURT: Do the jurors have any questions for  
6 this witness by a show of hands. Seeing none, you may  
7 step down. You may remain in the courtroom, if you  
8 wish.

9 THE WITNESS: Thank you.

10 THE COURT: Defense have any additional witness  
11 to call.

12 MS. MACARTHUR: With that the defense rests.

13 THE COURT: Defense has rested. The State have  
14 any rebuttal.

15 MS. KOLLINS: The State will not be offering a  
16 rebuttal case. Thank you.

17 THE COURT: Thank you.

18 So at this time, ladies and gentlemen, we are  
19 prepared to give you instructions on the law that will be  
20 applied to the facts as you find them in your  
21 deliberations to have taken place in this case. You might  
22 recall that I mentioned that you will at the time you go  
23 to deliberate have the exhibits that have been admitted  
24 into evidence and a copy of the instructions. Each of you  
25 will have a copy set of instructions so I want you to be

1       aware of that so you can decide for yourselves if it's ne  
2       necessary to take notes at this time.

3               I did not give you the copy set to read along with  
4       because I found in my experience with 14 people in the box  
5       flipping through pages and going back and forth it's  
6       distracting. I'll read them to you. There are 40  
7       instructions that I'll read to you, and when we complete  
8       those instructions counsel will make their closing  
9       arguments, then, of course, as I said when you go to  
10      deliberate you will each have your own copy set.

11             I will note there is an instruction that is inclusive  
12      of the charging document in this case. Because that  
13      document was already read to you at the beginning of the  
14      case in its entirety, I have spoken with counsel and with  
15      their agreement, I'm not going to reread it for you now.  
16      I will reread some components related to it, but it will  
17      be included in you copy set.

18             (Jury instructions read to the jurors.

19             Instructions have been marked as court  
20             exhibits for the case and  
21             will not be transcribed.)

22             THE COURT: I will invite the State to make  
23      their closing statement.

24             CLOSING STATEMENT

25      BY MS. RHOADES:

1                   Thank you. Good morning.

2                   This case is the State of Nevada vs. Joshua  
3                   Honea. This case is not Morgan Savage vs. Joshua Honea.

4                   The State of Nevada has a duty to prosecute  
5                   cases that come through its office, a duty to taxpayers to  
6                   prosecute crimes, to protect the victim of the crime, to  
7                   protect other potential victims that might happen, to  
8                   protect the community as a whole.

9                   The State doesn't get to pick its victims. You don't  
10                  have to like Morgan to find the Defendant guilty of these  
11                  crimes. You don't have to like the person that she is  
12                  today this 18 year old homeless heroin addict, who came in  
13                  here and testified in front of you. Ask yourselves how  
14                  she got to that place.

15                 Her mom who was never around, or this man who started  
16                 having sex with her when she was 11 years old and  
17                 controlled her life for 4 years. How did we get the  
18                 Morgan that we have now. Ask yourself that.

19                 The question is not whether Morgan sees herself as a  
20                 victim. There were statements in opening why are we here.  
21                 Why are we even here if Morgan doesn't care. That's not  
22                 the question you have to answer. Whether or not Morgan  
23                 sees herself as a victim is not the question. It's  
24                 whether he did these things to her. That's what you guys  
25                 have to answer.

1           Years after a crime has occurred when someone doesn't  
2       care about it, the State has duty to care. The State has  
3       a duty to prosecute. It's not about a vendetta that  
4       anyone has against Mr. Honea. We have a duty to prosecute  
5       this case.

6           Also this is not the State of Nevada vs. Anyone else.  
7       Even though the defense will have you the believe that  
8       This is not the State of Nevada vs. Morgan, vs. Pam, vs.  
9       Kevin Zafiriris. No, that's not what this case is about.  
10      You are here to determine whether he is guilty or not  
11      guilty and not whether anybody did anything else that was  
12      bad.

13          Your duty and your oath. Your duty is to render a  
14      true verdict according to the evidence. What the court  
15      just said, you can't base it on sympathy, prejudice, or  
16      public opinion. It's not whether you sympathize with his  
17      family, not whether you sympathize with Morgan. It can't  
18      be based on that. It has to be based on the evidence and  
19      the law legal, the legal elements that the court just  
20      instructed you on.

21          You are not limited to solely what you see and hear  
22      as witnesses testify. You have to bring -- I believe the  
23      instruction is you must bring in your common sense.

24          You can draw reasonable inferences, but those  
25      inferences can't be based on speculation or guess. They

1 have to be based on your common sense. They have to be  
2 reasonable. They can't be made up. I can't emphasize  
3 this enough, no insinuations. There were a lot of  
4 insinuations made during this trial. That is not  
5 evidence. The attorney's statement are not evidence.

6 You cannot consider punishment as to the Defendant in  
7 your deliberations. That is not something that you can  
8 consider. We'll talk about how punishment came up with  
9 regard to more and her recant, but it's not a factor to  
10 consider whether you are determining whether he is guilty  
11 or not guilty of these crimes.

12 Beyond a reasonable doubt, it has to be based on  
13 reason. It's not a hundred percent. You're never going  
14 to have an eye-witness, otherwise you wouldn't have been  
15 on this.

16 MS. MACARTHUR: Object to quantifying.

17 MS. RHOADES: I am not quantifying.

18 MS. MCNEILL: Giving numbers, your Honor.

19 THE COURT: Overruled.

20 MS. RHOADES: Thank you.

21 It's not a hundred percent. If you find a crime  
22 has happened, and this is a sex crime, done in secret in  
23 this case, you couldn't have been on the jury. It is not  
24 beyond a shadow of a doubt. It's in the instruction.  
25 It's not mere possibility or speculation. It's not

1 actual.

2 If you have a reasonable doubt that Joshua Honea  
3 committed these crimes, you must find him not guilty. If  
4 you do not have a reasonable doubt that he did these  
5 things, you have to find him guilty.

6 Before I get into Morgan, I want to expel this, hey,  
7 everybody look over here argument about IAB and Enterprise  
8 Area Command, and Officer Zafiriz, and Sergeant Clark.  
9 There is no evidence of any conspiracy between anyone to  
10 do anything about this volunteer worker, this part-time  
11 clerical worker. There is no evidence of that. That's  
12 all insinuation.

13 These guys don't care. They don't care what happened  
14 to Mr. Honea. What motive do they have to come in here  
15 and lie to you and put their jobs on the line for this guy  
16 who resigned a couple of years ago. There's no connection  
17 there at all. None, whatsoever.

18 You can't speculate about it. There is no evidence  
19 about it. And moreover, absolutely no connection to  
20 Morgan. Morgan wouldn't even give Mr. MacArthur that on  
21 cross-examination. No connection at all. That's not a  
22 defense.

23 MS. MCNEILL: Objection, your Honor. They can  
24 decide.

25 MS. RHOADES: This is argument, your Honor.

1           THE COURT: This is argument. This is the last  
2 remark. I will sustain it just at to the last remark.

3           MS. RHOADES: There is no evidence of this at  
4 all. This is not something you should take into  
5 consideration.

6           No evidence that anybody did anything wrong. No  
7 evidence of what he blew the whistle on as a whistle  
8 blower. There is no evidence of that.

9           To what end would they all come in here and say that.  
10 Why do they care. These pictures, do these pictures show  
11 them having sex. No, they don't. Sex crimes occur in  
12 secret. These pictures speak so many more words than  
13 anyone every could.

14          What do these pictures tell us. Well, they tell us  
15 that Morgan completely lied in front of you when she was  
16 here testifying. They tell us that Mr. Honea completely  
17 lied to the officers during his interview on April 1st,  
18 2015. What motive do they have to lie What are they  
19 hiding. These pictures corroborate what Morgan told  
20 Detective Cho during her interview. These pictures  
21 corroborate what Morgan testified to at the preliminary  
22 hearing in September. That's what these pictures do.

23          What else do they do. Think about the photo album.  
24 And Morgan said in front of you, well, the photo album was  
25 a beginning thing to bring in to the detectives so it

1       could show all of these lies I'm making about Joshua. Why  
2       wouldn't she put these photos in there if she was trying  
3       to get him in trouble. Why would they be left out.

4               These ones, remember, are on her computer. They  
5       don't look like selfies. Somebody took them. I submit to  
6       you Morgan took them. They are in Joshes bed. That  
7       corroborates what Morgan testified to at preliminary  
8       hearing.

9               Now, put these pictures in that context after seeing  
10       those pictures. They're not brother and sister. That is  
11       not what their relationship is.

12              Credibility of Morgan. So this is an important  
13       instruction. All the instructions are important.  
14       Evidence that a witness made a statement inconsistent with  
15       their trial testimony can be considered by you to test  
16       their credibility and also as evidence of the truth of the  
17       facts stated on that prior occasion. That's what the  
18       voluntary statement in the preliminary hearing is. That  
19       is what that is, the truth of what happened. And that's  
20       what the State is going to ask you to rely upon.

21              If you believe that evidence that is enough to  
22       convict him. If you believe that evidence beyond a  
23       reasonable doubt. The credibility instruction with all  
24       witnesses on the stand, all witness, the officers, Morgan,  
25       Ms. Coleman, Humberto Zerate, these are all things that



1       you have to take into consideration when you are  
2       evaluating their credibility.

3               The manner on the stand, the relationship to the  
4       parties, motives, interests, feelings, what motive does  
5       Morgan have to come in here and lie to you today -- well,  
6       a couple of weeks ago when she testified. We'll get to  
7       that. What is her relationship to Joshua. You saw their  
8       interaction when she was on the stand. I mean, she was  
9       laughing. I don't know if that was a nervous laugh or if  
10      she was trying to sell her I lied before. I don't know  
11      what that laugh was, but she looked over at Josh multiple  
12      times while she was laughing.

13             Her relationship to him. They think they are the  
14      smartest two people in the room. The strength or weakness  
15      of their recollection, opportunity to have observed, that  
16      goes a lot to all the witnesses that came in here and said  
17      I've never seen them do anything. They didn't do those  
18      things in front of other people because they made it such  
19      a big deal to hide what they were doing because they knew  
20      that it was wrong. Morgan knew it was wrong, because  
21      Joshua told her. Joshua was the one that started this  
22      relationship and told her what she had to hide, what she  
23      could and couldn't do in front of other people.

24             When you are thinking about Morgan's statements,  
25      think of it as she's making them, how old she is when

1 she's making them, what her status is when she's making  
2 them. She's 18 years old when she came in. Her statement  
3 to Detective Cho was just barely the month she turned 16.  
4 Her preliminary hearing testimony was when she was 16  
5 years old. So think about that when you're taking into  
6 account Morgan's statements.

7 So this is the March 30th, 2015 she tells the  
8 detectives -- sexual assault detectives they're brother  
9 and sister. Nothing is going on. Why did she say that.  
10 Because that's the story that the Defendant told her to  
11 say.

12 Early July she calls Detective Calderon. She says I  
13 have to tell you guys everything. I want you to know the  
14 truth.

15 July 22, 2015, her statement. September 15, 2015 her  
16 testimony under oath. November 14, 2017, a meeting with  
17 me and Ms. Kollins and Keith Gross. Consistent for over 2  
18 years. Consistent with what she said here. Consistent  
19 with what she said here.

20 November 28, 2017, 4:00 p.m., and Keith Gross goes in  
21 to speak with her at the Detention Center. Nothing about  
22 a lied. I need to tell you guys the truth. Nothing like  
23 that. Never asked about punishment before this.

24 November 28, 2017 at 7:30 p.m., ask yourself why 7:30  
25 p.m. Why at night. Why go there. We know it is

1 uncontroverted that punishment was discussed during this  
2 conversation.

3 We know that Mr. MacArthur said, I'm ethically  
4 obligated not to tell you what the punishment is, but he  
5 can go to prison for a really long time.

6 MS. MACARTHUR: Objection, misstating.

7 MS. RHOADES: I believe that's exactly what Mr.  
8 MacArthur said.

9 THE COURT: The court's recollection was that  
10 the long time reference was made. I'll leave it to the  
11 jurors to make the determination that applies.  
12 Overruled.

13 MS. RHOADES: Thank you very much.

14 He is going to go to prison for a really long  
15 time.

16 Then she says, she lied. The first time she  
17 said she lied was not when she was here and the State  
18 granted her immunity because we wanted her to answer the  
19 questions. The first time she lied was in that 7:30 --  
20 the first time she said she lied was in that 7:30 p.m.,  
21 meeting with the defense attorneys at the Detention  
22 Center, after punishment was discussed. After she had  
23 never asked anyone about punishment prior to that.

24 Why would she ask them about punishment if she knew  
25 what he was facing. She told you that she made up these

1       lies so that he could go to prison. So then why would she  
2       ask them about that. It doesn't make any sense. Ask  
3       yourself how reasonable that is.

4               The note that you have in evidence, she doesn't write  
5       in there I lied. She writes our relationship was a normal  
6       relationship, paren, forget the legal age part. That's  
7       what she writes.

8               There is a few other things, a few other things that  
9       just can't be explained that I want to point out on  
10      contradictions. About this, her behavior on direct  
11      examination. Her behavior on cross. You were here You  
12      were able to observe her. I will direct you to those  
13      questions in voir dire from the defense about how an older  
14      person can influence a younger person's answers with their  
15      intonations, with their context and things of that nature.  
16      Remember those questions. Well, isn't that exactly what  
17      was going on with Mr. MacArthur and Morgan Savage while  
18      she's on the stand. Exactly what was going on. She knew  
19      what she was doing. She knew what she was trying to do.  
20      That is clear from her behavior. That is clear from what  
21      she said.

22              No romantic relationship on direct, nothing. Nothing  
23      at all. So on cross-examination after 4 days of, no,  
24      nothing, nothing, never, no nothing, Mr. MacArthur asks  
25      her, did you feel stronger about Josh in 2015. Didn't you

1       feel stronger about him then. And my recollection of her  
2       answer was kind of a confused look, and she said, yes,  
3       like she knew what answer he was trying to get out of  
4       her.

5               This virginity thing in 2015. The first time anybody  
6       brought it up is on cross-examination with Morgan. Again,  
7       similar to those questions, did you feel stronger about  
8       Josh in 2015. Well, isn't it true that you got mad  
9       because Josh lost his virginity. That same pause and her  
10      yes answer. She knew what he wanted out of her. I submit  
11      to you this is not reasonable.

12             The story about legal trouble versus work trouble,  
13      that doesn't make any sense at all. That does not in any  
14      way support this conspiracy IAB Enterprise Area Command  
15      theory at all.

16             If she wanted him to get in legal trouble, again, why  
17      is she asking him about punishment when they go meet with  
18      her at 7:30 at night on day two of jury selection. Why.

19             Her statement about the photo album it was a good  
20      thing to have to sound believable. So why didn't she put  
21      the pictures of them kissing in that photo album.

22             When did the argument occur that caused her to be so  
23      mad about Joshua that she made up all of these details to  
24      Detective Cho to get him in trouble. When did that occur.  
25      You don't know. We don't know. What was it about. Who

1 knows. I guess about virginity on day 5 or 6 of her  
2 examination.

3 On direct she said it was on January 2015 versus what  
4 she said on cross to agree with the defense. In opening  
5 the defense told you that Morgan was angry because Josh  
6 violated her confidence about issues with her mother.  
7 Well, that didn't really pan out. On direct she said I  
8 made up that I hated him. Mom has nothing to do with  
9 this. I made up that Josh ever said that he was going to  
10 take mom to court. I made all of that up.

11 On direct she said she lied to see him facing prison  
12 time. So why ask about punishment. Oh, Gustavo, so when  
13 you are taking into account her testimony in front of you  
14 think about that picture that Ms. Coleman showed her on  
15 direct examination of the Defendant's penis. Do you  
16 recognize that penis. Yes, I recognize that. Okay.  
17 Whose penis is it. She realized what she did was not what  
18 she was trying to come in here and tell you. She realized  
19 she messed up her lie. She tells you it's Gustavo's  
20 penis. Some guy in San Francisco, but I don't know his  
21 last name.

22 The truth is in Morgan's prior statements. The truth  
23 is in Exhibit 66, which is her voluntary statement; 67,  
24 her preliminary hearing transcript; and Exhibit 2, which  
25 is the video of that voluntary statement. That is where

1 the truth is.

2 There were a few inconsistencies pointed out by the  
3 defense between her voluntary statement and the  
4 preliminary hearing testimony. The fellatio prior to  
5 Minnesota was not something that she remembered. That's  
6 what she testified to at the preliminary hearing. I think  
7 sex via Skype app, there was no sex on Skype. And what  
8 she told her mom and she told her some stuff and told some  
9 stuff before the voluntary statement versus preliminary  
10 hearing that mom didn't know about the relationship.

11 Ask yourself about the reasonableness of these  
12 statements. If someone is describing a 4 year long sexual  
13 relationship that she's had from 11 years old to 15 years  
14 old, it's reasonable that she might forget something.  
15 That's reasonable. That goes against her calculated, made  
16 up every detail of what was going on so she could get the  
17 Defendant in trouble. That goes against that.

18 Why in the world would she make that up at  
19 preliminary hearing. Why. To get him in more trouble.  
20 Doesn't make sense. It goes to the reasonableness of her  
21 statements, and the truth in this case are in those  
22 statements. Those statements are what is corroborated by  
23 all of the other evidence in this case. Corroborated by  
24 the Defendant's actions in what he was saying in his April  
25 1st, 2015 interview.

1           The reason for her recant and common sense, plus John  
2 Pacult, these are quotes from those statements that are  
3 admitted in evidence. I stood up for him. I wasn't -- I  
4 didn't feel like he deserved to be -- I just felt bad.  
5 You know, like, I was like I could never do that to him.  
6 That's why she told the sex assault detectives when they  
7 called her that nothing happened. They were brother and  
8 sister. That's what they have rehearsed. That's what  
9 they discussed and practiced for 4 years. So that's what  
10 she told them. Then she calls him and tells him what's  
11 going on with the investigation. She keeps him apprised  
12 and he keeps all his friends apprised of what's going on.

13           It turned to hate when in Minnesota this guy did this  
14 to me and this is disgusting. That's what happened. She  
15 realized this is wrong. She's 15 years old. She believes  
16 that this is her fault and that her words alone got him  
17 here. Why does she believe that. Because that's what  
18 he's been feeding her for all of these years. She  
19 remembered she wouldn't have anything to say if he didn't  
20 do these things he did to her.

21           This is a general time line. So they meet here when  
22 she's in the 6th grade. Just to keep their ages, they're  
23 6 years apart. She is going into 7th grade. She's 12.  
24 He's 18. She's going into 8th grade. She's 13. He's 19.  
25 She's going into 9th grade, 14. He's 20. Tenth grade,



1 she's 15. He's 21. Eleventh grade, she's 16. He's 22.

2 This is what she says about the argument that has now  
3 turned in to him losing his virginity. At the preliminary  
4 hearing, I don't remember the exact thing that he was  
5 trying to control with me, but I was pretty much on the  
6 breaking edge and I wanted it to stop talking to him. I  
7 wanted to break it off and be done. That's what happened.

8 Use your common sense. Put her statement in context  
9 of not only your common sense, but what John Pacult  
10 testified to. The constant text, the constantly trying to  
11 talk to her when the detectives told him not to. She knew  
12 that officers and detectives were telling Josh to stay  
13 away her, to back off. The texts to her mom and officers  
14 observations about his obsession. Re-read those texts to  
15 his mom that Joshua sent. He's obsessive over this 6 year  
16 younger girl because they are best friends. That's what  
17 he says in the text. Or they're brother and sister. It  
18 doesn't make any sense.

19 Morgan thought it was a normal relationship when it  
20 started when she was 11 years old. This is echoed in her  
21 note from the jail. It was a normal relationship, forget  
22 the legal age parts.

23 She told us in the involuntary statement that it was  
24 the Defendant that came up with the brother and sister  
25 because he knew what they had to hide.

1 I want to break up the crimes. There are a lot of  
2 crimes. That you have to determine each crime separately.  
3 This is the crime 14. So these are all under 14. Then  
4 over here is all the after she turns 14. So over here is  
5 when she's 11, 12, and 13 years old. Then on that other  
6 side are all under 16. Crimes which is when she is 14 and  
7 15.

8 Lewdness with a minor, a lewd or lascivious act under  
9 14, intent to arouse passions or sexual desires of that  
10 person or the child. There's no requirement that the  
11 desires or actions be. No requirement that bare skin be  
12 touched. And consent is not a defense. Consent is not an  
13 element of this crime. It's not a defense.

14 This is Count (44). The date range in (44) is May  
15 4th, 2011 through June 30th, 2011. That is before she  
16 goes to Minnesota in that 6th grade summer. She's 11.  
17 He's 18 years old. She tells us that the relationship  
18 changed. They started talking. They started kissing with  
19 their tongue. That's lewdness with a minor. She's 11.  
20 He's 18. That is lewdness with a minor.

21 They had a plan to go to the car after school. They  
22 did that multiple times. The principal told him to stop  
23 taking her to his car. They kissed in the back seat  
24 because they knew it had to be hidden. They did it a few  
25 times. That is the kissing, the rubbing, everything going

1 on. All of the touching anything that happened in that  
2 car that is the lewdness with a minor under 14.

3 Again, the truth is in her preliminary hearing  
4 testimony. The truth is in her statement. The truth is  
5 not what she came in here and testified to. That's not  
6 the truth.

7 Sexual assault, elements of sexual assault --  
8 penetration without consent. Without consent under  
9 conditions in which the perpetrator knows or should know  
10 that the victim is mentally or physically of resisting or  
11 understanding the nature of her conduct. That's where  
12 this is. That's where this consent, where this issue  
13 lies. She didn't tell him no when she was 11. She didn't  
14 tell him no when she was 12, but it was under conditions  
15 he knew in his employment, in his volunteer service with  
16 Metro, as a person studying criminal justice, he knew that  
17 that's not consent. He should have known she was mentally  
18 incapable of resisting or understanding the nature of her  
19 conduct.

20 Penetration, intercourse, cunnilingus, the mouth on  
21 the vagina, the fellatio, mouth on the penis. Physical  
22 force is not necessary. Multiple sex acts, that's where a  
23 lot of the counts come from on each of these different  
24 instances talked about in the preliminary hearing  
25 transcript. A lot of different sex acts occur, that's

1 where those counts come from.

2 The voluntary statement is more of a general what is  
3 going on, what the relationship is, how it got to this  
4 point. And the preliminary hearing transcript are the  
5 elements of the crime.

6 So consent, there are things that go to consent under  
7 14 and some things that go under 16. Right now we're  
8 talking about under 14. Although these things all go to  
9 both. She's not required to do more then her age,  
10 strength, surrounding facts and circumstances make it  
11 reasonable to manifest an opposition. That's an  
12 instruction we have. The age of consent in Nevada is 16.  
13 That's something you have to take into consideration when  
14 you are looking at whether or not this girl consented to  
15 the sexual act of Mr. Honea.

16 So what goes to it, goes to it all the time, is this  
17 power and control dynamic. He's a volunteer. He's in a  
18 position higher then her. He's older then her. The age  
19 differential, power differential, John Pacult testified to  
20 that. His position in Metro that he readily used and told  
21 people he was a cop when he wasn't a cop. Readily played  
22 his police radio to scare people. That's his position  
23 over her.

24 He made her feel comfortable. One random night would  
25 you kiss me. Then he asks would you be my girlfriend,

1       when she's 11 and he's 18. She says, I knew it was high  
2       risk because he told me. He told he wished I was 16. So  
3       he puts it on her. It's her fault that they can't have  
4       this relationship. He wants Morgan -- Morgan is nervous.  
5       She's 11 and 12, he always said he wanted to have sex.  
6       That's not consent to a sexual act, 11 and 12 years old.  
7       That's not consent.

8               She told him no for awhile. These are the factors  
9       that go to whether or not there was consent under 14 for  
10      those crimes under 14.

11             He's in control of her whole life. He would tell her  
12      who she could be friends with. What to wear. How to wear  
13      her hair, how to wear her make up. Mom told you he would  
14      stand in the doorway of the bathroom while she was getting  
15      ready. Why would anybody do that, 6 years their junior.  
16      He knew that she could not consent. He knew the law, and  
17      he absolutely knew that she was mentally incapable of  
18      understanding her actions when she was 11, 12, 13 years  
19      old.

20             7th grade, after Minnesota, Josh would tell her to  
21      tell her mom that she was sick so they could have sex. He  
22      is controlling the situation. He's telling her what to  
23      do. He is manipulating her. That's when she's 12 years  
24      old. He tells her to get birth control while she's in  
25      middle school. He told her he could be arrested and could

1 get in serious trouble and it would ruin his life and  
2 career. Putting it on her. Threatens to turn her mom in.  
3 Daily contact. She wasn't hanging out with kids her own  
4 age. She was isolated That's what her mom told you.

5 Every under 14 count, there's no consent. There's no  
6 question about that. There's no reasonable belief there  
7 was consent under the legal definition.

8 I went in order of what she testified to at the  
9 preliminary hearing. Count (45), sexual assault under 14.  
10 That's the date of that. This is before Minnesota when  
11 Morgan was 11 and Josh was 18 years old. She testified  
12 that she put her mouth on his dick in his car. He did not  
13 put his mouth on her then. Knew it from school. Didn't  
14 know it from her, which contradicts her trying to get him  
15 in trouble.

16 Josh told me everything to do. I didn't know  
17 anything about sex. He's the one that forced it on me.  
18 She doesn't say anything like that. She explains the  
19 relationship and how it went down. She's honest about it.  
20 That is not consent.

21 She walked to CVS by her house, and he picked her up.  
22 The mom didn't know about it. That goes to the first  
23 degree kidnapping, which I'll get to those elements after  
24 this one Count (47), sexual assault under 14. This is  
25 when he picks her up after Taylors. Part of me wanted to

1 make him happy. Part of me knew she was really young to  
2 be doing this. That's not consent.

3 He takes her to the Rampart Casino. She testified he  
4 put his penis in my vagina in the back seat of the car.  
5 Described what he did with the condom. She testified that  
6 it usually happened in the back seat. She would be back  
7 there waiting. She would sometimes undress so it would be  
8 faster. There's penetration. There's no consent under  
9 14.

10 The first degree kidnapping elements takes minor with  
11 intent to keep to minor from her parents or to perpetrate  
12 upon a minor any lawful act. And unlawful act alleged in  
13 first degree kidnapping counts, sexually assault under 14  
14 and sexual assault under 16.

15 Count (1), is the first degree kidnapping. So this  
16 is just one count for every time he took her, he picked  
17 her up from CVS to go to the SunCoast. He picked her up  
18 from CVS to go to Rampart. He picked her up from the  
19 elementary school close to her house to go have sex  
20 somewhere. That is the intent in picking her up. Her mom  
21 didn't know that she was going with him. And this is  
22 where the testimony is. Before Minnesota he picked her up  
23 at CVS. That is when the fellatio occurred. Josh picked  
24 Morgan up after Taylor's and took her to Rampart.

25 Another time he picked her up at CVS -- this happened

1 multiple times. There's one count for each of the times  
2 it happened. One count that encompasses all of that. And  
3 he took her with the intent to do what he did to her.

4 He knew that it was wrong. Of course, he knew that  
5 it was wrong. He didn't pick her up from her house, he  
6 picked her up from these other locations so that people  
7 would not see them. So Count (3) (7) and (11), that is  
8 intercourse, a fellatio, and cunnilingus. Still under 14.  
9 She testified about a specific incident she remembered at  
10 the SunCoast. One of the last times they went there. It  
11 was on the preliminary hearing, pages 33, 34. It was in  
12 the back seat of his car. She testified she put her mouth  
13 on his penis. He put his penis in her vagina. And he put  
14 his mouth on her vagina. Those are the elements. Those  
15 are the penetration elements under 14 and there's no  
16 consent. It was daytime. He picked her up at CVS. It  
17 was routine for her to get in the back seat. This is  
18 still while she's at Johnson Middle School.

19 Counts (4), (8), and (12), still under 14. This is  
20 for another incident she described in the preliminary  
21 hearing transcript where it happened at Morgan's house,  
22 which is the one where she talks about her being in a robe  
23 and planned to surprise him. Why would she make this  
24 detail up. Why. It doesn't make sense. She's 16 years  
25 old, just barely 16 years old.



1           He always talked about her wearing a robe. Remember  
2 this is when she's 12 and 13 years old. Is it valid  
3 consent. No, it's not. I don't care if she was naked  
4 under that robe.

5           Rubbing, kissing while they are walking to the  
6 bedroom. He pushed her onto the bed. He got on top of  
7 her. She turned him over and got on him and put mouth on  
8 his penis, his mouth on her vagina and eventually came  
9 back up and penis in vagina. So those are all counts for  
10 that one incident. Why is she making up these facts,  
11 unless this is how it went down.

12           This is her on her 13th birthday, when they went to  
13 Mandalay Bay. This is Counts (5), (9), and (13),  
14 corroborated by those pictures of them. They went to  
15 Shark Reef and Benihana. She testified that after Shark  
16 Reef before dinner they went home to get ready, and he  
17 came back to get her and they had sex in her house. Penis  
18 in vagina, all involve that (5), (9), and (13) are the  
19 counts that go together.

20           After dinner they went back to his car, parked at a  
21 different casino and walked the Strip. After that they  
22 went back to his car, drove to the SunCoast because it was  
23 a safe casino and had sex again. Why make up that fact.  
24 She already got the sex they had at her house, why tell  
25 about the car too.

1           There was no oral sex in the car, so there is two  
2 intercourse there. There's one count of intercourse.  
3 Then the fellatio and cunnilingus that are the (9) and  
4 (13) counts.

5           Counts (2), (6), and (10), still under 14. This is  
6 the time she talked about when she was in 8th grade. So  
7 she's 13 years old. It's on page 32 of the preliminary  
8 hearing. This is the one at Joshes' grandparent's house.  
9 His grandpa was having surgery. They went home to take  
10 care of the dog. This occurred in the guest bedroom. She  
11 testified penis inside vagina. She had her mouth on his  
12 penis. He had his mouth on her vagina. Those are the  
13 counts.

14          Count (14), still under 14. She's still 13 years  
15 old. She talked about when they went to Red Rock Casino  
16 one time and he asked her to give him oral sex before they  
17 went in for dinner. And she did it. He ejaculated in her  
18 mouth. And it was common for him to do that. Why that  
19 embarrassing fact. Why did she include that. Because  
20 it's true and that's what happened between them. That's  
21 why.

22          December 2012, is when they went to Disneyland. This  
23 is where that jurisdiction instruction comes in. It talks  
24 about Nevada retains jurisdiction for crimes committed  
25 outside its boarder. So all sex that happened in

1       Disneyland Nevada has jurisdiction over those crimes when  
2       under the intent formed in Nevada and any act accomplished  
3       here.

4               They knew that they were going to stay the night at  
5       Disneyland. This also goes to Carlsbad, because there was  
6       sex that occurred in Carlsbad, but that's after 14. So  
7       Count (34) is the first degree kidnapping for Disneyland.  
8       December 2012, she told her mom it was a day trip. Josh  
9       told her mom it was a day trip. That fact about her  
10      brother and sister living in Southern California, the  
11      brother and sister that she is so close to and has all of  
12      these photo albums of them, why didn't they stay there.  
13      Why did they have to get a hotel. He took her and his  
14      intent was to have sex with her and his intent was to stay  
15      the night with her. Consent is not a defense to first  
16      degree kidnapping. He's guilty of Count (34), which has  
17      to do with the Disneyland trip.

18             Count (35), (36), and (37), Morgan is 13 years old  
19      and they're in Disneyland together. Josh is the one that  
20      paid for the hotel. She testified at the hearing that  
21      they had sex, penis inside vagina, mouth on penis, mouth  
22      on vagina. Those are (35), (36) and (37) counts.

23             The story about Josh getting sick. You determine  
24      whether or not that's reasonable. You determine whether  
25      or not it was planned in the first place to do this.

1           The trip to Laughlin. That was with her family. He  
2           had his own hotel room. They had sex in his hotel.  
3           That's what she testified to at the hearing. She is still  
4           13 years old. She testified he stuck his penis in my  
5           vagina. Doesn't remember any other type of sex. Then she  
6           stayed in her mom's room. Which is consistent with what  
7           her mom said, consistent with Josh having his own room.

8           (15), (48) and (50), these or all fellatio counts.  
9           There are actually more counts regarding intercourse and  
10          cunnilingus then what he's charged with, if we're talking  
11          about each specific act, each specific time that she  
12          recalls. She testified in 7th grade there were 4  
13          occasions where Josh had her stay home from school. He  
14          would pick her up at CVS. He would take her to her house,  
15          and they would have intercourse and oral sex or both. She  
16          remembers another specific time when he got mad because  
17          mom didn't believe her and mom wasn't going to let her  
18          stay home from school, so she had to exaggerate and Morgan  
19          convinced mom and he picked her up, CVS, walked through  
20          his garage, undressed, went to bed had intercourse, oral  
21          sex for both.

22          Why tell anybody they walked through the garage. Why  
23          tell anybody they were kissing, undressing on the way to  
24          the room. That's all in the preliminary hearing  
25          transcript on pages 93 and 94.

1           This is May 4th, 2013, to coordinate the time frame.  
2       Those are all the counts with regard to Morgan being under  
3       14. No reasonable doubt that they did. There's no  
4       reasonable doubt there was not consent under the legal  
5       definition. He's guilty of all those counts under 14.

6           Under 16 for this time period here, and generally she  
7       testified at the preliminary hearing that sex still  
8       happened but it slowed. This is when she transferred  
9       from Desert Oasis to Bonanza. They stopped using condoms.  
10      It was common to pick her up and then go to her house for  
11      sex, because mom was gone. That's in the preliminary  
12      hearing transcript. The sex stops December 2014. It went  
13      from pretty much every day when she's 12, 13 years old.  
14      So when she's 14 and 15, 3 to 4 times a week, and it  
15      slowed to once a week. So as she's getting older, as  
16      she's trying to move away from him, sex slows down.

17           Again, you have instruction on consent. Again, the  
18      nature of their relationship and the dynamic between them  
19      and his position in that also goes to whether or not she  
20      consented to the acts under 16. The fact that in Nevada  
21      the legal age of consent is 16, that's a factor to  
22      consider whether or not he knew or should have known she  
23      was incapable of consent.

24           These are some additional things she talks about that  
25      go to her consent and whethers he was consenting to the

1       actions, whether it's valid and legal consent. She talks  
2       about him wanting her to go to Bonanza. She got involved  
3       with another boy and he wasn't excepting of that. Tried  
4       to becoming distant from him. I started making new  
5       friends. I was really happy. And then he guilt-tripped  
6       her. We promised each other we would marry each other.  
7       The pictures of the ring corroborate that. Why make up  
8       that when she told Detective Cho that. He promised that  
9       he was going to marry her.

10           He convinced me that it was something I needed to do.  
11       That's when she's talking about moving schools. He went  
12       to Bonanza. He set me up with the staff that would keep  
13       me in check. I think when she testified here in front of  
14       you she said that the argument was probably about me not  
15       being in check. All of these mental games, all of  
16       --everything that he put in her head is still there to  
17       this day. You can see glimpses of that while she's  
18       testifying.

19           The call to Franco. You know, Josh, this is what she  
20       says in her preliminary hearing testimony. Nothing about  
21       pictures or Franco distributing pictures. Josh was mad  
22       because she was having sex with both of them. Why make up  
23       that fact.

24           This again the police radio, telling him that he's a  
25       cop. That goes manipulation and mind games. I was just

1       afraid of him getting mad all the time, but I didn't like  
2       when he got mad. He would scope out everybody's social  
3       media she was friends with. He controlled her social  
4       media. That is the power and control that goes to whether  
5       or not she consented to have sex with him when she was 14  
6       and 15. He would get mad if I didn't listen to his radio.

7               This is when she turns 14. This I love you picture  
8       comes from that date, that June 30th, 2013. That's what  
9       starts the after 16 charges.

10              So Carlsbad, you have that receipt on the iPad.  
11       These are the pictures from there. They went to the Wild  
12       Animal Park alone. The intent here, if you look at the  
13       charging document, the intent that he took her with the  
14       intent to commit sexual assault under 16 years old. He  
15       took her to Carlsbad, Count (38). They had sex in the  
16       hotel room. That's how we know what his intent was. Mom  
17       didn't know. Mom wasn't giving permission for them to  
18       have a relationship and go have sex in California.

19              Counts (39), (40), and (41), that's when she  
20       testified to what happened in that hotel room in Carlsbad.  
21       He is the one that rents the hotel. They had sex in the  
22       room. She testified about the 3 different kinds of sex  
23       they had which supports (39), (40), and (41).

24              Mt. Charleston, no sex there. She testified about.  
25       Well, she actually had pictures from there, pictures of

1       them kissing. Why did she say there was no sex there if  
2       she's trying to get him in trouble. Doesn't make sense.

3               Count (32), she testified that's an incident that  
4       occurred while she was in the 9th grade at Desert Oasis.  
5       So that is September 2013 through December 2013, because  
6       she went there for the first semester. This is when they  
7       went out to dinner with Humberto. Humberto with an  
8       age-appropriate girlfriend, and they went on a double  
9       date. Then looked at some Christmas lights after that,  
10      when Morgan was 15 years old.

11             She said it was nighttime, Golden Coral. Before they  
12      went to Golden Coral she put her mouth on his penis at his  
13      request. He ejaculated. Why tell you that embarrassing  
14      detail. Why would you do that, unless it's what actually  
15      occurred.

16             Counts (33) and (51), this is an incident she  
17      testified this is while she's at Bonanza under his thumb  
18      and under all the people there that he knows when he went  
19      to Bonanza.

20             He would pick her up from school and they'd go to  
21      house while her mom was at work and have sex. It was  
22      normally every day, if we could. She remembers a specific  
23      time when he was sitting on the couch and she testified  
24      about that at the preliminary hearing. She said I came  
25      down from kissing him and got on my knees to put my mouth



1 on his penis, then I got on top of him and put his penis  
2 inside my vagina. So that's Counts (33) and (51).

3 Counts (18), (23), and (28), sexual assault under 16.  
4 Another time she testified to at Morgan's house. She took  
5 a shower when she got home from school. The Defendant was  
6 waiting in her room, undressed. This is what she  
7 testified to. These are the details that she said. We  
8 started tongue kissing. I went down and put my mouth on  
9 penis. He put his mouth on my vagina. After we switched,  
10 flipped over, and put he put his penis inside my vagina.  
11 Those are the details.

12 Counts (19) and (24) still in 9th grade at Bonanza.  
13 This is when they went to the Strip and the Excalibur.  
14 They went to the car and he wanted to have sex. Mouth  
15 on -- she said her mouth on his penis. He put his penis  
16 in her vagina. That's (19) and (24).

17 She did not testify about him putting his mouth on  
18 her vagina, which is that Count (29), cunnilingus. Sl  
19 we're asking you find him not guilty of Count (29).

20 Valentines Day at Valley of Fire. They had sex for  
21 Counts (20), (25) and (30). That was at Morgan's house.  
22 She testified to all 3 kinds of sex. That's what supports  
23 those 3 charges.

24 His birthday. She is 14. This is his 21st birthday.  
25 This goes to (17), (22), and (27), and (52). (52), didn't

1       happen on his birthday. She testified to what happened at  
2       his 21st birthday. It was at his house on Durango.  
3       Nobody was home. They had all 3 types of sex. That's  
4       (17), (22), and (27). She further testified on page 83,  
5       that she remembered another specific time that that  
6       happened at his house. Not on his birthday. His penis in  
7       her vagina on the couch when no one was home. That's  
8       Count (52).

9               She says in her involuntary and her preliminary  
10       hearing that this happened so much, almost every day,  
11       these are specific times she remembers and specific times  
12       she's testifying about.

13              Counts (21) and (26), she's 14 or 15. It was very  
14       rare that we'd go to the SunCoast, but they still  
15       sometimes went whenever one of their houses was not  
16       available. That's what she testified to. She remembered  
17       a specific time when they went out to dinner at Archi's.  
18       They go to the SunCoast. Their normal spot. They got in  
19       the back seat. Mouth on his penis, penis inside her  
20       vagina. This is one where she didn't testify about his  
21       mouth on her vagina, so we'd ask you to find him not  
22       guilty of (31) and find him guilty on (21) and (26).

23              The Count (16), first degree kidnapping, you have the  
24       same elements, taking a minor with the intent to commit  
25       any unlawful act. The unlawful act here is sexual assault

1 under 16. This is for each time he took her to the  
2 SunCoast from when she was 14, 15 years old. She  
3 testified it did happen.

4 This is the Cher concert. She testified that no sex  
5 happened.

6 The use of a minor in producing pornography. The  
7 element there, uses, encourages, entices, or permits a  
8 minor to simulate or engage in or assist others to produce  
9 or performance. And here you have Counts (42) and (46).  
10 Count (42) is for the nude photos. Count (46) is for nude  
11 photos and asking her to send him videos of her  
12 masturbating.

13 She testified at preliminary hearing between May 2011  
14 and December 2014 they sent each other sexual pictures and  
15 videos. This was at his request that she did this. The  
16 photos on Morgan's laptop support that. The photos on the  
17 Defendant's iPad when he's taking pictures of his penis in  
18 December 2013 support and corroborate that.

19 There was a statement that she made in her  
20 involuntary statement about he got mad at her one time so  
21 he made her give him her iPod with naked pictures on it to  
22 look at it while they are in the dean's office. Again,  
23 why make up that fact.

24 Count (43), the luring a minor. So the elements,  
25 contact or communication with a child under 16. She's 5

1 years younger. That element is met. We know that he is  
2 contacting and communicating with her, with the intent to  
3 persuade, lure, transport away from the parent or away  
4 from a known location without express consent and with the  
5 intent to avoid consent, with the intent to persuade or  
6 lure her to engage in sexual conduct. That's pretty much  
7 what he does throughout the relationship. That's his MO.  
8 It starts with talking. Goes to texting. She's 11, and  
9 it continues. We're going to ask that you find him guilty  
10 of that charge as well.

11 That's when her braces are off. Her braces are on in  
12 that picture. Beyond a reasonable doubt. There is too  
13 many ways for you to not conclude that the way it went  
14 down is exactly what she testified to at the preliminary  
15 hearing, and what she told Detective Cho in her voluntary  
16 statement.

17 It is not reasonable to believe that they are brother  
18 and sister. It's not reasonable to believe they were just  
19 friends. Why is he discussing the statute of limitations  
20 for sex crimes in June 2015. Why. The only evidence of  
21 why is because he knew what he did. And then Katerina's  
22 testimony. Her credibility to you guys, in the text  
23 message, let me find out that bitch is lying. Implying  
24 that, you know, she is not lying about anything.

25 His interview, re-watch his interview. Review your

1 notes about his interview. The phone call where Detective  
2 Dicaro was there with Morgan and a couple other detectives  
3 where the Defendant says, if you don't tell them anything  
4 there's no case. No victim no crime. What did she come  
5 in here to do. Exactly what he told her to do, exactly  
6 what she thought would get him away with this. Listen to  
7 that jail call. Listen to the pause when dad said, she's  
8 mad because you broke up with her. Listen to the tone of  
9 his voice when he responds to that. What are you talking  
10 about. We're just friends. Talk to mom about it.

11 Morgan says in her involuntary statement he knew that  
12 I was the only one that would say anything and he trusted  
13 me. Why tell people that you're brother and sister. Why  
14 not tell people that you are friends. Why spend so much  
15 time with someone 6 years younger than you. That's  
16 unconverted that they spent an exorbitant amount of time  
17 together. Why. Why say he's gay. Why change from the  
18 date when she's 16 versus I'm going to date her when she's  
19 18 in an interview. He told Officer Zafiris, Wirey,  
20 Samples I'm going to date her when she's 16 years old.  
21 Why change that to 18. What are they hiding Why didn't  
22 Morgan come in here and say nothing happened.

23 You know that something happened. You have  
24 photographic evidence of that. Why lie. Why does he act  
25 the way he did in his interview. Why.

1           The truth in this case is in the preliminary hearing  
2 transcript and voluntary statement and in her video. That  
3 is what corroborated by the evidence. The Defendant knows  
4 what he did to Morgan for 4 years. Morgan knows what the  
5 Defendant did to her. We ask that you tell him that you  
6 know what he did to her too.

7           MS. MCNEILL: Objection, Judge. Conscience of  
8 the community.

9           THE COURT: Ms. Rhoades, sustained.

10          MS. RHOADES: From all of the evidence, I submit  
11 that you know what he did to her too. You know that. And  
12 we ask that you find him guilty. Thank you.

13          THE COURT: Thank you, Ms. Rhoades.

14          MS. RHOADES: Thank you.

15          THE COURT: Mr. MacArthur.

16                           CLOSING STATEMENT

17 BY MR. MACARTHUR:

18           This Court, ladies and gentlemen of the jury,  
19 Ms. McNeill, State's counsel and all people present, I  
20 don't use a power point. I am decidedly low-tech.

21           If the information is looked at, processed and  
22 understood, you shouldn't need props in order to get it  
23 all to work together. It's easy to say if you do it for a  
24 living, but this is a pretty note-taking, that is probably  
25 a really good thing.

1           I'm going to ask one more favor of you. I'm going to  
2 ask while listening to this argument to bear in mind you  
3 are going to discuss this evidence when you are done, and  
4 that certain people may remember one thing, another person  
5 may remember another thing, and you may disagree as to  
6 what it meant or what it was relevant too. It's perfectly  
7 appropriate that you discuss that. But bearing in mind  
8 that another person may not agree with you I would ask  
9 that if during my presentation and argument there is  
10 something you would like to use for or against you  
11 disagree with me or agree with me make a note of that so  
12 you can discuss it and be armed with that information so  
13 it's not forgotten at a time that might be of critical  
14 importance. I leave that up to you.

15           When we started 3 weeks ago you'll remember we did  
16 voir dire. I am quite sure then, as you may be today, you  
17 got tired of hearing my voice. I seem to harp on some  
18 issues more than others. I will revisit those here, it  
19 will become abundantly clear why. I spent a significant  
20 amount of time talking about how do you feel about whistle  
21 blowers, people who break out of the norm and say, hey,  
22 this isn't right. And in the discussion some people found  
23 them to be brave, some people wondered why they did that,  
24 they didn't joke to them maybe they don't have a strong  
25 sense of survival. But overall after asking who wanted to

1       be present a great many of you expressed a respect for  
2       people who are brave enough to say, hey, even though this  
3       puts me in harms way, this is what I have to say. It's  
4       the truth.

5             Another question I asked is how many of you wanted to  
6       be here. It's not a secret if you want to be here you are  
7       going be engaged and listen to the evidence and you'll  
8       note those details that are going to be essential to  
9       showing this man did not commit a crime. Anybody who has  
10      checked out might not catch that. It's altogether too  
11      important to leave to chance.

12            So after talking about wanting to be here and how the  
13      body itself felt about whistle blowers, I spent time  
14      talking about the presumption of innocence. The State  
15      having to change your mind with the evidence.

16            Now, these things are important because while nobody  
17      on either side knows exactly what a witness is going to  
18      say, you get a sense from having prepared the case how  
19      things are likely to go. And clearly the defense knew  
20      about March 22, 2015 and what the defense was going to  
21      argue that meant. But there was no way to anticipate that  
22      Josh Honea would not be the only whistle blower in this  
23      case.

24            In the past 3 weeks we not only heard about Josh but  
25      we also received surprises that was Morgan on the very



1 first day. And how she was treated when she was saying  
2 things that inculpated Josh versus how she was treated  
3 when she said things that exonerated Josh. It's pretty  
4 obvious that many of you were uncomfortable with that.

5 We heard from Luann Sacchetti, Joshes former  
6 supervisor at Las Vegas Metropolitan Police Department who  
7 retired back in July. I know that many of you saw the  
8 surprise when she didn't testify the way that the State  
9 seemed to expect that she might.

10 We also heard Humberto Zerate. Young man knows and  
11 had gone through the Explorer with Josh and his  
12 interactions with the State. There is no way that anyone  
13 of those 4 things were going to happen. Josh maybe  
14 anticipated, but you never know how it's going to play  
15 out.

16 And in that same 3 weeks, you learned about the  
17 consequences of if something wrong was being done to Josh,  
18 which is up to you to decide whether or not that was true.  
19 But if something wrong was being done to Josh what those  
20 consequences were -- almost like when you throw a pebble  
21 in the lake and you see the ripples go on and on. You saw  
22 what it did to Joshes' career. You saw or you heard  
23 testimony that put Josh in jail for almost 2 years.

24 You saw Morgan was in custody for, I think it had to  
25 be somewhere around 10 or 11 days. You saw the State drag

1 out her testimony for 5 days. No other witness lasted 2.  
2 You saw Humberto Zerate an active police officer who wears  
3 a badge, an actual police officer testifying nervously  
4 because he felt like he was threatened by the State.  
5 Particularly with Kristina Rhoades and to comments made to  
6 him.

7 Now, I expect since you are going to hear from one  
8 more person, so you know, Ms. Rhoades does the first  
9 close. I do this close. But because the State has the  
10 burden of proof, it gets the last word. So I apologize in  
11 advance I have to make sure I don't leave anything out.  
12 I'm very deliberate. Because once I sit, I can't  
13 contradict anything else.

14 I expect that at some point Ms. Kollins is going to  
15 say, oh, what is this grand conspiracy that Metro is going  
16 after Josh and making it all about something else but what  
17 we're here for. I want to make it really clear that  
18 defense isn't alleging some grand conspiracy that  
19 everybody the State put up there was a member of. It  
20 didn't require that many people. I'll get into the  
21 details as I go, but just so you heard it, the people  
22 responsible were Kevin Zafiris and his wife, Sergeant Zack  
23 Marsh, Lieutenant Karen Hughes, those are the 4 people  
24 that it took. Everybody else, literally only had to do  
25 their jobs, because they had no other reason to think that

1 something was inappropriate.

2 Now, I've listened to the State's closing, and I have  
3 seen what appears to be cherry-picking of isolated facts  
4 that's arranged in a certain way might paint the picture  
5 that Ms. Rhoades wants you to see. However, that is not  
6 really how a puzzle works. Anybody who has ever done a  
7 puzzle understands that when you have two pieces that fit  
8 together they just click. They are seamless. You don't  
9 have to force it. Sometimes you really think something  
10 fits somewhere, it doesn't fit quite right and you know  
11 that's not the right spot for that piece. You can make  
12 one puzzle look like a different picture, but you know  
13 what it looks like because there's no gaps. I'm going to  
14 give you the summation of events that eliminate those  
15 gaps.

16 My arguments are not evidence. You are not required  
17 to agree. It's merely a statement of how this information  
18 fits together. And it's up to you as to whether you agree  
19 or disagree and ultimately, whether or not the State has  
20 persuaded you beyond a reasonable doubt that that man is  
21 no longer innocent. I submit they haven't and here is  
22 why.

23 The defense does not dispute the obvious, that Morgan  
24 and Josh knew each other and clearly over years had spent  
25 a lot of time in each other's company. That's not the

1 same as committing any of these crimes. In the first  
2 section it's really Morgan and Josh at the early years.  
3 We're talking about 2011 to sometime in 2014. There was  
4 actually a brother and sister relationship. Later on  
5 we'll see the evidence that makes that clear that either  
6 the State is unaware of or has neglected to highlight.

7 There is no intimate contact between them at all. It  
8 starts with Josh being a volunteer. I can't remember the  
9 term, I hate to assassinate it, at Johnson Middle School  
10 in the dean's office making sure there are no fights and  
11 people are going to school and things like that.

12 Essentially glorified hall monitor. We know at this time  
13 Morgan's life is somewhat of a mess. You heard from Paula  
14 Kraskey and her contracts with Morgan herself. That she  
15 was part of this ad hoc group of girls called Top Notch  
16 Bitches Club. They would get in fights with other people.  
17 There was discussion of the fact she used marijuana. She  
18 did that in that group. That's when she started using  
19 marijuana. She had an attitude problem. People were  
20 concerned. Properly so.

21 Ms. Kraskey was -- almost like lunched into this,  
22 this is important. This is how we do it. Easy, we get  
23 that you are passionate about it, but tells us how Morgan  
24 came into the fold.

25 They with concerned because she had behavioral

1 issues. They were showing up early, showing up this  
2 early. That was a sign that if it's this early it could  
3 be bad and it's not unusual for it to be related to the  
4 home.

5 You heard testimony that they were unsuccessful in  
6 getting Pamela Savage to come see a counselor about it.  
7 You received evidence from other people as to why that may  
8 have been. She may have had a problem with alcohol. May  
9 have had issues that were taking her out of town, a  
10 relationship she was doing, or having two of her children  
11 living in California.

12 Now, it's not the defense's intention or job to  
13 belittle that or make her seem like she was a worst mother  
14 then she was. All the defense needs to remember is that  
15 there were adults that were concerned about this young  
16 lady, and they formed a bit of a net around her. It  
17 started with Josh Honea's mother. Ms. Kraskey, other  
18 people, staff, and Josh.

19 First, it's just making sure she gets home. She's  
20 not around negative peers. That seems to work out, right.  
21 Because not only does Morgan say back then, but she also  
22 says, now, no dispute that she benefited from that.  
23 Attendance improved, grades went up, problems went down.  
24 No matter how the State wants to characterize it now, her  
25 own mother couldn't deny those things were true. Pam

1        didn't seem to be a friend of the defense, but she had to  
2        say, well, from what I could see, Josh was advising her  
3        not to do illegal things, not to do bad things and it  
4        seemed to be working out. It probably worked out a little  
5        too well, because you also heard testimony not only from  
6        Joshes' mother, but from Morgan that when things would  
7        happen it would be the Honea family that Morgan went to  
8        because her mom was unavailable. Think about the time the  
9        air-conditioning went down and mom was out of town to see  
10       a boyfriend in Arizona. You have lived here in Vegas.  
11       You know how hot it gets. You can't live in a house or  
12       apartment without air-conditioning.

13                Who did Morgan call. She called Dara Coleman,  
14       Joshes' mom. She was able to stay there on the couch. No  
15       allegations that something improper happened there.  
16       There's nothing to defend there. It's just the first sign  
17       that when things went wrong for Morgan she called Josh and  
18       his family. It's that kind of intervention that creates  
19       the trust.

20                Think about the Christmas. Pam described it as  
21       Morgan had to come and bring a gift. Almost like it was  
22       mandatory. But the important thing there is that when  
23       Christmas came, which is usually the holiday that most  
24       Americans hold on the highest tier, the mom is there in  
25       the morning and says, well, I've got something to do. She

1 leaves Morgan there with another family for Christmas.  
2 Again, the intention is not to show she's a bad woman.  
3 The intention is to show that if this woman cared about  
4 her daughter -- which she probably did -- good mother or  
5 not -- she would not have left her in a place where she  
6 knowingly thought she was at risk, right.

7 You heard her say over and over again, I didn't see  
8 any instances that made me think that something more was  
9 going on. Sure, she editorializes now in front of you  
10 saying that, well, I had misgivings. I kept asking why  
11 did you do this, why did you do that, but the reason there  
12 why that's not credible is because she also talked to  
13 police when she did those voluntary statements back in  
14 2015, right. If she were at all concerned, if those  
15 things were legitimate, she would have mentioned them at  
16 that time.

17 I'll get into what Pam Savage's motive might be and  
18 is different now, but the point is no mother who loves her  
19 child, whether she's a good mother or not, would knowingly  
20 leave that child in a position she thought that was  
21 sketchy. So you can take from that there was nothing  
22 going on as far as she was concerned. Certainly nothing  
23 going on as far as Dara Coleman is concerned. That  
24 doesn't automatically make it true. I'm not trying to  
25 sell you anything. I'm using the first point upon which

1 we are going to build this house.

2 Remember when during Pam Savage's testimony she was  
3 saying something along the lines of this was a  
4 relationship that was sketchy. I didn't see anything  
5 obvious. So I went along with it. Then the State  
6 casually asked her, how did he get in the house. Oh, Josh  
7 had keys. I'm not going to point out there were a couple  
8 of you who were like, hell, no. You're not letting a  
9 person have a key to your house if you think they're  
10 sketchy. We don't mean sexy sketchy. If you think  
11 they're theory is sketchy, you're not giving them a key to  
12 your house.

13 Again, no matter what kind of mother Pm Savage is,  
14 she is clearly a functioning adult and she's not stupid.  
15 So you can assume she didn't give that key to Josh,  
16 despite her misgivings.

17 Think about the testimony when Morgan had that  
18 infection, urinary tract, kidney something else. She had  
19 to go to Mountainview Hospital. Her mom was unavailable  
20 because she was at work. Who was the emergency contact,  
21 Joshua Honea. Because by that time he's an adult. He's  
22 got a car. And he's got a really good relationship with  
23 the families. They know each other. He took her to the  
24 hospital. Mom showed up.

25 That's not the act of a person who's just on the



1 periphery. That's an act of somebody that you trust,  
2 that's a friend of the family. That's a person you know  
3 on a first name basis. Not sometimes a stranger,  
4 sometimes he's not version that Pamela seems to suggest to  
5 you now.

6 What is her motivation for that. Pam Savage knows  
7 that she is under the microscope. She also knows the  
8 things that because the case is about Morgan and Josh,  
9 that we can't get into anything about her. She knew that  
10 Morgan and Taylor were getting medical marijuana from mom.  
11 Knew they were smoking that. She knew that somehow they  
12 were obtaining Xanax, popping those. Doesn't matter. It  
13 wasn't 3 times like Taylor told you. It was more than  
14 that. It's irrelevant to the analysis. The issue is  
15 Pamela Savage, as she sits there, knows these things. She  
16 knows she's a drinker. Those of you who have experiences  
17 with people what have used alcohol, I wonder if you were  
18 able to form an opinion about her first day of testimony.  
19 Not the second. The first day. With the slow speech  
20 patterns, slurred words, and tripping on the way out of  
21 the courtroom.

22 If she has got it, she's got it bad. And she  
23 doesn't want to come in here and have this be her fault.  
24 Think about what Pamela Savage knows. She hasn't talked  
25 to her daughter in a really long time. The last time they

1 are talking Morgan was telling her that Josh did these  
2 really bad things to me. How would that make a mother  
3 feel. I didn't know anything about that. I didn't  
4 protect my daughter. Is this my fault.

5 Pam Savage is honoring the memory of what she thinks  
6 her daughter is. She doesn't know what the truth is. But  
7 she doesn't want the person that comes in here and says,  
8 yeah, my daughter is not honest. I don't know which  
9 version to believe. Matter of fact, she told you all of  
10 my children were honest with me all of the time. Morgan  
11 whether it was appropriate or not laughed at that. There  
12 was plenty of things Morgan was doing that her mother  
13 never knew about.

14 That explains Pam Savage's motivation. It doesn't  
15 paint her one way or another, as truth telling or a liar,  
16 but it does shape what position she takes when there is  
17 uncertainty.

18 Now, moving down. Another one of you reacted visibly  
19 when Ms. McNeill asked her a question. I think it went  
20 somewhere along the lines of, you only know what Morgan  
21 was doing during these years because she said she was with  
22 Josh. She said yes. My daughter is always honest with  
23 me. When there is a child like Morgan who is clearly  
24 advanced in things that she does, says and wants to  
25 experience, do you think she hesitated to tell her mom,

1 no, no, I'm not doing anything big. I'm going to go do  
2 this benign thing a she left it to her. Would Morgan say,  
3 I was with Josh. I'm with Josh because Josh is safe,  
4 right. Josh is good. How many instances would she have  
5 justified coming home late from school or being somewhere  
6 that her mother didn't think she was going to be. Well, I  
7 have been there with Josh, right.

8 The defense is not suggesting to you that they didn't  
9 have frequent contact. The defense is reminding you that  
10 the only version of that that we get comes from Pamela  
11 Savage. Morgan, like her or not, devastates her own  
12 credibility because she has been on both sides of the  
13 aisle more than one time. In order to believe something  
14 that anybody says that is contradicted by themselves, you  
15 kind of need to marry it to something that maybe is  
16 corroborating evidence. I don't mean to bad mouth morgan.  
17 She's got to be the best witness that defense benefited  
18 from and it wasn't even our witness. But I'm not going to  
19 try to act like, oh, there's absolutely no problem with  
20 Morgan's testimony. Of course it's problematic. If she's  
21 willing to lie then she's willing to lie now. Hopefully  
22 less so.

23 But the way to fix that is by looking for  
24 corroborative evidence. Something else that shows you  
25 what she's saying now that's true. There is a lot of

1       that. We're coming to it.

2               Now, remember that Morgan tells her mother Josh is  
3       gay. That seems to solve a lot of her problems as well.  
4       Morgan flourishes in 2011 to 2014. Sure there are plenty  
5       of pictures of her with Josh, but not with them doing  
6       anything that would make you feel uncomfortable. I  
7       realize the time line is all over, but I'm going to give  
8       you some helpful remainders on how to figure out where you  
9       are on the time line by what's available in those  
10      images.

11             Josh likes to do certain things. You heard about  
12      Cher concerts. I made fun of him already. Don't need to  
13      do it again. Places he liked to go, things he likes to  
14      see and people he took to these. The State characterizes  
15      that as these look like dates. I suppose if you curate it  
16      and take away any context, I suppose. It's nighttime, but  
17      there is no kissing going on in those. You heard from  
18      Dara that these were places he went with other people,  
19      that he took other female people there.

20             Now, Josh didn't have the most vibrant dating life  
21      early on. You aren't going to be able to draw any  
22      conclusions from that. You haven't had a chance to speak  
23      to any of them, but you heard from Morgan that he was not  
24      as advanced as she was. That he was kind of a slow mover.  
25      That he was -- I think she said, it was like it's bad kids

1       that go to some of these things and they use drugs and  
2       have sex, et cetera. He seemed reductant to do that.

3             If the State's proposition that it's been going on  
4       since 6th grade was true, what is the likelihood that  
5       nobody would have known that. Those of you with children  
6       it's not that kids can't be deceiving. They can. They  
7       are brilliant at it. But for 4 years of nobody going  
8       like, hey, wait a minute. What are you doing in the  
9       bedroom. Nothing. Ladies and gentlemen, the reason being  
10      is that there was nothing going on at all between 2011 and  
11      the majority of 2014. It was, as she described it, a  
12      brother/sister relationship.

13            This brings us forward to later in 2014. Now, Morgan  
14      testified there is no reason to think she wasn't honest  
15      about it, that in 2014 there were things she wanted to do  
16      that Josh couldn't do with her or wouldn't don't with her.  
17      She wanted to go to prom. She wanted to go to dances.  
18      She wanted to go on dates. What's is going on in 2014  
19      with Morgan. You don't have to have a biology degree.  
20      She turns 15 June 30th. So 14 and 15-year-old girls want  
21      to do things differently then 11, and 12, 13-year-old  
22      girls. For obvious reasons Josh can't do that.

23            So we see pictures of other boys. I was supposed to  
24      use these as I went along. I apologize for doing them out  
25      of order. I want to go back to this one and that period I

1 was talking about between 2010 and 2014, at that Explorer  
2 meeting. This is referring to Defense A, a bunch of kids  
3 that either want to be police officers or are supporting  
4 other people that one day want to be police officers. We  
5 know this is a long time ago. I didn't get a specific  
6 date on it. You can tell by Joshes' skinny legs and  
7 Morgan was chubbier back then. Looks different now.

8 But during this period in 2014, Morgan tells you that  
9 she started dating boys. Now, I didn't ask her because it  
10 really wasn't any of my business, but was she dating all  
11 of these boys at the same time. Who knows. But probably  
12 not, right. She's dating boys, and she's having  
13 relationships. She identified who these boys where for  
14 you. So I put these up for the proposition that the State  
15 wants you to believe that Josh put a dome over here and  
16 made sure she had no age appropriate friends. How is that  
17 true. We knew about Taylor. The only reason she got  
18 separated was because of the marijuana thing. Everything  
19 else would appear she had a vibrant social life. Anybody  
20 with a skeptical mind who had access to the same discovery  
21 the State did would have seen these pictures and said,  
22 well, that doesn't quite fit with what she told us. That  
23 I wasn't allowed to have any friends that were my age.  
24 That he was obsessive. He wouldn't let me have any  
25 relationships.

1           She told you about those relationships. The reason  
2           you can believe her is because we have corroboration about  
3           that, too. Not only these pictures, but we also know who  
4           one of them is, Franco Orduno.

5           Now, there was an important piece of testimony I got  
6           this morning from Dara Coleman that I forgot to do  
7           yesterday. I'm really happy I didn't completely forget.  
8           Josh Honea gets a blue Ford F-150, May 17, 2015. Before  
9           that he's driving a red Mustang, right. Okay. I don't  
10          remember which boy Franco Orduno is, but we know that he  
11          exists. And I hope I'm not defaming this man using this  
12          example, just as a place filler.

13          What happens in 2014. She says she's in a  
14          relationship with a young man by the name of Franco  
15          Orduno, right. And it's either August or September, not  
16          quite sure. But that the relationship ended in December,  
17          because he'd taken naked photos of her. Certainly the  
18          allegation is he got those from Josh, right. He got naked  
19          photos of her, his own girlfriend and passed them around  
20          to other members of the football team. And she testified  
21          how embarrassed she was. How it made it impossible to  
22          stay at Oasis. Who did she trust that information to.  
23          Did Pam testify to that. No, she didn't. She trusted it  
24          to Honea. And she told her mom I want to switch to  
25          Bonanza, and they filled out the paperwork and they did.

1           Certainly Josh knew about it. Josh knew more about  
2           it then Pamela did. Why. Because we also had the  
3           testimony which Morgan still stands by, right. Not only  
4           did she say it back in 2015 she said it now. Josh  
5           intervened on my behalf, road in like a white knight. He  
6           had the radio. He turned it on. He got on the phone with  
7           that guy. They talked. She could only hear one side of  
8           the conversation. She couldn't hear what Franco was  
9           saying. She could hear what Josh is saying. He scared  
10          that guy.

11          Couldn't really do anything else because he wasn't a  
12          police officer. And it is actually a violation of policy  
13          to pretend to be a police officer when you not a police  
14          officer. So he can't actually go do anymore then that,  
15          can he. He can't go to some supervisor and say I  
16          pretended to be cop for my younger sister because he was  
17          passing around naked photos of her. If they, in fact, did  
18          have a brother and sister relationship as both Morgan and  
19          Joshes' family and friends told you, would an older  
20          brother be angry about that. Would an older brother be  
21          pissed off that his younger sister, even if she exercised  
22          bad judgment, got exploited by that by not only some boy  
23          in high school but supposedly her boyfriend, that's not  
24          right.

25          They break up in December 2014 and Morgan told you



1       that is when she started to feel differently about Josh.  
2       Why might that be true. First of all, we already know she  
3       likes boys, right. We've seen 3 of them. But we know  
4       that one boy treated her right. That he is always giving  
5       her good advice. That he's never let her down the path.  
6       You suddenly start to see people that were just friends  
7       before in an entirely different light. So they go to Mt.  
8       Charleston. They do other things. And you have seen  
9       those photos. If I could have waived a magic wand from  
10      hog warts that explains why Josh is kissing Morgan Savage,  
11      I would have. But it is what it is. And the evidence is  
12      what exonerates him ultimately.

13             Look at those photo. The ones the State kept up  
14      there because it's the best thing they had. Go look at  
15      them. Defense is not afraid of them. Look at what he's  
16      wearing. Look at her face. Look at her hair. Then look  
17      at the photo where they're driving down from Mt.  
18      Charleston. I trust that every single one of have you  
19      knows what the difference would be between what a Mustang  
20      looks like on the inside, if it's red, which would be some  
21      time before May of 2014, right. Versus what it looks like  
22      when you are in a pick up truck, with that raised console.  
23      The fact they're higher off the ground where you can see  
24      out of the windows right. Look at that photo. They are  
25      in a truck.

1           The State wants you to believe that because we can't  
2       assign a time to this or maybe Pam Savage said I looked at  
3       this and this kind of looks like maybe she's 13. They  
4       want you to rely on that testimony because that's her mom.  
5       Number one, I think my mom could look at any picture of me  
6       and narrow it down a hell of a lot better. But maybe not  
7       everybody has that skill.

8           What you are rely on is what does she look like. She  
9       has braces. We know she had those in 2011 to 2015. She  
10      has long hair. Compare that to just what's right here.  
11      She long blonde hair when she's up at Mt. Charleston. But  
12      here, she's got dark brunette hair. But compare the  
13      length of her hair, the color of her hair, how she styles  
14      it, her teeth, clothing, that plaid shirt, see if all of  
15      pictures when they're kissing are in December 2015.

16           That's important for a couple of reasons. One, is  
17      because they're a hell of a lot less sketchy then if she's  
18      in the 6th grade or 7th grade or 8th grade.

19           Number two, is that State charged Josh with lewdness  
20      with a child under the age of 14. Even if they are too  
21      young to be thinking about being in a relationship that  
22      kissing is not illegal, because she's not under 14. The  
23      State lives and dies by the allegations it brings. I'll  
24      come back to that charge because they tie themselves to  
25      dates where Morgan is 11 years old -- 11 until her 12th

1 birthday. That's their allegation. That is what they  
2 have to live with. The picture that she relied on to  
3 support that they are inside the blue truck. You know  
4 when it was he bought that, May 17, 2015. One day before  
5 he was no longer welcomed inside Metro.

6 That kiss happens in the winter time. How do we know.  
7 Because there's snow on the ground. Morgan testified that  
8 that was at Mt. Charleston in December 2015. Right where  
9 it should be. Franco Orduno had shown these pictures to  
10 other people at Oasis. She breaks up with him. And she  
11 moves to Bonanza, when. In December of 2015.

12 We also know that at this time Morgan starts reading  
13 romance slash spy books. She didn't recognize every title  
14 I presented to her. She didn't admit to all of those as  
15 evidence. She freely admitted that, yes, these were books  
16 and authors she's interested in. She confirmed for you  
17 herself a theme of the books is young women were going in  
18 solving crimes.

19 Now, I want you to think for a minute about the photo  
20 album. This is another piece of evidence that the State  
21 is apparently unaware exonerates Josh. Hopefully each of  
22 you will remember I asked her would you agree with me that  
23 it appears to be written in the same pen. She said, yeah.  
24 And I said the reason for that is because it was made at  
25 about the same time, right. It wasn't made

1 contemporaneously where this is my birthday of 2012. You  
2 got a different pen. All of this is curatted the same  
3 time. Now that happen with that because it seemed like  
4 the State thought I was asking this to suggest that  
5 somehow she put this together to frame Josh. No, not at  
6 all. That question was for this moment. This all  
7 happened at the same time because who does a photo collage  
8 documenting the history of a relationship, a girl who's  
9 love struck, right. Something is now different in  
10 December of 2014. She goes back through and curates all  
11 of the photos from her friendship with Josh back when they  
12 were brother and sister. Now the way she feels stronger  
13 about him. And she puts in there and she's adding to it,  
14 the keepsakes, because presumably they are going to be  
15 together forever. There is no reason to think that that  
16 part of her testimony, even back then, wasn't true.

17 She was in love with Josh. And clearly Josh had  
18 feelings toward her too. We can understand that. The  
19 question is, did this lead them to then commit some kind  
20 of crime. That is where we move to.

21 At this point Josh worked really, really hard to get  
22 to Metro. You heard about what he did. You don't have to  
23 just hear about it. You also are allowed to use your  
24 common sense as adult individuals. He managed to become  
25 number one on admission into the Academy. And you hear

1 the way he did that was by learning to write reports,  
2 volunteering time for free. That's independent of the  
3 part-time work he was doing clerically for the gang unit.  
4 So let me be clear. He had a job that was paying him  
5 money, but in a addition he volunteered time with the  
6 volunteer patrol service in order to get in good. He'd  
7 done Explorers for years. He was so dedicated to it he  
8 brought Morgan along with him.

9 If he and Morgan were secretly doing what the State  
10 is alleging they were doing, would he have brought her  
11 around police officers so that one slipped word or one not  
12 hidden gesture would have gotten him busted. Probably  
13 not. You'd have to be insane. That would make it  
14 altogether improbable that he could have went for 4 years  
15 without anybody knowing about it. Again, the defense  
16 suggests that reason why nobody saw anything in 2011 to  
17 2014 is because nothing was happening yet.

18 Josh can't be in a relationship with Morgan. No  
19 matter how badly he wants to be. By now they know each  
20 other well enough. They can have candid conversations.  
21 Anybody here who has ever been a teen or had your hormones  
22 telling you I really want to have sex. No, you don't  
23 always use the best judgment. Probably wasn't good  
24 judgment kissing her, but the light goes on. We can't go  
25 all the way because the age of consent is 16.

1           Isn't the evidence consistent with a fight over why  
2           they can't be together. What else happens the end of  
3           December 2015. Morgan is angry. I know that when she  
4           testified, I agree, I completely hand it to Ms. Rhoades.  
5           She didn't give you a whole lot of information on what  
6           that argument was about. All she would tell you is it was  
7           a really bad argument, but I don't remember what was it.  
8           And it was over a protracted period of time. It wasn't  
9           just one thing, right. Why aren't you saying that.  
10          Because it's going on between December, when she blocks  
11          him and she's angry at him for some reason, all the way to  
12          May --- or should I say all the way to June.

13          Remember she testified there were times in which we  
14          were good, tight. And other time we just completely  
15          separated. Why is that happening. Because December when  
16          they apparently had been really close in Mt. Charleston to  
17          June 2015. I ask these questions rhetorically because I  
18          honestly believe jurors are better at making these  
19          connections then when I tell them what those connections  
20          are.

21          What else is going on that informs us as to what's  
22          happening. Remember all of those texts that -- I don't  
23          remember which attorney it was, I don't want to be  
24          wrong -- when the State was going through the texts  
25          between Josh and Pamela Savage. Remember when Josh was

1 saying, I just need to know why. I have been a good  
2 friend. Why would she want to not talk to me anymore.  
3 He's clearly hurt. And right after December 2015, do you  
4 think she feels rejected. She wants this thing. You are  
5 the best guy in the world. I've known you forever. I  
6 would never tell on you. I would never do anything to  
7 hurt you. But I'm sorry Morgan. I can't do that, for a  
8 whole list of reasons.

9 What else do we know. We know that Morgan starts  
10 dating again. We've seen pictures of her online profile.  
11 Remember she's on Ok Cupid. She's still 15. She hasn't  
12 turned 16, which is going to be her age of consent, June  
13 30th. I'm sure she knows that. The Defendant knows that.  
14 But she's got a profile out there and says, looking for  
15 guys between the ages of 18 and 26. What does Josh do.  
16 Contacts OK Cupid and says, hey, she's under age. And OK  
17 Cupid takes it down.

18 What is Joshes' motivation. Again you are not  
19 supposed to speculate, but you are to allowed to apply  
20 your common sense as adult human beings and draw  
21 reasonable inferences. You think that Josh wants Morgan  
22 going back into that life where she is making bad  
23 decisions. Do you think that Josh wants her to be in a  
24 relationship with some other guy by the time she hits 16.  
25 Let's look at the other side of that. What else is going

1 on after December 2015 but before June of 2015.

2 This is the first time where we hear about Officer  
3 Zafiridis, right. He was an Explorer advisor. Sure he  
4 helped mentor Josh. Taught him codes and procedures and  
5 how to write a report in those classes, but now Josh has  
6 aged out. We had multiple people testify that Josh is  
7 reaching that age to where now you got to be with the  
8 adult officers, because we're going to put you in the  
9 Academy and you're going to roll with us. Who takes him  
10 out. Why. Officer Zafiridis, Officer Wirey, Officer  
11 Samples who is now a detective. They like this guy. They  
12 know this guy. They've seen him go through the Explorers,  
13 they want him to succeed. There is no reason to  
14 disbelieve that part of their testimony.

15 And they notice he is down in the mouth because there  
16 is a girl he's saying they're only brother and sister, but  
17 he's really upset that she won't talk to him. They are  
18 like that doesn't sound like just a brother and sister  
19 relationship. Why it is so important to you. He tries to  
20 respond, she's using drugs, hanging out with bad people.  
21 They're like, dude, let her make her own choice. Let it  
22 go.

23 Officer Samples says, you know what, since you seem  
24 to be kind of awkward in this dating thing, I'm going to  
25 help you set up a Tender profile. He was nice enough to



1 say, that's true. Officer Samples takes this picture of  
2 Josh and puts it up on Tender. Now, Josh is able to meet  
3 people, go out with people, get on past any lingering  
4 feelings he might have toward a girl he can't be with.  
5 Because it would be dangerous to his career, and he has  
6 worked too hard to get this far. You heard everybody  
7 testify it everything to him.

8 The problem is that jealousy and anger can work both  
9 ways, right. You take down my OK Cupid profile because  
10 you don't want me dating men, but you are going to be out  
11 there on Tender. Furthermore, I'm finding out on social  
12 media you are going out on dates with these -- I don't  
13 remember if she said bitches -- or in the text -- but  
14 maybe you'll remember the one where Morgan said, you know,  
15 here eyes aren't even real. Those are contacts. Well, I  
16 asked her soon as I met. They are openly discussing each  
17 other's dating relationships. What does that tell you.

18 It tells you that they have open communication and  
19 that even though there was a period where Morgan didn't  
20 want to talk to him and blocked him out that that didn't  
21 last that long. Because remember Pam Savage testified she  
22 didn't tell me when they started talking again, but they  
23 were talking again. Another factor would be that there is  
24 text messages between Josh and Morgan where they are  
25 actually talking about the girl -- at least one girl --

1       that Josh is dating. You can read it yourself. I  
2       rearranged them so they are easier to see. The State's  
3       packet has them going from the last page to the front,  
4       then bottom to top. I rearranged chronologically so they  
5       are bottom to top, turn the page bottom to top.

6             The dates are there. The substance of the  
7       conversations is there. And if you don't cherry-pick it  
8       like the State did, you can read the context to make  
9       perfect sense to you.

10            Good afternoon, Mr. Wolfson. Thank you for joining  
11       us.

12            In there you will see Morgan that is insulted. She's  
13       using words that betray that she is jealous. It's hard  
14       because we have had testimony and it's hard to appreciate  
15       the tone, but it's not difficult in those. She doesn't  
16       like the girls that Josh is going out with. She thinks  
17       they're fake, and they are not her. And so the agreement  
18       is they are going to date when she turns 16, because then  
19       nobody can say it's illegal. Nobody can say it's wrong.  
20       How do we know that's true, because Josh admitted that to  
21       Officer Zafiris, Officer Sample, Officer Wirey, right.

22            How do we know that they didn't think that that was  
23       scheming. They certainly came in here and said that was  
24       problematic. It didn't smell right. But how do we know  
25       back then they didn't think it was scheming. The reason

1 we know that is because they are mandatory reporters. By  
2 law if they think there is an illegal sexual relationship  
3 with a minor, they are obligated to report that to a  
4 supervisor. So either they were liars back then, or being  
5 more charitable to them they didn't think it was scheming  
6 because Josh explained the way it was. I really like this  
7 girl. We're like brother and sister for a long time. But  
8 now she feels differently and I feel differently about  
9 her. We can't be together, so I would look forward to  
10 dating her when she's 16.

11 The State asked you why would Josh change his story.  
12 Why didn't he say 18, at a later time. Well, I'm not  
13 certain that that happened. We haven't seen any evidence  
14 that sometimes things get transcribed differently. Let's  
15 say that he did say that. Well, the point is he says that  
16 people are asking him uncomfortable questions implicating  
17 him in supposedly having an improper relationship with an  
18 underage girl, which is what he didn't want to have  
19 happen. Maybe he minimized that by saying I was going to  
20 wait until she was 18. But we know it was 16, because we  
21 had multiple witnesses who said he said we're waiting  
22 until she's 16 before we can date. That makes sense. It  
23 gives them both what they want from each other, but  
24 doesn't have them doing anything illegal.

25 Josh did his part in that. The problem is that when

1       you can't get what you want out of a relationship  
2       sometimes you back away. It's not always one person.  
3       Somehow they have to get to June. Sometimes they wait and  
4       they talk, but other times they say, you know what, I  
5       can't do it. Let's see other people.

6               Morgan for her part starts to spiral downward. You  
7       remember the portions of her testimony where Josh was  
8       starting to be different at work. Luann Sacchetti was  
9       supportive of Josh said he'd always been top notch but  
10      seemed distracted. He wasn't as good as he had been, and  
11      I wanted him to get back in that place. What else is going  
12      on in Joshes' life at that time.

13             We know that he and Morgan can't be together and  
14      Morgan is mad about that. But also his mom is divorcing  
15      his biological father. He's an adult, but he still lives  
16      at home and it's weighing on him. Luann told you that.  
17      She didn't have to make it up. She said she never met me  
18      before. We never talked before. Either that's a lie or  
19      you can trust Luann Sacchetti. She told you, yes, that  
20      divorce also weighed heavily on him.

21             At the time where he was going through the two most  
22      difficult things we heard about, namely not being able to  
23      be with the person he wanted to be with because he wanted  
24      his career and his parents separating, he had fewer people  
25      around him then usual.

1           Officer Zafiris, Samples, and Wirey not for any  
2           improper purpose, arrive at just the right time. Hey, man  
3           you're going to be with one of us. You're going to go to  
4           the Academy. You're going to come out. We're going to  
5           turn you into an officer and life is going to be better.  
6           We're going to get you on Tender. Just wait. But there  
7           is also an element of this that reminds me of the movie  
8           Training Day. I don't know if anybody has seen it.  
9           Denzel Washington, if you're a Denzel Washington fan, one  
10          of the most confusing things about that movie is he'd  
11          never been a bad guy before and that some people get all  
12          the way to like 45 minutes before the movie is over and  
13          they're going how is Denzel Washington going to fix this.  
14          He seems like such a bad guy. When it occurs to you, he's  
15          a bad guy.

16               All movie long he's sort of nurturing Ethan Hawk,  
17               giving him opportunities to make choices and show what his  
18               metal is. You're going to be a part of this group. We  
19               rely on each other. I look out for you. You look out for  
20               me. You'll make money. We'll get promoted, right. It's  
21               a slow indoctrination that all happens on one day. Let's  
22               bring it back to the real world.

23               Officer Zafiris, Wirey, Samples have all invested in  
24               Josh to get him where he's at. Zafiris talks Josh into  
25               leaving Northeast Area Command and coming down to

1 Enterprise Area Command. Cause that's where the action  
2 is. You're going to get more calls. You're going to get  
3 more experience. It's going to look really good on your  
4 application, so Josh comes on down.

5 Before I get into the events of March 22, 2015, I  
6 just want to point out another reason why it's really  
7 important that Josh is doing all of these things to get  
8 into Metro. Because it doesn't leave him all of the time  
9 the State needs him to have to cultivate this improper  
10 relationship with Morgan where back in 2015 Morgan is  
11 literally saying we are having sex every day. He's  
12 picking me up from school. We're going to different  
13 places. When in the world does he have time to do that.

14 We know he's doing part-time in gangs. We know he's  
15 doing volunteer time with the patrol service. We knew he  
16 is doing Explorer functions, both daytime and evening. He  
17 takes Morgan to those when he can. He's going to college.  
18 He's going to his own school. He's got his own best  
19 friend called Katerina Babin. She's studying with him  
20 after school. She's never met Morgan. That's important  
21 for at least one reason. These are two very close friends  
22 of his, but somehow the two of them never cross over.

23 The State might want to treat that as, oh, he's  
24 hiding it because maybe he was leading them both on.  
25 That's a reach. Its objective value is that if Josh is

1       literally only controlling Morgan's life, then when does  
2       he have time to do all of these other things. How is it  
3       that those people aren't as familiar with Morgan as they  
4       would be otherwise.

5             The answer is found in Morgan's testimony to you here  
6       in this trial. That she lied about a lot of things. That  
7       she manipulated the information to make it appear as  
8       though Josh was doing things he didn't. And that if you  
9       knew how she did it, you probably wouldn't believe it. I  
10      thank her for that.

11            So March 22, 2015, Josh is at a Chevron filling up  
12      his car. This is important because there were some  
13      allegations that there were performance issues with him  
14      following cars or somehow initiating these contacts. But  
15      Officer Zafiris, who literally tried to do Josh no favors  
16      during his testimony, admitted in this instance it was  
17      because he was getting gas and he was running a plate.  
18      Like license plate lottery, which is okay. Nobody  
19      disagrees with that.

20            He comes up with a 411 A, a hot car with California  
21      plates. It's a silver Audi occupied by multiple people.  
22      Josh initiates a call to dispatch at 3:02 p.m. We know  
23      that Josh is BP27. We know that because he's the first  
24      unit to touch it. This PU means primary unit. How do we  
25      know that. Because Officer Zafiris, while he can't

1       remember when it is he's the primary unit, knows that you  
2       can see the final primary unit up here, 2DP39. Josh  
3       starts that call.

4               Zafiris picks it up almost immediately thereafter.  
5       It's less than a minute. He initiates that call at  
6       15:02:39. Zafiris picks up on the call as well at  
7       15:03:10, less than 21 seconds later, right. Because he  
8       wants to make sure that Josh is okay and he's going to go  
9       to that scene. So he leaves Trop, Budget Suites, Polaris,  
10      west of McDonalds and heads to the parking lot.

11             Now, at 15:05:25, whichever officer, unfortunately we  
12      weren't able to identify who he was by the call sign  
13      2DP39, reports that another officer there has subjects at  
14      gun point, northwest corner of McDonalds, complying now.  
15      I'll take this opportunity to remind you that Officer  
16      Zafiris fought tooth and nail to keep from tying down what  
17      it means when the call signs are in the body. Sometimes  
18      he said this the person doing it. Then when it suited  
19      him, he said this is the person saying it.

20             How do we know it's the person saying it that's the  
21      truth, because Josh isn't allowed to actually act on  
22      anything. He's the one working the radio -- call --  
23      call -- call.

24             2DP39, though we don't know who he is, he's the  
25      person doing the call. Zafiris has the subjects at gun



1 point on the northwest corner of McDonalds. Zafiriris  
2 didn't remember it that way. In fact, he didn't remember  
3 it any way, right. When I tried to suggest wouldn't you  
4 remember pulling your gun on somebody. It happens so  
5 often that I can't remember. I don't know how many -- I  
6 know one of you has a spouse that works law enforcement.  
7 And while you're considering his credibility, I want you  
8 to think about what you know about his job and his  
9 friend's jobs and how often they actually pull their  
10 weapons on people and whether or not it's memorable. Mr.  
11 Zafiriris thinks it's not.

12 Josh updates, taking female into custody. At 15:07,  
13 two people in custody, taking third in custody now. Josh  
14 continues to work -- oh, before I leave, I want to  
15 introduce or remind the jury that 2P4 is Zafiriris. It's  
16 15:04:35, he becomes the primary unit. He's primary. It  
17 started with Josh. It ends with the guy at the top of the  
18 report, because Zafiriris leaves before the entire incident  
19 is over. But right now on scene he's the primary unit.  
20 He is the one holding them at gun point. He's the one  
21 that has two in custody, taking a third in custody now.

22 Finally, he weighs in himself 15:09:04, 9:30 p.m.  
23 Says 4 people in custody. Clearing the vehicle. Now,  
24 regardless of whether or not he actually remembered the  
25 gun pointing thing, you think he might remember being the

1 person who called in and said there's 4 people in custody.  
2 Then we put him on the stand, and we ask him about that  
3 police report. We acknowledge that the police report was  
4 written by Officer Blum. We couldn't admit it as an  
5 actual exhibit because it's hearsay because it's not a  
6 report he wrote. But we also know that he was allowed to  
7 refer to it, and I could direct his attention to any part  
8 that I wanted to. No matter how hard he fought or how  
9 hard he wiggled, not matter how many times he got giggled  
10 at by the jury, we got through that thing, and what did he  
11 tell me. He said I don't remember if it was 1 or 2  
12 people.

13 It wasn't 1 or 2 people. It was 4 people. I don't  
14 remember if I pointed my gun at anybody. The CAD does. I  
15 don't remember if Josh was talking to somebody. But you  
16 remember counseling he was doing some things wrong 7 days  
17 later.

18 He also then indicates that he cancels that call.  
19 Now it's under control, he takes off to go somewhere else.  
20 That was his testimony, right. See what happens after  
21 that.

22 He acknowledged by the police report, 15:56, it's now  
23 3:56:58, there's information from a female. We got 2B339,  
24 resumed the call. Female stating she has a gun inside of  
25 her and either possibly for possession of large amount of

1       446, namely drugs in the vehicle also. This is after  
2       Zafiridis has left, right. That's going to be important,  
3       because he has released the scene to somebody else and now  
4       information comes in additionally from this female that,  
5       oh, you officers didn't know, I got something in my  
6       vagina, which we know is not a gun because he's got the  
7       same police report. He acknowledges, no, it wasn't a gun.  
8       Originally she said burner. Sometimes we know burner to  
9       be slang for a gun. We know that that ended up being a  
10      meth pipe, right. That's not a gun. But there's still  
11      reference to guns and drugs from this woman after Zafiridis  
12      has left.

13             You remember that I highlighted two numbers -- or 2  
14      times in orange when I did this. And reason why is  
15      because we had testimony that the female had been  
16      Mirandized right in between here, right. That's when she  
17      was first being questioned by the officers. Zafiridis  
18      leaves a couple minutes later. Why is that important.  
19      It's important because there is also a second individual  
20      going to be Mirandized. Remember the Morano guy who got  
21      Mirandized. He got Mirandized a whole hour later, and  
22      Zafiridis wasn't even able to testify as to whether that guy  
23      was there or if he was in custody or what happened to him.

24             I asked him isn't it, in fact, true that that guy  
25      left taking a duffel bag with him. He said, no. I don't

1 remember it that way. I wasn't there. You were here for  
2 this point, right. When you release the call people had  
3 already been taken into custody. You wouldn't have left  
4 if it was a hot situation. He left because he thought  
5 that it was over.

6 After he left information came in from the  
7 female that there's guns and drugs in the car. We know  
8 that the guns is not from her vagina because later they  
9 took her to the hospital and we know that that was a meth  
10 pipe. Ladies and gentlemen, the circumstances suggest to  
11 you that 2 people are missing and that they took with them  
12 guns and drugs that should never have been left in their  
13 possession.

14 The only reason why that police report doesn't stand  
15 by itself and solve all of Zafiris' problems is because  
16 one person got on the radio and was updating things in  
17 real time. Who was that person. Josh. Josh put the  
18 information inside of the CAD, which nobody can change or  
19 scrub, or modify, because it's maintained by dispatch.  
20 It's held by LVMPD records. There's not going to be any  
21 input from Officer Blum or Officer Zafiris in what  
22 information stays on that document. You can scrub a  
23 police report and make it 2 people instead of 1. You can  
24 eliminate any reference to guns or drugs having been  
25 removed from the scene in a police report, but you can't

1 scrub the CAD. Why don't they match.

2 If you guys wanted to know what a whistle blower  
3 situation looks like, you're seeing it. The agency or the  
4 organization that is in the wrong typically does not come  
5 out and say, you know what, our bad. You're absolutely  
6 right. We try really hard, but that night we got it  
7 wrong. We released guns and drugs to some bad folks in a  
8 stolen vehicle. We hope you forgive us. Give us your  
9 vote. That's not how it goes.

10 You told me yourself the way it goes is that you  
11 discredit the whistle blower. You make them the person  
12 that has the performance issues. They are the ones that  
13 get paper. They are the ones that lose credibility.  
14 Everybody else who's part of the organization rallies up.  
15 What am I talking about. I'll get there in a second.

16 On the next page 16, 16:31:39, this is the man who  
17 was arrested and also Mirandized. That's also the man the  
18 State elected not to prosecute. We know that the woman  
19 was prosecuted, but she had the narcotics paraphernalia in  
20 her body. Not hard to prove a case on her. She's also  
21 the driver of a stolen vehicle. Not hard to prove a case  
22 on her. Might introduce problems prosecuting the other  
23 guy who was able to take the drugs and guns out of the car  
24 and then come back to see what was going on, before he  
25 gets taken into custody and Mirandized. You think it

1        might be hard to prosecute him, if he testifies.

2                Josh is now ready to tow the vehicle back to impound.  
3        Josh is signing out. How is he received immediately after  
4        doing that. We know that at some point before March  
5        26th -- I say some point because we don't have a date for  
6        that top text from Zafiridis to Josh -- great stuff kid,  
7        right. There's nothing in there about, hey, you're  
8        running too many hot plates, or you're using the radio the  
9        wrong way. It's great stop kid.

10                Then Sergeant Clark doesn't specifically doesn't  
11        remember, but he doesn't deny he says there's a record of  
12        it. He did say it had to do with officers under my  
13        direction and control. Great work on the coms (ph). What  
14        do we mean coms. You saw Josh reported in real time what  
15        was happening. Everybody applauded him for it, until the  
16        26th. Then come in a conversation where Zafiridis sends, I  
17        stuck my neck out for you. You make me look like an  
18        idiot. We asked what did you mean by that. He said, well,  
19        because Josh was having performance problems -- wearing  
20        the uniform wrong, had his clips, having too much contact  
21        with the public, and the relationship with Morgan Savage  
22        and I counseled him about it. He didn't counsel him about  
23        it in February, where there is no contact report or any  
24        sort of documentation where it seems altogether more  
25        informal. The Yard House over beers or help you set up

1 your Tender profile. Is that a counseling session. Is  
2 that a disciplinary action.

3 That's when Josh was in their good graces. That was  
4 Training Day. He says I remember counseling Josh at the  
5 scene. Well, there is no proof that he did or didn't. It  
6 doesn't seem real consistent with great stop kid or great  
7 work on the coms. It seems a little bit more consistent  
8 with the 26th, where you make me look like an idiot. And  
9 Josh says, I want to go back to Northeast Area Command.  
10 Why would you do that. I like the people over there.  
11 Isn't that consistent with Josh not wanting to be there  
12 because he knows he's no longer the blessed child.

13 The State has made it sound like there was going to  
14 be some document where Josh went to internal affairs or  
15 that he made this report and handed it up the chain of  
16 command. Is that what they were indoctrinating him to do.  
17 Were they teaching him to officially call out other  
18 officers. No. If they taught him anything it was how to  
19 keep it low level, right. Counseling session don't have  
20 to go on the record. No reason to go into your personnel  
21 file. But you went and talked on the coms.

22 When Josh gave this information to Sergeant Erickson  
23 who Zafiris couldn't remember if he was present until it  
24 was damn obvious in the letter Sergeant Erickson was  
25 present. Now there is this big stinky pile related to

1       Zafiriris and Joshes' fault. And Zafiriris brought Josh to  
2       Enterprise Area Command.

3               So Zafiriris and Wirey come up with an idea. Hey,  
4       Sergeant Clark who doesn't know anything about this.  
5       Would you minds sitting in on a counseling session. We  
6       want to talk to Josh about something that has us  
7       concerned. You don't have to participate, just sit at the  
8       head of the table and govern the meeting. They talk to  
9       him about Morgan. You got this relationship with this  
10      underage girl, I think it's more then that. It's really  
11      upsetting. Sergeant Clarks says, what the hell. What's  
12      going on now. That's what we're talking about. We told  
13      him before he's got to get rid of Morgan. Sergeant Clark  
14      does what he's supposed to do, mandatory reporter.  
15      Something wrong with this, he goes up the chain of  
16      command.

17             Problem is Sergeant Clark, who took time to come here  
18      despite the death of his father, testified to what he  
19      knew, what he didn't know, and didn't make any  
20      supposition. What did he tell you. He told you that I  
21      remember them talking about Morgan Savage. I don't  
22      remember them having a counseling session that day about  
23      him having any performance issues. I asked if you're sure  
24      about that. He said he was.

25             That is how the egg gets hatched. That's the seed



1       that's planted. You don't have to have a string of  
2       officers that are all in the buy in, saying this is how  
3       we're going to do it. All you have to do is have a couple  
4       of people in the right spot and you let everybody know, do  
5       your job. Sergeant Clark did his job. He reported it  
6       upward. In the chain they say, hey, you got to give this  
7       to sex assault. That's when Detective Dicaro gets called  
8       in. There is no reason to muddy it up. He's a man with a  
9       job.

10           I might same to a hammer every problem looks like a  
11       nail. He didn't testify he felt Josh was evasive. He  
12       probably thought that often. It doesn't make him a liar.  
13       It doesn't give him a bad intent. He's a man with a job  
14       and somebody said, see what you think. If there's  
15       something wrong going on. He said based on my experience  
16       I felt like maybe there was something going on there, but  
17       there was no proof of it. Why. I went over and I talked  
18       to Pamela and she said she hadn't seen anything like that.  
19       I went and talked to Morgan, and she said no nothing like  
20       that has ever happened. We're like brother and sister. I  
21       went over and talked to Josh, and Josh said, yeah, I like  
22       her. And I probably would date her when she's older, but  
23       there is nothing inappropriate going on. Having done his  
24       job, investigation closed.

25           I can't leave this topic without appreciating how the

1 State included in its direct so it wouldn't come from me,  
2 Officer Zafiris, do you have a wife. Yeah. Where does  
3 she work. Internal affairs. Which one of you noticed  
4 that. Internal affairs sends it up and it gets to  
5 Lieutenant Karen Hughes. You didn't get a chance to hear  
6 from her. I can't say why she didn't show.

7 She start the statement of complaint. That's how  
8 internal affairs gets it. They have to wait until the  
9 investigation is done and that's Dicaro's job. It's not  
10 like he's dragging it out. He appears to be moving it  
11 along -- the 30th the 31st. But they start the complaint  
12 before he's even done, before he even says nope. I didn't  
13 find anything in here, internal affairs is on the move.  
14 Who is in internal affairs that's relevant to the story,  
15 Calderon. She can fall in the category of Dicaro, just  
16 doing their job -- Zach Marsh, Lieutenant Karen Hughes.  
17 Not present is Officer Zafiris' wife. Same building, same  
18 floor, possibly same chain of command.

19 Now, once Dicaro determines that there doesn't  
20 appear to be any fire with this smoke, he goes to IAB.  
21 IAB does something interesting. They contact Morgan's  
22 mom, 4 times, plus Dicaro, 5. They contact Morgan 2  
23 times, plus Dicaro, 3. Why does internal affairs need to  
24 have so much contact with Morgan Savage and her mom after  
25 they've already given a statement to a trained sexual

1 assault detective saying there's nothing going on her.  
2 And it happens to be during this contact that internal  
3 affairs has access to every statement they've all made.  
4 And Josh being questioned by Dicaro, because we saw that  
5 on video, Josh gave up a whole lot of information. This  
6 happened. Her mom is like this. Morgan is like that.  
7 We've known each other so long. And Dicaro is like, just  
8 answer the question I'm giving you. You're giving so much  
9 information, it makes it look suspicious?

10 But listen to that information. He's telling Dicaro,  
11 hey, this is not what it looks like. The reason why I'm  
12 close to Morgan, she's close to my family, we go all the  
13 way back to when she was in 6th grade. Her mom is not  
14 like the best mom. There are drug issues and mom gives  
15 more access to drugs. Internal affairs doesn't record any  
16 of their contacts with Morgan or her mom, but somehow  
17 information seems to get to Morgan that there may be some  
18 sort of threat against her mom. That Josh is making it  
19 sound like her mom could be prosecuted. She takes it  
20 almost like, hell, no. After everything we've been  
21 through and you're seeing all of these other people and  
22 you won't be in a relationship with me. You got attitude.  
23 I'm blocking you and unblocking you. Now you want to come  
24 for my mom.

25 Morgan is the same person she was in 2015. She may

1 have had more experience, but she said then and she says  
2 now, I've got a complicated relationship with my mom but I  
3 love her. And I don't want to see anything bad happen to  
4 her. She even said in response to State's questions, I  
5 don't want to say anything that creates a problem for her.  
6 She doesn't have really anything to do with this. I'm  
7 just here to tell the truth about Josh. We all heard  
8 that.

9 When that happens, Marsh refers the  
10 investigation back to criminal detail, saying I know this  
11 has been a dead issue before but even though we don't know  
12 what they're going to say, we think they should talk to  
13 you. Because now they want to final come out with all of  
14 the truth. When was that. Right around June 25th. I  
15 remember asking everybody to remember some dates around  
16 the 21st, 23rd, 24th, 25th. This is when it started  
17 becoming important.

18 When does Morgan start talking to Detective Cho.  
19 She talked to Detective Cho July 22nd, 2015. That is a  
20 month later, after she tells IAB, you know, I feel like I  
21 need to come forward and give you more information. But  
22 there is an entire intervening month. In that time  
23 internal affairs makes contact with Luann Sacchetti up at  
24 Northeast Area Command. How know that that happened.  
25 Detective Calderon said she did not do that, Sergeant

1 Marsh before he realized it was a trap admitted then he  
2 did.

3 Luann Sacchetti told you that internal affairs came  
4 to her and said Josh is not the kind of person they wanted  
5 in the Academy. That they couldn't keep him out of the  
6 academy because he's number one. But that if she were to  
7 terminate him or let him go or give him a negative review  
8 that it might go well in solving that problem. I saw the  
9 eyes light up for 3 or 4 of you when that happen. That's  
10 why I hope you're taking notes that you can share all of  
11 this with each other in the event somebody missed it.

12 Why would Luann say that. The State didn't spend  
13 any time on her in the first close. Maybe I can prod next  
14 counsel to mention it.

15 Luann Sacchetti did 22 years in Metro. She retired  
16 in July. Sergeant Marsh didn't seem to be aware of.  
17 Sergeant Marsh already testified that one of the rules of  
18 internal affairs is you're not allowed to discuss an  
19 investigation with people outside of a certain network. I  
20 asked him to describe that network. He made that network  
21 as big as he could. Then I said, that would include admin  
22 and supervisors. Oh, no, definitely not. It would have  
23 included Luann Sacchetti. No, not -- definitely not.  
24 Luann Sacchetti said she had this conversation with you.  
25 Like, what. Well, now you're stuck. He doesn't know what

1 anybody else said. We know he said it.

2 You know, he said it. There is no reason for  
3 Luann to come in and stab other officers in the back like  
4 that. She wasn't sure what her role was in the testimony,  
5 because think about this. Luann Sacchetti did it seem she  
6 knew Josh was not guilty or knew Josh was guilty. No. I  
7 submit to you that when she asked -- when she was asked  
8 about it, she said based on what I knew of Josh, it didn't  
9 sound like him. But if it's true, he must have been a  
10 really good liar, right. That's an odd thing for her to  
11 say if she was on one side of the other.

12 She was his supervisor, mentored him. She gave him  
13 advise and probably likes him, but she's not trying to  
14 buddy up to a child molester. She told you what Zach  
15 Marsh did because that's what Zach Marsh did. Someone  
16 asks you the same question Ms. Rhoades did. Why lie about  
17 that. Why does Sergeant Marsh lead you to believe he  
18 would never discuss the IAB investigation with Joshes'  
19 supervisor. Josh was on the fast track. He was going to  
20 get in at Metro. But the thing that he did made other  
21 officers look bad. And if they went after him directly,  
22 that's story might come out. So they went around. They  
23 seized on the Morgan Savage issue because Zafiridis himself,  
24 Samples and Wirey knew that was a thing. Not because they  
25 knew that something was going on, or they were actually

1 suspicious, but because it was a thing. And if they shake  
2 some salt on Josh, maybe he leaves Metro and he's nobody's  
3 problem. There is something you can believe from Officer  
4 Zafiris' testimony. When he said that he never wanted to  
5 see Josh in this position, that was probably true.

6 Defense is not allegation that Officer Zafiris  
7 manufactured a child molestation charge. All he wanted to  
8 do is get Josh out of Enterprise Area Command and out of  
9 Metro so there would be no discussion of this slip up. I  
10 ask him a question that wasn't completely fair. If I  
11 repeat it again, I apologize. I said, you knew one of the  
12 people in the car, didn't you. He said, no. Think about  
13 it. That's all I'm going to say. That is probably  
14 unfair.

15 He doesn't have to be in with the criminal element to  
16 make a mistake. But people with integrity admit to their  
17 mistakes. He didn't. He sacrificed Josh to hide his  
18 mistake. And Officer Wirey, who's tight with him, helped  
19 him do that. The way to do it is by talking to Josh about  
20 the Morgan Savage issue in front of Sergeant Clark.  
21 That's all they had to do, or should I say that's all  
22 Wirey had to do. Zafiris, for good measure, would have  
23 gone home and discussed it with his wife too, right.

24 Two unusual circumstances are about to collide.  
25 Does anybody here think he's the Defendant because we had

1 a criminal lottery and it's your turn to be charged with a  
2 crime. We don't charge people with a crime by lottery.  
3 There's usually a reason why they're there. But the  
4 reasons collided with each other There's no wrong person  
5 on either side that knew how this was going to turn out?

6 On the police side you have Officer Zafiris and  
7 Officer Wirey where they give information to Clark who  
8 sends it to IAB. Zafiris' wife moves that along with Zach  
9 Marsh and Lieutenant Karen Hughes.

10 On the other side of the line you've got Morgan  
11 Savage, who's young. She's 15. She's emotional. She's  
12 angry at Josh because she's in love with Josh but he's  
13 making her wait until she's 16. She's not -- he's not  
14 letting her date other people she wants to date because  
15 he's judging how old they are. But, yet, he's dating  
16 other people and posting it on social media. She's mad.  
17 And part of her testimony where she says I was on the edge  
18 and I was done. That's absolutely true. There's no  
19 reason not to believe it. But what she doesn't understand  
20 is that the allegation she's about to make is not just  
21 going to cost Josh his job. That it's going to charge him  
22 with the most severe crime we have short of murder.  
23 Fifty-two of them.

24 At that point Metro interviews Morgan. They don't  
25 know what she's going to say. There's no reason for



1       Dicaro or anybody else like Cho to expect what she's going  
2       to say. They literally are doing their job. Morgan chose  
3       what she said. She cultivated the information and  
4       provided it to them and it turned out to be the basis of  
5       52 counts of bad felonies.

6             Metro didn't want Josh there, or didn't -- Metro is  
7       too big -- people at Metro didn't want Josh there and  
8       Morgan wanted to punish Josh for what we're about to get  
9       into. Those two things met up and resulted in him being  
10      arrested and his career devastated.

11            Okay. Section 4, the nuk (ph). This all happens  
12      because Josh loses his virginity to a girl by the name of  
13      Briza Perez in mid-June 2015. We know he's talking to  
14      Briza Perez. There is text messages that identify Briza  
15      Perez, right. Let me briefly pause there. It's almost  
16      like the State didn't read any discovery they gave us. We  
17      might forgive them for being busy. But if they read it,  
18      they wouldn't have been so surprised that Briza Perez was  
19      a person. Remember when I asked Morgan about it. Were  
20      you, in fact, mad about Briza Perez. Remember her face  
21      lighting up. Oh, yeah.

22            Then Stacey jumps up, as though disbelieving Morgan,  
23      that this was a person. How do you spell Briza Perez. I  
24      know her Facebook profile. I know what she looks like.  
25      She had attitude in that. You get the feeling like Morgan

1 has learned something about Briza Perez before I ever  
2 asked her that question.

3 If the State had read all of that information, they  
4 would know Briza Perez was a real person. Then if they  
5 knew Briza Perez was real person, they would have read  
6 those messages, and they would have seen the discussion  
7 about how much fun he had in the jacuzzi.

8 If the State had talked to Katerina Babin they'd  
9 have found out that he was excited about having lost his  
10 virginity. You know that Josh used social media. You  
11 know Morgan uses social media. Somehow they seem to be  
12 abreast of each other's stuff. Even when they're not in  
13 direct communication. Then you look at those times and  
14 dates in his communications with Morgan. She's mad.  
15 There is times where there is no response for days to a  
16 text.

17 Now, the State cherry picks through that. We're  
18 trying to hide a secret. What the State doesn't seem to  
19 be willing to accept is that Morgan is angry, and we don't  
20 know what the progression of threats were from when she  
21 first learns that Josh is seeing this girl to when she's  
22 has enough.

23 Is she going to go to his job and say, you know, like  
24 he wants to get with me, or we kissed up at Mt.  
25 Charleston, or we ha. She probably reviewed all of these

1 options. When she decides to fire, she just unloads the  
2 whole thing. She just empties the cannon. In doing so,  
3 Morgan tells the entire world how she feels about this.

4 She starts posting memes. I trusted you, but now  
5 your words mean nothing to me because your actions spoke  
6 the truth. She wants to be in a relationship with him.  
7 You think his status was important to her after as long as  
8 she waited today be his girlfriend. You gave that up to  
9 Briza Perez. And when did he do it. Based on the  
10 evidence in here, not just testimony, evidence you'll have  
11 back there with you. When did he do it, June 20th-ish.  
12 Ten days before Morgan was going to be 16. That was her  
13 virginity. And he gave it away. Maybe out of spite.

14 She posts that meme. She gets together with her  
15 girl. They smoke a blunt. And they start letting Josh  
16 know exactly how they feel about him. Morgan no longer  
17 wants a relationship with him. We know she kept a hell of  
18 a lot of pictures, but symbolically speaking, I don't care  
19 about you or us or any of this.

20 She burns it until it's gone. I know I'm  
21 long-winded. I'm trying to get there.

22 THE COURT: With that commentary, I do feel  
23 compelled, we've been going for some significant period of  
24 time, to ask the jurors if I can see by a show of hands if  
25 we need a restroom break at some point.

1           Seeing more than a majority share for a break at this  
2           time, we're going to take a 15 minute recess.

3                           JURY ADMONITION

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

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

16          See you back here at 1:15.

17                           (Brief recess taken.)

18                   THE COURT: Resuming in the trial of State of  
19                   Nevada vs. Joshua Honea. Counsel for the State, Mr. Honea  
20                   is present with us. I do want to advise the jurors that  
21                   when it's time to recess to deliberate that the court has  
22                   provided a meal for you all. It's waiting for you when  
23                   you begin your deliberations.

24                   Mr. MacArthur, when you are ready.

25                   MS. MACARTHUR: I appreciate your patience.

1           When we left off we were talking about the text  
2           communication in anger that was apparent in them soon  
3           after Josh has this interaction with Briza Perez that he  
4           then shares with Katerina Babin and somehow gets around to  
5           Morgan Savage being responsible for her anger.

6           Morgan goes public with her anger. It's hard to say  
7           when that happens. You are only getting snapshots in time.  
8           You get a lot of things like 21st, 23rd, 24th, 25th, but  
9           you don't get a lot of information on what happens in  
10          early July. Just snippets that perhaps they might want to  
11          speak with officers or detectives to provide more  
12          information. We don't know what that information is. We  
13          don't know what is being said to Josh by Morgan. We don't  
14          know what potential leverage she is referring to.

15          Kristina brought up something I thought was  
16          important. Why would Josh have had a conversation at all  
17          about the statute of limitations if he hadn't done  
18          anything wrong. The statute of limitations goes on for  
19          like 25 years, 35 years. It's ridiculous is this  
20          conversation between Josh and Katerina. Isn't it equally  
21          relevant where the statute of limitations is if she's  
22          threatening to make a false allegation. Does it matter  
23          whether what she's saying is true or false, the fact is  
24          that it's actionable for a really, really long time. And  
25          it's completely dependant on how angry she is and whether

1 or not she can contain itself or her impulses. There's  
2 reason to be fearful because we know what those impulses  
3 are. All of you will, if you don't now remember after  
4 prompting the social media post she had where she  
5 indicated her dating profile and she was living life like  
6 a wild flower.

7 We know that she and Taylor at this time had  
8 graduated from marijuana to marijuana and pills. She had  
9 not made it, in her downward progression, all the way to  
10 heroin yet. But there are pills used. There's no direct  
11 evidence as to how often they did it. Taylor said they  
12 only did it 3 times. There may be reason to think Taylor  
13 may have wanted to minimize that number, but I can't call  
14 her a liar.

15 We know that from Joshes' texts to Morgan's mother  
16 that she is interacting with inappropriate people, that  
17 she's smoking marijuana again, and that he does not  
18 mention the pills.

19 Again, you are allowed to use your common sense as  
20 individuals. Would it appear that Josh is trying to hurt  
21 Morgan. It appears he's trying to make contact with  
22 Morgan. That he does not rat her out on pills. He rats  
23 her out on marijuana, which the mother probably has some  
24 inclination that she is already doing it. Regardless of  
25 what her testimony was here, we know from other testimony,

1 including Taylor, that her mom had a medical marijuana  
2 card. That they smoked on a regular basis. And that the  
3 school had tried to contact the mother, but they couldn't  
4 seem to get her in for the counseling session. Chances  
5 are good the mom knew about the substance abuse, at least  
6 in those stages. So Josh, through those communications,  
7 does not appear to be trying to make things worse. He's  
8 trying to get somebody to reach out to Morgan, because  
9 she's cut him off, and say, hey, Josh, is good guy. You  
10 have been close. Maybe you should talk to him.

11 We don't know how exactly that resolved, but we do  
12 know that eventually they started talking together. And  
13 we do know from testimony in trial that there were times  
14 in which they were, quote, together, further apart,  
15 between December 2014, back when they were kissing at Mt.  
16 Charleston, all the way to June of 2015, where they're now  
17 dating other people and freely discussing it with each  
18 other.

19 Now, whatever it was that set Morgan over the edge in  
20 June, persisted and appeared to have gotten worse in July.  
21 There is no evidence as to exactly how that occurred, but  
22 it's obvious that it did. So Morgan goes to see Detective  
23 Cho, who said that it was almost like Morgan brought  
24 luggage with her. She brought so much stuff, right. What  
25 do we know that she had done a few days before that. She'd

1       been with Taylor, and she burned the photo after they  
2       smoked up and made notes detailing the entire history of  
3       Joshes' illicit relationship with her.

4             Remember Taylor was surprised. She felt like those  
5       two were best friends, right. She never heard anything  
6       about that. I suppose that's potentially consistent with  
7       Kristina's theory this was a secret. A successfully held  
8       secret for 4 years between best friends, or alternatively  
9       it didn't actually happen and that Morgan did exactly what  
10      she told you she did. She tested out her story with her  
11      girl. Somebody who is not going to judge her. Somebody  
12      who will point out when something might be inconsistent.

13            There is no guarantee that Taylor Roberts didn't know  
14      that the allegations against Josh were actually false.  
15      Nobody told Taylor Roberts that Morgan recanted in front  
16      of you guys.

17            Being a solid friend and not wanting to be portrayed  
18      as a liar, all she has to do is support, now, whatever she  
19      said then. Even if it wasn't that much. Minimize your  
20      drug use. Point out she went to Ohio State. Life is  
21      good. And we were best friends.

22            Morgan didn't describe her as her best friend, which  
23      gives you a glimpse how manipulative at 15, 14, 13, 12 and  
24      11 year-old Morgan was capable. She allowed Taylor  
25      Roberts to think they were closer then they were because



1       that suited Morgan's purpose. Not that they weren't  
2       friends, or they didn't share each other confidences.  
3       Just there's a difference between the way Taylor Roberts  
4       thinks of their friendship and the way Morgan Savage  
5       thinks.

6               Now, after having taken several pages of notes, which  
7       you never saw again. That was not part of the luggage  
8       that Morgan brought to Detective Cho's office with. You  
9       know she provided laptops. She provided a cell phone.  
10       She was committed. Those of you with teenagers might want  
11       to imagine how angry you'd have to be as a teenager to be  
12       willing to give up their cell phone.

13              And you can make a few assumptions. One, is that she  
14       did exactly what she told you she did. The love part of  
15       Morgan's testimony is that she points out things that  
16       happen back in 2015 that I couldn't possibly influence, or  
17       defense team couldn't influence. She pointed out that she  
18       had deleted some things, imported other things, and turned  
19       it over to Detective Ramirez, who turned it over to  
20       detectives and ultimately reviewed by Detective Ramirez.

21              The call data, her contacts had been deleted. Her  
22       text messages had been deleted. Now maybe it's because  
23       she knew she was going to turn over her phone, right. If  
24       you're going to hand over your phone and you don't want  
25       your business out there -- but she told you that she

1 manipulated things to look like Josh had done things that  
2 he hadn't done. How do we know that's true.

3 First of all, part of the State's case is the  
4 allegation that Josh had used Morgan somehow to create  
5 child porn. Directed her to do things on Skype and  
6 record it, et cetera. The State hasn't shied away from  
7 that. They argued it in front of you. But if Morgan had  
8 any nude photos of Josh at all, wouldn't she have given  
9 those to Detective Cho.

10 If Josh had any nude photos of Morgan at all,  
11 Detective Ramirez would have told you about. In fact, he  
12 told you Josh did not. So if she was curating and she  
13 really wanted to hurt him, which it's obvious she did,  
14 based on things she said, why wouldn't she have included  
15 those. Those would have made a trial complete relevant,  
16 right. Pictures speak a thousand words.

17 She provided as much intimate detail as she could,  
18 even though it was uncorroborated. Kristina points out  
19 how could she have possibly have known about Joshes' penis  
20 and the fact there was a dark mole on the under side. The  
21 State saw different testimony than I did. They asked her  
22 whose penis is it. She was, like, I think it's some guy  
23 in San Francisco. First of all, the evidence showed you  
24 that that picture didn't come from her laptop. It didn't  
25 come from Joshes'. It came from taking a picture of Josh

1       when he was arrested. They had a search warrant for his  
2       body. She had never seen that photo before in her life.  
3       She'd already made the allegation. He gets arrested.  
4       They take the pictures. It gets added to the discovery.  
5       And the first time she sees it, is on the stand. She  
6       knows that all of her pictures are possessed by the State,  
7       but after two years doesn't remember what they have and  
8       what they don't. So she says, it's guy from San  
9       Francisco.

10           Now, maybe that's a lie. Maybe it's not some guy in  
11       San Francisco. I have no idea. But if there's any reason  
12       for her to know, as the State implies, that that is  
13       Joshes' penis and she is just hiding it. When would she  
14       have seen that photo. Isn't that entire question to her a  
15       little misleading, without giving her information as to  
16       where it came from.

17           Secondly -- pushing on pause -- they said didn't you  
18       describe a dark mole being on the under side of the penis.  
19       I'm not an expert, starrng at penis pictures, but it's  
20       hard to know which detail they are talking about. They  
21       seem to focus on a hairy foreskin that's darker then other  
22       spots. But if you look at her voluntary statement, it was  
23       a large dark mole. And the skin they drew a circle around  
24       was darker then the rest of the penis, but it sort of  
25       looks like foreskin. I couldn't help but notice -- I'd

1 ask you to look at this if you wanted to --that down to  
2 the left of that, there's a small dark mole. It's small.  
3 There's a small dark mole down and to the left that might  
4 be what she could have been describing. But the circle  
5 that the State and she drew with on that foreskin spot.  
6 That doesn't appear to be a mole or dark -- somewhat  
7 large.

8 So the question becomes how would she know about. I  
9 think you already know the answer to that. How does she  
10 know. Because of the conversation she told you back at  
11 the hospital and the embarrassing marks that they had on  
12 each other's bodies. The kind of conversation that people  
13 within a family, if there is trust, might actually have.  
14 Not every family is the same. But remember Pam Savage's  
15 face when we asked her did you have that conversation.  
16 She was like no. Absolutely not. Do you have two Koi fish  
17 on your butt. She pauses, then she said, yes. Well, how  
18 would we know that. Objection. Sustained.

19 Well, I suppose there is an abundance of ways to know  
20 that, right. But pam Savage said she never talked to us.  
21 There's no pictures of Pam Savage inside of discovery. I  
22 must have been really, really productive with time when I  
23 talked to Morgan Savage for half hour, 45 minutes, or an  
24 hour on the second night of voir dire if I managed to  
25 cover all of that.

1           Ladies and gentlemen, she mentioned the mole because  
2 she knew it was there. She didn't know where it was  
3 exactly. She didn't say near the bottom or top. She  
4 wanted to burn him and used whatever information she  
5 could, but she thought of it like a 15 year old. She  
6 didn't understand things can be proven and disproven by  
7 corroborative evidence.

8           When she goes in to speak to Detective Cho she makes  
9 statements that later become inconsistent. The defense  
10 feels nothing in the voluntary statement and preliminary  
11 hearing is true. But that's up for you to determine what  
12 is true. What I want to point out is it's very difficult  
13 to remember a story if it's not true. Those details all  
14 have to be memorized. It's easier if you witness  
15 something yourself. So you'll recall that in the  
16 involuntary statement Morgan said that Josh started having  
17 sex with her when she was 11 in the 6th grade before she  
18 graduated from the 6th grade. In the preliminary hearing,  
19 only 3 months later, she said he started having sex with  
20 her when she was 12. And you'll remember from Detective  
21 Marshes' investigation report he references she's 13.

22           These numbers are significant. These numbers are  
23 reported by people who job it is to document what is said  
24 under oath, either in the form of a transcript, or  
25 voluntary statement, or in some sort of quality control

1 report. They don't take those jobs lightly. That's the  
2 kind of thing that keeps you from having a job if you  
3 can't get those things right.

4 I would suggest to you it's not because anybody else  
5 did anything wrong. Transcriber's job is to transcribe.  
6 The testimony is what it was under oath. The problem is  
7 Morgan wasn't able to keep her facts straight. She takes  
8 11, 12 and presumably, at some point, 13. She says in her  
9 voluntary statement, well, my mom knew all about it. In  
10 the preliminary hearing in September she goes, well, my  
11 mom didn't know until I told her when I was going to go  
12 make the allegations to the police. Why would she say my  
13 mom knew all about it then later on back then my mom  
14 didn't know about it. She just found out about it  
15 recently. Because she was afraid they might try to  
16 corroborate her story and her mom would say I have no idea  
17 what you're talking about. It could make her look like a  
18 liar.

19 She says that even though Taylor Roberts didn't know  
20 anything, I totally shared it with my friend Britney and  
21 Paris. She didn't give them any last names. And we  
22 certainly didn't have any Britney or Paris present to you  
23 as witnesses. If these are people that have known about  
24 it since 6th grade, she scrubbed her contacts. As a  
25 matter of fact, nobody testified to you that they were

1 interested in who Britney and Paris were. That's where  
2 this case goes off the rails.

3 While a normal allegation gets investigated for truth  
4 or falsehood, there's a little more missing in this  
5 investigation because it solves the problem for certain  
6 people at Metro, who are not trying to look too hard at  
7 the allegation to see if it's legit. They believe it's  
8 legit because they want to believe it's legit.

9 It's obvious. We hear bad things about leaders of  
10 the opposite party we vote for. We have a tendency to  
11 believe it. Both sides do that. We're not nearly as  
12 critical when the information comports or conforms with  
13 what he already think is true.

14 Metro dropped the ball because the people who were  
15 not -- Zafiris, Marsh, Lieutenant Karen Hughes -- they  
16 didn't go and check to see if they could disprove Morgan's  
17 story. They gave her all the credit you want them to give  
18 an actual child victim, without subjecting her to too much  
19 cross-examination. But Morgan told you that if they had  
20 done that, if they would have just looked, they would have  
21 seen how clumsy it was. Because she was only 15 back then  
22 And now 18. She looks at her statements as something  
23 funny. I said, something Funny. Well, it's funny that I  
24 said that. I'll use one example and move on.

25 She said that when I was 11, I had never given a blow

1        job before. I've done that since then, but I don't know  
2        why I said that my mouth hurt. Because it doesn't hurt  
3        your mouth giving a blow job. I just described what I  
4        thought would happen. That's a statement.

5                The State says, why would she give up all these  
6        embarrassing details. Did anybody get the feeling that  
7        Morgan was easily embarrassed. It might have been  
8        uncomfortable, but given the subject matter, before we  
9        even got there, she had to talk about heroin abuse. She  
10       had to talk about her and her dad being homeless. You  
11       think a false allegation about Josh was the hardest things  
12       she had to disclose.

13                Going forward in the voluntary statement, she  
14       indicates early on she doesn't know Joshes' family very  
15       well. Kind of knows his grandparents. Doesn't know  
16       anybody else. Never met his sister. That's a problem as  
17       well. We know from Dara's testimony that Lauren used to  
18       drive Morgan home from school. It's a family effort.  
19       Josh wasn't always available. Lauren and Morgan knew each  
20       other. Joshes' mom obviously knew her. She'd been at  
21       their house plenty of times, listening to the radio,  
22       Christmas for dinner. She knew who Dara Coleman was. But  
23       she didn't want people to talk to people and verify  
24       whether this is true. When she thought about it, had a  
25       chance to think about it, between July of 2015 and



1 September 2015, she sought to clean it up.

2 So in September 2015, she forgets details in the  
3 first go around. She's also now met Stacey for the first  
4 time. And in pretrial she said to go over the facts to  
5 make sure they're clear and you can prove your elements  
6 and that the judge understands. But it also has a  
7 tendency to cement the story now that it's been told  
8 several times, right. And the story that gets cemented,  
9 it's obvious that it's false. And she does actually know  
10 Joshes' family, but didn't know Lauren back then.

11 I can't say why she said she didn't know Joshes'  
12 mother, but it seems pretty obvious that's false. So if  
13 the State wants you to believe that what Morgan said in  
14 2015 was actually true and because of guilt or changes in  
15 circumstances that she is lying now, then it's pretty  
16 important for the State to be able to point out how those  
17 first voluntary statements and preliminary hearing  
18 testimony are in fact true and provable. And they are  
19 not. They don't mesh with any of the facts. It doesn't  
20 include how she was angry at Josh, for various reasons, or  
21 I was texting about Briza Perez, or I was smoking  
22 marijuana. Those are immaterial that the State wants you  
23 to rely on.

24 Morgan said she first started having regrets when she  
25 testified at preliminary hearing and she saw Joshua in

1 custody. Bear in mind she's now 16. It's her  
2 responsibility that he's in custody. If anybody can guess  
3 what her emotional state is, but she told you she became  
4 depressed afterwards. And that her substance abuse got  
5 worse. The period in which she said was her longest  
6 period of sobriety was the year from December 2014, Mt.  
7 Charleston, around to sometime in 2015. Now that doesn't  
8 comport with what her social media is saying. I think  
9 Oxycontin was one of those. Maybe that's the longest  
10 period where she had stretches of sobriety.

11 She said she was depressed, because she saw what this  
12 had done to Josh. Think about the position that puts her  
13 in. If she now comes out and says, hey, I lied, and I  
14 cultivated this stuff and really emphasized impact, what  
15 happens to me. And she can't discuss that with anybody.  
16 You can't get Stacey's opinion on that. That might be  
17 dangerous. It's perjury. State's money has been spent.  
18 People are in custody. What do kids do when things get  
19 out of control. Those of you with kids, anything like  
20 people I know with kids, know sometimes they burrow down.  
21 They pretend it's not an issue. That it will go away.  
22 That somehow somebody will figure this out on their own.  
23 They didn't.

24 Morgan continues her downward slide. She discovers  
25 heroin. She starts living on the streets with her dad.

1 She goes to Minnesota. We don't have any direct testimony  
2 about what life was like in Minnesota. I can't comment on  
3 it. But she comes back from Minnesota, where she had been  
4 living with an older cousin by the name of Ashley Krueger.  
5 She comes back from Minnesota and by her testimony she  
6 then went to Monta Vista, for drug treatment regarding  
7 heroine. Then she decided she's not going to live with  
8 her mother anymore. She went to school for a little while,  
9 until she stopped. Then she ran away from home. I'm not  
10 sure if that's a depiction, given she was 17 years of age  
11 and 11 months -- 10 months. But a missing person's report  
12 was filed by her mother. And her mother has not seen her  
13 since.

14 During development of this case she has less and less  
15 contact with her family. At least her nuclear family.  
16 She's in other states. She's certainly having no contact  
17 with Josh. He's incarcerated and would have no way of  
18 speaking with her. And if she knows who his attorney was  
19 at all, that has since changed. There's no reason Morgan  
20 would know who me or Ms. McNeill are.

21 What she's does have is contact with the State's  
22 attorney, Stacey Kollins. Stacey prosecutes these types of  
23 cases and probably has a lot of experience with youthful  
24 victims. Establishes contact with her by requesting her  
25 as a friend on Facebook. Morgan accepts. She

1       intermittently has communications with her by instant  
2       messages. She updates her as to the scheduling of the  
3       prosecution and whether she is going to have to appear and  
4       the court dates.

5               As trial dates draw closer, there's a need to do  
6       pretrial, to go over testimony, make sure we know where  
7       the lay of the land is. And pursuant to that she's at  
8       varying times contacted by Stacey or by an investigator  
9       from the DA's office. And during those contacts she  
10      learns that Stacey's good for lunch, when they meet.  
11      Stacey is willing to work on weekends or outside of  
12      business hours. Stacey is willing to put her up in a  
13      hotel, which has got be valuable to a person who is  
14      outside literally in the cold.

15             That Stacey is willing to give her a ride where she  
16      needs to go in order to do that. And that Stacey is  
17      willing to make something happen in the area of drug  
18      treatment, if she willing to accept it.

19             These don't make Stacey a bad person. To be fair,  
20      someone should be doing that for her. The problem is that  
21      Stacey Kollins is an attorney in the prosecution case.  
22      She's not an objective or unbiased party.

23             Morgan told you, better put, she admitted to you that  
24      she had never actually told Stacey these claims made  
25      against Josh were lies. She just said to in investigator,

1 I don't want to do this. She says she said it more than  
2 once. She admits she did not say these allegations  
3 themselves were false.

4 You know from investigator Tobbi Capron that both  
5 sides are preparing for trial, trying to learn as much  
6 information as they can. You know that she had been in  
7 Minnesota with Ashley Krueger. You know that the defense  
8 contacted Ashley Krueger and obtained information that  
9 made the defense want to speak with Morgan Savage. Having  
10 not been able to find Morgan Savage out in the streets,  
11 but having located her father, her father's car and some  
12 of her contacts, did not receive a call back or any sort  
13 of contact from the information we left.

14 Next thing that Morgan learns is that in addition to  
15 being good for Facebook friendship, food, hotel, drug  
16 treatment or travel, Stacey also good for a jail stay.

17 MS. KOLLINS: Objection, your Honor.

18 THE COURT: Sustained.

19 MS. MACARTHUR: Go ahead. Mr. MacArthur.

20 So I don't run afoul of the objection, a  
21 material witness warrant was submitted for the court's  
22 review. After having evaluated it on its terms where  
23 there is a proposition that there may be reason to believe  
24 that Morgan is not going to come to court and she is an  
25 essential witness, we ask that the court issue a material

1 witness warrant. Judge Delaney did. It's not directly  
2 the State who put her in custody. It is merely the State  
3 who asked and the judge granted it.

4 We know that Morgan was arrested on Monday, November  
5 27th, about 3:00 in the afternoon. Where every single one  
6 of you was sitting somewhere in this room listening to me  
7 drone on and on.

8 The next day we did the same thing, right. That's  
9 when, according to the investigator, Tobbi Capron, the  
10 defense learned she was in custody across the street at  
11 the Clark County Detention Center. The State and defense  
12 made it abundantly clear that we tried to prepare  
13 ourselves by speaking with the witnesses and finding out  
14 what it is we expect their testimony to be. The defense  
15 has never hidden the fact that it went there, that the  
16 investigator was not available, and that there was an  
17 unrecorded conversation with Morgan Savage at the jail.  
18 The evidence shows that we were -- in the log, reflective  
19 had been there for 30 minutes.

20 Morgan's recollection is that was closer to 45  
21 minutes to an hour. Given that the State's document  
22 showing that their own investigator was only there for a  
23 half an hour and we were only there for half an hour, it  
24 maybe be that half an hour is default. The defense is not  
25 suggesting that anyone has lied about that or that there

1 is something wrong with the document It says half an  
2 hour, but that may not actually be the case. Morgan said  
3 it was 45 minutes to an hour. There's no reason to  
4 disbelieve that.

5 You heard examination and cross-examination on the  
6 notes that were taken in my own handwriting that were  
7 submitted to Morgan for review so she could determine if  
8 these were correct statements. You know she said they  
9 were correct. You know they were my words, not hers. I  
10 paraphrased the things she said and that in any event they  
11 were not direct quotes, but they go to conversations we  
12 had and things she had told me.

13 Now, you have seen both sides conduct direct and  
14 cross-examination. You know that in some instances it can  
15 take a long time. But, to the extent the State says that  
16 Morgan's testimony changed for the very first time when  
17 she met myself and Ms. McNeill is an improper jab.  
18 Morgan's testimony lasted 5 days long. And even with the  
19 worst intentions there's just no way to prepare a witness  
20 with that many contingencies in 45 minutes to an hour. As  
21 Ms. McNeill said in opening, if that was something that we  
22 could do, we would be millionaires.

23 It's altogether more enlightening that the State's  
24 position through this trial has been repeatedly that it  
25 can never be their fault. That this case didn't fall

1       apart for them because of something they did or did not  
2       do. It has to be Morgan or it has to be the defense.  
3       Ms. Rhoades asked why would we go over there at 7:30.  
4       Ladies and Gentlemen, if I need to answer that, you know  
5       exactly where we were between 9:00 and 5:00. What other  
6       opportunity would anybody from this defense team have had  
7       to meet with Morgan Savage the day after she was arrested  
8       on the second day of trial.

9               I also point out that we started opening statements.  
10       We committed ourselves to a version of facts that we  
11       couldn't possibly know were true because we hadn't talked  
12       to Morgan yet. Why did we spend so much time talking  
13       about the whistle blower and how difficult it is to tell  
14       the truth. That applies to Josh.

15               MS. KOLLINS: Your Honor, openings were given  
16       after the visit. That's not accurate.

17               THE COURT: Sustained.

18               MS. MACARTHUR: If I'm mis-remembering that, I  
19       apologize.

20               Morgan testified for 5 days. We knew she was in  
21       custody. And we knew that she was detoxing. It was  
22       always as though the State thought she might give up that  
23       recantation and it disappointed her by keeping her in  
24       custody.

25               MS. KOLLINS: Objection. There is no



1 evidence.

2 MS. MACARTHUR: I will refer to the evidence  
3 now.

4 THE COURT: Objection sustained. Your  
5 perspective is based on the evidence in the case.

6 MS. MACARTHUR: Please recall the testimony.  
7 Did the defense promise you anything Morgan. She says no.  
8 Did they tell you that she would get out of custody sooner  
9 if you denied these things about Josh. Morgan says, no.

10 And the direct goes on for another day. We saw  
11 Morgan actually detoxing. You saw her doubled over. You  
12 saw her voice go quiet. You saw her when she was perked  
13 up. You saw when she messed with her hair, engaged, and  
14 other times in which she wasn't. She still didn't change  
15 her recantation. Maybe if she got through the detox.  
16 Maybe it's the detoxing that made her recant. So the  
17 State directs her for another day.

18 Remember the times when Morgan got emotional. There  
19 weren't too many. She didn't seem to be overly phased by  
20 a lot of things. But she did get emotional when she  
21 talked about finding out how much time Josh severed in  
22 custody. And it was her actions that did that to him.

23 Remember her testifying that she might deserve to be  
24 in that spot because she had been the one that created  
25 this situation. It was clear she didn't want to be in

1 jail.

2 It's difficult to imagine what detoxing from heroine  
3 might feel like, but somehow she had the steadfast purpose  
4 of doing justice to Josh. The State wants you to believe  
5 that that wasn't real.

6 Now, individual witnesses -- the most important  
7 witness was probably not the easiest to remember or at  
8 least the most memorable. Detective Ramirez. The State  
9 showed you a whole bunch of pictures of Morgan naked and  
10 Joshes' boy biz. It's obvious you were uncomfortable. I  
11 watched that until I could cross-examine. We took one  
12 break. It was no longer any smiling or squirming in the  
13 room. That was heavy evidence. It wasn't until I had a  
14 chance to examine him that Detective Ramirez tells you,  
15 there were no naked pictures of Morgan on Joshes'  
16 computer. There were no naked pictures of Josh on  
17 Morgan's computer or cell phones. And that it appears as  
18 though some of this stuff had been deleted from both  
19 sides. The State emphasized that Josh also deleted text  
20 messages and that somehow that was inculpatory. Let's  
21 talk about why Morgan wanted to do that at all if she's  
22 reporting something that actually happened to her.

23 Stepping back from that what, the most troubling  
24 about Detective Ramirez's testimony is that the State  
25 didn't tell you that in opening. Think about that for a

1 minute. They let you think that you'd see naked pictures  
2 of this underage girl taken by that. They didn't tell you  
3 in advance, Ladies and Gentlemen, we admit that none of  
4 these pictures here where on Joshes' computers. None of  
5 these where on Morgan's. Don't worry, we are going to tie  
6 it in later and I believe you'll arrive at a verdict  
7 guilty beyond a reasonable doubt. They said letting me be  
8 offended or insulted and wondering if defense was going to  
9 be able to go through the technical data and make that  
10 clear for you. I have to assume since they said there was  
11 lots of data recovered from the computer and smart devices  
12 that some of you would want the real stuff.

13 Things were going back and forth with Morgan for 5  
14 days before we finally did our cross. We finally get to  
15 Ramirez and now we don't have to speculate anymore about  
16 whether something happened or not. If there's something  
17 on here that shows them together naked having sex or one  
18 persons junk is on another persons' computer, it's a  
19 shorted day at the office.

20 Dr. John Pacult, certainly everybody noticed that in  
21 his testimony it became clear that Stacey had informed him  
22 of the State's version of the facts and didn't present him  
23 with any information that developed since then, other than  
24 the fact that Morgan said I felt manipulated by Stacey.  
25 How these things brought me to these places, he knew about

1       that. When Monique asked him about it, he said, yeah, I  
2       knew that question was coming.

3               Loaded questions. Is that grooming when the State  
4       does it. No, no it's different when the state does it.  
5       There's no reason to think Dr. Pacult was a liar. There's  
6       no reason to call the man names. But at the same time he  
7       is only as good as the information he gets. Why would the  
8       State not update the expert with the developments as they  
9       came out in trial to see if he might be able to shed some  
10      light on those.

11             Why pick Dr. Pacult himself anyway. Just because the  
12      man isn't dishonest doesn't mean that the man doesn't know  
13      which side of the bread his butter is on. He highlights  
14      on one page that his first endorsement is district  
15      attorney Steve Wolfson -- graced us with his presence a  
16      few minutes about an hour ago. And if you click on that  
17      you get an honorable endorsement from the man himself. He  
18      lists the DA's office as some of his professional  
19      references in his CV. Certainly he testified to that he  
20      also performs work for the defense. That may be true as  
21      far as I know. He apparently cares about the DA's office  
22      if he makes campaign contributions.

23             MS. KOLLINS: Objection. That contribution was  
24      not to the direct attorney. He's misstating the evidence.  
25      It's to Judge Jackie Glass.

1 THE COURT: Sustained.

2 MR. MACARTHUR: The State is correct. It's to  
3 the current district attorney's wife and former judge,  
4 Jackie Glass.

5 My point is this. That in a case that is so  
6 precarious with evidence that seems to be shifting around,  
7 why rely on John Pacult in particular. Because they can  
8 give him the information they need to get a good response  
9 from him and not have to worry about him trying to take  
10 into account additional information that we know is true.  
11 Again, the State can rescue that on  
12 cross-examination. That's not right.

13 John Pacult knew nothing of Franco Orduno and about  
14 the school transfer. That would have been important  
15 because what he was operating on is this girl had never  
16 had sex before meeting Josh. He manipulated her. And  
17 that he governed who her friends were, her contacts, what  
18 she did, where she went to school. He said her switching  
19 to Bonanza was a big red flag, right. But it's not a big  
20 red flag if you know anything about Franco Orduno. And  
21 the State does know about Franco Orduno. How do you know.  
22 Because they red you the witness list and told you they  
23 were calling Franco Orduno. In fact, they actually called  
24 Franco Orduno, and we went on a break.

25 At some point in the middle of trial they felt like

1 the trial stopped being about whether or not Josh was  
2 guilty of a crime and instead defending the officers of  
3 the Clark County Police Department and district attorney's  
4 office.

5 Luann Sacchetti, supervisor I mentioned earlier, it's  
6 funny how being in retirement makes you not give a damn  
7 anymore. About choosing your words the right way. She  
8 told you what Marsh told her. And if they are going to  
9 say any part of that is dishonest, I want you to remember  
10 that 14 days of this 15 day trial were their witnesses.  
11 Luann Sacchetti was not called by us. She was called by  
12 the State. She is the one that poked a hole in Marsh'  
13 boat.

14 Zafiridis, remembers nothing about anything.

15 Franco Orduno, when the State called him as a  
16 witness, one juror in particular was like, hell, yeah.  
17 I'm paraphrasing. Because we know why that witness was  
18 important We know that he had had a sexual relationship  
19 with Morgan. We knew that they had gone to school  
20 together. We knew there was allegations from Morgan that  
21 he had taken naked photos of her and distributed them to  
22 the football team. We know from testimony --

23 MS. KOLLINS: Objection. Misstates the  
24 evidence. She never testified that he took pictures of  
25 her.

1 MS. MACARTHUR: That's correct.

2 THE COURT: That's sustained. You may  
3 proceed.

4 MR. MACARTHUR: Stacey is correct. It's not  
5 alleged he took the photos. He obtained naked photos of  
6 Morgan and distributed them to other members of the  
7 football team. From other testimony you know that's  
8 called use of minor in production of pornography or  
9 possession of child porn.

10 He also, when he was 17 years of age, was in a sexual  
11 relationship with a 14 year old. Through the presentation  
12 of other witnesses you know that's sexual assault of a  
13 minor under 16. So this individual must be pretty  
14 valuable for his testimony if the State is willing to walk  
15 that gauntlet to have him testify. Except he didn't.  
16 They even went so far as calling him and he didn't.

17 IS there anybody in here that thinks if he's willing  
18 to testify and the State thought that it was going to help  
19 their case, that they weren't going to put him on in front  
20 of you. Anybody.

21 What you can take from that is that for reasons  
22 unknown the importance of convicting Josh of a speculative  
23 crime, at best, made it okay to use a person on who  
24 admitted to the same crime to prosecute him.

25 Sergeant Marsh, he was IAB, and he was the one who

1 had a turn with supervisor Saccchetti. Apparently he's  
2 moved on from IAB. He's now a detective sergeant to  
3 traffic. Maybe it was his turn to be in traffic.

4 Lieutenant Hughes, his supervisor, unfortunately was  
5 not here to testify. Nor is she any longer employed by  
6 Metro. Appears that Sergeant Marsh couldn't give us any  
7 insight as to why that may have been. I guess we are  
8 stuck with the knowledge of their participation that is  
9 described in e-mails that have been entered into discovery  
10 with dates and establishes thereto.

11 You'll recall testimony of Investigator Capron that  
12 she was dropped served at the property listed as her  
13 residence in Clark County recorder's office. That her  
14 home was occupied. Apparently had 3 to 5 dogs, but that  
15 no one came to the door.

16 Humberto Zerate, he was only up for a few minutes,  
17 but know that he did some of the same training as Josh.  
18 He's gone on to be a police officer. He has been for two  
19 year. But for some reason that man seemed nervous and/or  
20 afraid. And that's not speculative, because he told you  
21 why. Kristina Rhoades told him that obstruction was a  
22 crime. He knew that, right. He felt like that was  
23 threatening. He said as an officer he has to come in on a  
24 subpoena regardless of who subpoenas him and tell the  
25 truth. He had nothing to hide. He was not here for one



1 side or the other. He had interned with Josh. He made  
2 contact with him, but had lessened that, because Josh was  
3 under scrutiny and being charged with a crime. He  
4 doesn't keep them from being friends, but it keep them  
5 from being able to be close friends.

6 On the way out, have fun testifying for the defense,  
7 from Kristina Rhoades. Why is that necessary. I'm not  
8 going to say barbs aren't shared. You've seen things can  
9 get edgy. But why does an unbiased representative of the  
10 State who is here to seek justice make that kind of  
11 parting remark to an officer. Is there any reason the  
12 State should be so vested in it's view of events that it  
13 ignores other known facts. Or makes witnesses feel  
14 uncomfortable in coming in to tell their truth. Was his  
15 testimony all that helpful to the defense. Did he provide  
16 an alibi that Josh was in France for 2015. No. He  
17 literally said, I met Morgan Savage one time. Me and my  
18 girlfriend had dinner with the two of them at Golden  
19 Coral, then went to see lights at the Speedway. We had a  
20 good time. Was it a date. No. Did you see them touching  
21 each other inappropriately. No. Hand holding. No.  
22 Kissing. No. Was it that damaging. Was it something he  
23 had to be threatened for, or if not explicitly threatened,  
24 made to feel threatened because he shared that.

25 Isn't it appropriate that he be called to share that,

1 given that the State characterized that exact same  
2 incident when Morgan described it in her voluntary  
3 statement as a date. The State argued that and introduced  
4 it. Would it not make sense that somebody else who was  
5 there come in and tell you know that wasn't a double date.  
6 It wasn't like that. And should he have to be afraid that  
7 something might happen to him at his job, because he was  
8 willing say so.

9 I said before and I probably will say it again before  
10 we're done, if you are wondering what whistle blowing  
11 cases look like, you are seeing it. It does not come to  
12 be that people reveal themselves. They tell you that this  
13 is hocus pokus. It's smoke. It's mirrors to keep you  
14 from paying attention to the fact Defendant is guilty of  
15 these crimes. If the system were perfect, we wouldn't be  
16 here. But we can't make these decisions. You do. It's  
17 what you think that matters.

18 This has taken 3 weeks of your lives, but it's taken  
19 2-and-a-half of Joshes'. It has taken at least 2 weeks of  
20 Morgan's. Time that none of us are going to get back.  
21 Morgan denied at trial that she had ever had sex with  
22 Josh. That makes every sex related offence alleged by the  
23 State false, if you believed her. The evidence shows that  
24 to the extent they had kissing contact that Kristina  
25 described as lewdness. The information alleged this

1       happened when she was 14. That's what makes it a crime.  
2       Well, technically speaking, lewdness and lascivious acts  
3       also have their own definition. But lewdness and  
4       lasciviousness, if you believe that definition, will  
5       inform you that overtly, also sexual. There's nothing  
6       overtly sexual about the kissing you saw.

7               But you don't have to agree. Maybe some of you would  
8       look and say I do feel that is overt. It's a crime if  
9       that happens with a girl, child of 14. Look at how she's  
10      dressed. Remember that she has her braces from the time  
11      Josh meets her, 6th grade, 2011 till some time in 2015  
12      when they come off. She had braces.

13              MS. KOLLINS: Your Honor, I'd object. That is  
14      not the testimony.

15              MS. MACARTHUR: I would ask you to rely on your  
16      own recollection.

17              THE COURT: I believe the objection is  
18      appropriate. Proceed.

19              MS. MACARTHUR: You don't have to guess. You  
20      don't have to take pam Savage's best estimate. Look at  
21      the clothes she's wearing. Look at the length of her hair  
22      and color. Look at the car or vehicle that they are in.  
23      Knowing that the blue Ford F-150 was purchased May 2014,  
24      and that for it to be winter time at Mt. Charleston, that  
25      it would be later in May 2014, December 2014. Just like

1 the defense directed. You'll see that all of the  
2 testimony says that that is when the argument starts and  
3 the mutual recrimination and text in an attempt to get  
4 Morgan's mom to intercede. This is your friend. Can we  
5 talk, December 2014. Not when she was 11. Not when she  
6 was 12, 13, 14. The first time they did anything that did  
7 not include sex was when she was 15 years of age in  
8 December 2014. And Josh did the right thing. He stopped  
9 it there. He said we got to make it another 6 months.  
10 Maybe we can see other people. Maybe we can see each  
11 other and hold out. Use your common sense.

12 Understand how individual relationships work. The  
13 question becomes does the evidence in this case show that  
14 Josh did things the right way. That he encouraged Morgan  
15 to stay away from drugs. He stayed away from drugs. That  
16 he encouraged her to do her school work. She benefited  
17 from that. That his family wrapped their arms around her.  
18 And she benefited from that. Gave her relief from things  
19 that weren't perfect at her own home. Did enough good for  
20 her to where her own guilt and immunity from the State  
21 against fear from prosecution or perjury after she  
22 expressed a concern, I said things that weren't true and  
23 without nothing what those things were, the State gives  
24 you immunity and bam.

25 MS. KOLLINS: I'm going to object as to what the

1 State --

2 THE COURT: It's speculative and argumentative.  
3 Sustained.

4 MS. MACARTHUR: Understood, Judge.

5 There is no dispute on Wednesday, the 29th of  
6 November was the first time that you saw Morgan without  
7 the fear that she might be prosecuted for what she had  
8 done before. And that's when she gave you it all, all of  
9 it.

10 In her own way Morgan was a whistle blower. She  
11 doesn't really want to get too much on her mom, and she  
12 seemed to go a little to changing the facts. She didn't  
13 want to tell you exactly what the argument was and when it  
14 happened. Why it was so severe. It was obvious though,  
15 it had to be a pretty bad argument in order to warrant  
16 that kind of response. And during cross she slowly gave  
17 us that, right. She didn't always agree with me. She was  
18 like, what you do you mean, right. I had to ask her in  
19 more than one way, which the State characterized as me  
20 telling her what she's supposed to say. She's getting  
21 pretty smart to do that for a whole day. She eventually  
22 revealed to me what she did want me to know. That she had  
23 kissed Josh. She did want to have a relationship with  
24 Josh. And they did talk about it because they did want to  
25 have sex with each other.

1 MS. KOLLINS: I'm going to object She never  
2 said on the stand she kissed Josh She said exactly the  
3 opposite.

4 THE COURT: Obviously, Mr. MacArthur, this is  
5 closing argument. You are allowed to make argument from  
6 the evidence and how to apply it to the law. Your  
7 impression of things and extrapolations to things is  
8 improper. I'll sustain that objection in that regard.

9 MS. MACARTHUR: Yes, ma'am.

10 If Morgan's motivation is to fix the problem  
11 she's created, which she can now do freely because she is  
12 not getting prosecuted for lying under oath in 2015, is it  
13 understandable that she might want to paint him as  
14 completely blameless. She's 18. But nobody in here is,  
15 and it doesn't solve one problem to create another. Her  
16 credibility was essential to your understanding of this  
17 case. And if the defense or anyone else had let her  
18 believe that by saying, oh, nothing ever happened that  
19 that would fly, then she would have been exposed as a liar  
20 by those exact same photos that everybody else knew about,  
21 Mt. Charleston, et al. Then she would be completely  
22 disbelieved, which doesn't do Josh my damn good. So of  
23 course she had to be questioned about that. She didn't  
24 want to go there, but eventually she did.

25 Josh didn't do anything illegal. And you hold onto

1       that presumption, until the State proves beyond a  
2       reasonable doubt that he did. Changing your mind.  
3       Switching you over from the presumption that he's an  
4       innocent man to the fact that he is guilty of a crime.  
5       You were never neutral finders of fact. You thought you  
6       were, until you learned how the system is designed. You  
7       marry yourself and you take a vested interest in making  
8       sure you get the right outcome. Will you do that,  
9       presuming in that innocence, until it's taken away from  
10      you.

11               MS. KOLLINS: I'm going to object. May we  
12      approach.

13               (Discussion held at the bench.)

14               THE COURT: Objection sustained. Proceed, Mr.  
15      MacArthur.

16               MS. MACARTHUR: Almost done.

17               In closing, that takes a lot of strength to do  
18      things the right way. We would always like to believe  
19      when the time came to do it that we would step up. Even  
20      if it's not easy.

21               Josh did it the right way. When the choice came  
22      as to whether or not to do something he wanted to do a lot,  
23      that Morgan wanted to do a lot -- they didn't -- it caused  
24      difficulties and ultimately it wasn't enough to keep the  
25      collision of what was going on at Metro and what was going

1 on with Morgan from running into each other. But he still  
2 did the right way.

3 His reward for doing it the right way cost him his  
4 career. You didn't have to have explicit testimony from  
5 his friends, his family as what kind of person he was. It  
6 was helpful. But you could see it in what he did. You  
7 knew how hard he worked. You knew what he did to get  
8 there. You knew how he portrayed things.

9 MS. KOLLINS: Same objection.

10 MS. MACARTHUR: There is not a problem here.

11 THE COURT: Overruled.

12 MS. MACARTHUR: You knew he worked a job, in the  
13 small snippet you were able to see of it, properly. He  
14 wasn't there to hurt anybody. He wasn't there to  
15 manipulate anybody. He called it the way they told him to  
16 call it. He paid the price for that. That coincidence  
17 gave the allegations against him by Morgan that should  
18 have been pretty easily disputed by anybody with a  
19 skeptical mind, she gave them the legs that put us where  
20 we are today.

21 I have talked for way to damn long. I know you guys  
22 saw what I saw. Set Josh free.

23 THE COURT: Ms. Kollins.

24 MS. KOLLINS: I'm going to need a break.

25 THE COURT: We can take a 10 minute recess for



1 the State to make their closing.

2 JURY ADMONITION

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

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

15 See you in 10 minutes.

16 (Brief recess taken.)

17 THE COURT: Resuming in State vs. Honea. Our  
18 jurors and counsel and Mr. Honea are present.

19 We'll give the State their opportunity to finish  
20 closing argument.

21 Ms. Kollins, I'll invite you to make your closing  
22 argument.

23 MS. KOLLINS: Thank you, your Honor.

24 CLOSING STATEMENT

25 BY MS. KOLLINS:

1           Good afternoon, Ladies and Gentlemen. Again, on  
2           behalf of Clark County District Attorney's Office, myself  
3           and chief deputy district attorney, Kristina Rhoades,  
4           Special Victim's Unit, we know this has been a long  
5           process and not the time frame you counted on.

6           I can let you know from the State's perspective  
7           we didn't count on this time frame either. Our  
8           expectation was Morgan Savage would come in here and give  
9           direct testimony much as she did in the past, and her  
10          testimony would not have lasted the time it did. And I  
11          feel compelled to explain to you why it lasted the time  
12          period it did.

13          Because it is critical in cases like these to put  
14          both of those statements in their entirety on the record.  
15          Because both of those statements were admitted  
16          substantively. I was not going to hand you transcripts  
17          and have you go through those and muddle through what she  
18          had said. So that's why it took so long. Obviously, by  
19          Morgan's demeanor she was not going to give me anything by  
20          the time she got in here.

21          You know, the State welcomes jealous advocacy that  
22          insures everyone's rights are protected. Ms. McNeill and  
23          Mr. MacArthur have done a great job on behalf of their  
24          client. It's probably the only point throughout this  
25          trial that Mr. MacArthur and I will agree on is that a

1 trial is a path to the truth. That is what your job is to  
2 figure out what the truth is. That's all. Trials are a  
3 search for the truth and the defense in this case has been  
4 a multifaceted attack on what the truth is.

5 She lied about him back in the preliminary and the  
6 voluntary statement, because she was sexually mature. She  
7 had boyfriends. She did drugs. She was a manipulating  
8 genius back then. Because that's what it got to be.  
9 She's a bad kid. She's a really bad kid. That's part of  
10 their defense.

11 There is a Metro conspiracy, and there is also  
12 district attorney office coercion.

13 I'm going stop on that last point before we get to  
14 rest. I have been employed with this office for almost 20  
15 years. We don't risk or jobs to manipulate kids. We  
16 don't do that There is no reward at the end of the Josh  
17 Honea verdict for me. So the fact that I take efforts to  
18 secure a witness living on the street, maybe put her  
19 somewhere where I can find her. Grab her a Jack in The  
20 Box burger. That's not coercion. That's not manipulation  
21 by my office.

22 Quite frankly, I don't think I have sat in a trial  
23 where my personal conduct has been disparaged to the point  
24 it's been here, but that's not what this trial is about.

25 MS. MCNEILL: Your Honor, this is not rebuttal

1 to our closing.

2 THE COURT: There is no requirement that the  
3 State's closing only be in rebuttal to your closing. The  
4 State has an opportunity to open and close the arguments  
5 in anyway they see fit, according to Nevada case law.

6 You may proceed.

7 MS. KOLLINS: I think I told you at the  
8 beginning the truth in this case is this was anything  
9 about a brother/sister relationship here. And I know you  
10 have heard that phraseology a million times. We've been  
11 in here for 3 weeks. But the burden is ours, and I would  
12 like to refocus you on the truth of what happened is this  
13 case.

14 That's the truth. Those kissing pictures, those are  
15 the truth. Mr. MacArthur says we relied on those because  
16 that's all we have. He's right. They had sex in secret.  
17 They didn't take any video tapes of themselves having sex.  
18 We know Morgan's consistent statement through the  
19 voluntary, through the prelim, that's the selfie. That's  
20 the couple. That's the romantic relationship. That's  
21 what this was. This is not innocent conduct waiting for  
22 the relationship to start. This is in the thick of it.

23 Merry Christmas, Baby. You know, Joshua Honea, he's  
24 a good kid. There are things about Joshua Honea that are  
25 positive and don't think I'm going to stand up here and

1 degrade every character trait he has because I won't. He  
2 did do well in school. He was a Metro Explorer. He was  
3 even a positive influence on Morgan up until he started  
4 having sex with her. Bad guys hide in plain sight all the  
5 time. It happens in these cases all the time.

6 Coaches --

7 MR. MACARTHUR: Facts not in evidence.

8 MS. KOLLINS: It's argument, your Honor.

9 THE COURT: It is argument. Overruled.

10 MS. KOLLINS: Yes, he's a brother. He's a son.  
11 He's all those things That does not mean he can't be a  
12 sex offender.

13 Sex offenders have lives. The do positive things.  
14 That's how they gain access. I'm not up here to tell you  
15 everything ge's done in his whole life is wrong, or bad,  
16 or illegal. Having sex with Morgan Savage at 12 is  
17 illegal. But I'm not here to character bash everything  
18 else he's ever done, unlike the character bashing you  
19 heard about Morgan for the last 2-and-a-half hours.

20 Let's talk about the conspiracy theory, I guess, you  
21 call it. I apologize. Really thirsty and really hungry.

22 Let's start with Zafiridis. He's the catalyst. He's in  
23 the middle. He goes to Sergeant Clark. What does he have  
24 to count on. He has to count on Clark, that's Clarks  
25 going to go further. What clark also bases his decision

1 on is the way Joshua Honea acts in that interview  
2 Remember what Sergeant Clark said. Well, I asked if he  
3 was F'ing her. He gets all squirrely. He looked away.  
4 Part of what causes Sergeant Clark to go forward was not  
5 only what Wirey and Zafiridis told him, but the demeanor of  
6 the Defendant when he's confronted with the knowledge that  
7 people knew about Morgan.

8 So Wirey had to know what Clark was going to do. And  
9 he had know how the Defendant was going react That  
10 doesn't make any sense. It truly doesn't.

11 And, the first time we heard it today when we heard  
12 Mr. MacArthur's argument. There is no evidence of that  
13 Officer Wirey was also in on this with Zafiridis. Is there  
14 any evidence in this case that there was some plot by  
15 Wirey and Zafiridis. His wife isn't out on that call that  
16 is supposedly the reason for the vendetta. She's not even  
17 there.

18 He has to know, Zafiridis, what action Clark is going  
19 to take. He has to know that Clark is going to call IAB.  
20 How does he know that. How does he know what direction  
21 Clark is going to take. He doesn't. He has to predict  
22 how far his plan is going to go.

23 I submit to you, Ladies and Gentlemen, this is a  
24 conspirital red herring. This has nothing to do with  
25 Joshua Honea. I'm going to explain it, because we have

1       been and I knew we are going to talk about it today for a  
2       protracted period of time. So I prepared this last night.  
3       You don't do that. It's rebuttal. You don't know what  
4       they're going to talk about. My assumption was we're  
5       going to hear about the grand Metro conspiracy.

6               Now, also to get Zafiris in -- I guess to be able to  
7       foresee everything, you get enough evidence to get this to  
8       the district attorney's office to get this case approved  
9       and all of this happened. Or get enough from internal  
10      affairs to get a recommendation to get rid of Josh. You  
11      get all of this in advance for this to work.

12             The Defendant separated. Zach Marsh has to close his  
13      investigation. I know the argument we just listened to  
14      that Zach was on the conspiracy wagon. Zach Marsh has  
15      never met Joshua Honea. He's never met him. He doesn't  
16      know who he is. He's assigned to file. He talks to Pam  
17      Savage. He gives out his card. Morgan contacts him.  
18      Zach Marsh doesn't know Joshua. He has no reason to  
19      frame, to manipulate, to cause any investigation into  
20      Joshua Honea.

21             That's really sexy TV stuff. That's just not  
22      reality. These multi-decade of detectives, sergeants,  
23      they are not going to come in here and risk their career  
24      for a part-time gang kid who is not even in the Academy  
25      yet, who is a volunteer patrol service representative.

1       That's not reality. It's a sexy TV conspiracy, but that's  
2       not the way it works.

3               Zafiridis also has to know that he can orchestrate the  
4       assistance and continued cooperation of Detective Igor  
5       Dicaro, his lieutenant at the time, Dan McGrath. He has  
6       to know that all of these people are going to be on board  
7       All of them. He has no way of knowing that. That is the  
8       stuff that grassy knoll are made of. It's not reality. It  
9       has nothing to do with whether Josh had sex with Morgan  
10      Savage. Nice distraction.

11              Zafiridis would have to know that eventually Morgan  
12      would get on board. So if you remember Morgan initially  
13      makes no disclosure to SA, and we don't hear about that.  
14      Like how does that help the conspiracy when there's no  
15      disclosure from Morgan. Then now what's Zafiridis to do.  
16      Now Zafiridis' allegation is someone got to Karen Hughes. I  
17      guess Zafiridis' wife, who directed Marsh to finish his  
18      investigation. That's not right on the time line. Marsh  
19      opened the case day before Josh was interviewed. So the  
20      time line doesn't make sense. There is no perpetual  
21      conspiracy.

22              Also, to make this whole thing play out, you've got  
23      to have Morgan and Zafiridis the same train track. And  
24      that's not happening time line shows it doesn't work.

25              So, finally on this point, because I know you have



1       been here a long time. Either you buy the conspiracy or  
2       you don't, but here's the point to think about. I submit  
3       to you the conspiracy and credibility of Zafiridis is so  
4       hell bent on framing this kid here, why doesn't he come  
5       out and say he admitted to me he and Morgan were having  
6       sex. Why doesn't we come right out and say I caught them  
7       in a situation in An Explorer meeting where they were  
8       making out or playing touchy-feely in the car. If he's  
9       that hell bent, isn't that quicker way to do it. Instead  
10      of counting on all of these hoops you've got to get  
11      through to get to here. Why doesn't he say that in one of  
12      his counseling sessions, one of his many counseling  
13      sessions with Joshua that Joshua admitted it to him.  
14      Wouldn't that be an easier way to get the ball rolling.  
15      If you were going you set up a meeting with supervisor and  
16      apparently Officer Wirey is in on it with you and you wait  
17      for Clark to extract that info and hope that the Defendant  
18      acts the right way during the meeting that makes the  
19      sergeant suspicious that gets the ball rolling. Wouldn't  
20      it have been easier if you are going to lie because you  
21      were in so much trouble on some car stop you would do  
22      that. That makes more sense. That did not happen.

23           March 22nd car stop, there is no, zero, zero,  
24      nothing, no evidence that Kevin Zafiridis was reprimanded,  
25      spoke to, did anything incorrect against policy in that

1 car stop other than the innuendo from Mr. MacArthur. If  
2 you go back and look at that CAD -- I'm not going to get  
3 it out for you -- the call sign for the person who had the  
4 gun drawn is not Kevin Zafiris. It's another call number  
5 There was another person out there.

6 Zafiris testified he was gone by the time the people  
7 were arrested. That car stop culminated in a conviction  
8 in the case by our office. There is no smoking gun there.  
9 There is nothing there. That is a look over here, ignore  
10 what you have in front of you.

11 MS. MCNEILL: Objection to disparaging the  
12 defense.

13 THE COURT: I'm going to overrule only because  
14 the tenor of closing is clear on both sides. Let's get  
15 finished. Overruled.

16 MS. KOLLINS: The argument just now about the  
17 guns on the scene, there is no evidence there was a gun on  
18 the scene. The call out was burner. Somebody put 413 in  
19 the CAD. When he ultimately caught up with the woman, the  
20 burner was a burner pipe, like a meth pipe. There is no  
21 gun.

22 There is no evidence of guns or dope were released to  
23 anyone inappropriately. You don't have anything in front  
24 of you for that, except for innuendo. You don't have any  
25 direct evidence of any of that.

1           Again, Zafiriris was gone. There's no information in  
2           the CAD that says he was the one with the gun. There's no  
3           evidence guns or drugs were released. He did compliment  
4           Mr. Honea, that it was a great stop because he, Mr. Honea,  
5           calling radio traffic and ran the plate and officers  
6           caught up and did what they did. He was in trouble for  
7           having suspect contact, which he knew he wasn't supposed  
8           to have. He wasn't a police officer, yet. He's a  
9           volunteer. He is not commissioned That's the only  
10          disagreement and that's what the text message was about.  
11          There is nothing more deeply nefarious about any of that.  
12          It is what it is on the surface. Don't speculate about  
13          innuendo.

14               These officers, particularly Wirey and Zafiriris really  
15          come to you in this trial with a demeanor that seemed like  
16          they had it out for Josh Honea. If they really had it out  
17          for him, it would be like he did this, this, this, this  
18          and said this. It was like, it wasn't like that. I don't  
19          remember. I'm not sure. Didn't it sound more like they  
20          were trying to protect him then inculcate him.

21               I submit the evidence, as it comes together, should  
22          tell you that in his own statement Josh Honea admits to  
23          being counseled many times by these young officers. And  
24          they did feel protective over him. They came in here and  
25          they were still a little protective of him. They weren't

1 giving huge pieces of information on Josh.

2 After Josh is spoken to and in that counseling  
3 sessions he's contacted by a sexual assault detective, he  
4 knows that it's time to figure out what he's going to say  
5 if this hits the fan. I submit to you the evidence shows  
6 that too. What does he do. He starts to build his  
7 defense. Josh is a smart kid. He was able to keep this  
8 information about this relationship with Morgan, the  
9 nature of it, from Pam Savage, from his family, Explorer  
10 advisors. He's a smart kid. So what does he do. He  
11 starts building a defense.

12 These come from his iPad. Any messages he has from  
13 Morgan that he believes in his head makes his position  
14 defensible, or they are slight of character on Morgan, he  
15 saves them. Otherwise there is no reason to really have  
16 them in there. He's not saving the positive lovey-dovey  
17 things, waiting to date her, saving all the stuff that  
18 makes Morgan look bad.

19 He's saving the Zanex. Why does he have that on his  
20 iPad. He's building a defense. He's a smart kid. I'll  
21 never stand here and tell you he's not a smart kid. He is  
22 educated. He comes from a nice family. But he's building  
23 a case because he knows it's about to hit the fan and he  
24 better have something to put out there to show what a bad  
25 kid Morgan is.

1           What does he do. He goes fishing on OK Cupid. Now  
2 if he is truly, truly concerned about Morgan's welfare at  
3 this time and what she's doing, wouldn't it be more  
4 consistent that he would write that note and delete that  
5 screen shot because he wouldn't want anyone to know. Of  
6 course, it is. He's building his defense. He is  
7 preserving that.

8           Now it's here Now it's here. And this Zanex post  
9 was used. This, I don't remember if Mr. MacArthur used  
10 the OK Cupid one. It was used to put Morgan's character  
11 into play, as if it hadn't been trampled on enough just by  
12 virtue of who she is. This was designed and orchestrated  
13 to cast dispersions on Morgan. Same with the holding  
14 herself out on OK Cupid as Morg, hippy hop.

15           Let me stop there for a second. I want to be -- I  
16 want to make a point before I forget. Rebuttal is not  
17 quite linear like the first closing. All this bad stuff  
18 about Morgan, she's on drugs. She's been using drugs for  
19 years. She smokes pot. She's basically grown up  
20 unsupervised. She ditches school. She's in this bitch  
21 club, whatever it was called. We never heard of that  
22 before. We heard it yesterday. All those things that  
23 make Morgan a bad kid also make Morgan the perfect victim.  
24 Victims are victims for a reason. I want you to think  
25 about that. But all the efforts they've gone to is to

1 make her a bad kid.

2 Again, the Defendant continues to build his defense.  
3 Another hippy hop. This is from her Twitter account.  
4 Nothing disparaging there. Don't know why that's  
5 preserved, other than maybe the user name.

6 If they're not together at the time and there's back  
7 and forth communication about him being interested in her,  
8 wouldn't you think anything preserved would be positive  
9 and would shed Morgan in a positive light. This young  
10 woman you spent 4 years with waiting with baited breath  
11 for her to turn 16 or 18, whatever it is, to preserve  
12 anything positive about her. No, everything was negative.  
13 He's still building a defense.

14 He also -- this text message from Kevin Zafiris,  
15 again, that comes from his iPad. That doesn't come from a  
16 phone. So there was a special effort taken to move that  
17 from a telephone or from the iPad messenger and preserve  
18 it. What is the point of preserving this right here.  
19 Other than to show that there is some disagreement with  
20 Kevin Zafiris. Why would that be important unless you are  
21 building your defense.

22 Mr. Honea, you'll be able to read this back there. I  
23 apologize. You can't read it, but on May 23rd, after the  
24 separation, after his interview with Detective Dicaro and  
25 Sergeant Comiskey, Josh writes this letter. And in this

1 letter he disparages Kevin Zafiridis and he's had problems  
2 with him. And basically Kevin is trying to ruin his  
3 career. He writes this to Sheriff Joe Lombardo. Writes  
4 this to Joe Lombardo. I submit to you, one, that's pretty  
5 arrogant.

6 MS. MCNEILL: It's speculative and  
7 argumentative. Same objection.

8 THE COURT: Can I have counsel at the bench just  
9 briefly.

10 (Discussion held at the bench.)

11 THE COURT: Objection is overruled. You may  
12 proceed.

13 MS. KOLLINS: Thank you. I'm really trying to  
14 finish up. It's been a long day.

15 In any event, Joshes' interview with Detective  
16 Dicaro, if you recall he's -- that is April 1st -- he's  
17 saying what the great guy Officer Zafiridis is. He's a  
18 mentor, a great guy. He was evasive about the Morgan  
19 thing, but he's a great guy and mentor. That's not what's  
20 contained in this letter to Joe Lombardo after things  
21 don't go his way. He's building his defense.

22 Very, very telling to you. Should be the notion that  
23 Joshua is monitoring the investigation into the conduct of  
24 Morgan Savage. He's using his resources at the Las Vegas  
25 Metropolitan Police Department and that is inappropriate

1 He's not suppose to be logging on and screen-shotting what  
2 is going on with his own investigation. Again, when you  
3 look at these in the exhibit, you'll we able to read it up  
4 here. It's not that clear. That is a screen shot of what  
5 is called a P-1 note. If you look at the coordinates I  
6 believe you will see that it was taken from Las Vegas  
7 Metropolitan Police Department headquarters.

8 This is found on Defendant's IPad. What we know is  
9 his access would have stopped on May 18. So between his  
10 interview with Detective Dicaro and Sergeant Comiskey and  
11 his separation, he's monitoring the investigation. He  
12 knows he's not supposed to be doing that.

13 All the while expressing that he wants to be number  
14 one in the Academy. That he's a great officer He's a  
15 great VPSR. He's a great gang employee. But he's doing  
16 what he's not supposed to do.

17 These are screen shots. Again screens we're looking  
18 at are in an internal Metro computer. They are not  
19 accessible by the public. This is something they use  
20 internally to monitor cases that are open, closed,  
21 investigative stage. They are screens that talk who about  
22 who signed, when they're signed, and what's going on with  
23 the case. All of those are preserved to Mr. Honea's IPad.  
24 I would submit to you you don't get out there and monitor  
25 what you shouldn't be, if you're not interested in the



1 outcome of an investigation because you know you'er still  
2 in danger.

3 You have to remember at this time between the time of  
4 his interview and his separation he's talking to Morgan.  
5 Morgan hasn't disclosed yet, but they're talking. They  
6 are talking back and forth about what I said, what I  
7 didn't say. Called my mom.

8 I want you to think about what you saw in this case.  
9 Did you see a real relationship in the history of  
10 everything you saw that came out through the voluntary  
11 statement, preliminary hearing, photographs, observations  
12 by officers of them together. Even Morgan admitting they  
13 were together all the time for a period of time. Did you  
14 see a real relationship or see something that wasn't a  
15 boyfriend/girlfriend relationship, and was just brother  
16 and sister. Think about all of the evidence in total and  
17 decide.

18 They meet. She's very young. She's 11. All those  
19 things that we've heard about from Pam Savage, what a bad  
20 mom she is. I'm not here to make Pam Savage a hero. I  
21 don't think she was a good mom to Morgan. But my opinion  
22 doesn't matter. The facts are the evidence. She was left  
23 alone. She didn't have a lot of supervision. And Morgan  
24 was prime selection for a situation like this. Whether it  
25 was Mr. Honea or someone else.

1           They meet at a young age. Josh begins to control her.  
2           They are constantly together. Josh, in his first  
3           statement, says maybe once every two weeks. Then later it  
4           comes out it's 4 or 5 days a week at the beginning.  
5           Morgan let's you know at the prelim and from the voluntary  
6           statement that in the beginning they were together all the  
7           time. Pam Savage probably wasn't doing her job. But this  
8           case isn't about State of Nevada vs. Pam Savage. She  
9           didn't get prosecuted for anything she did with Morgan.  
10          This case isn't about her. I submit that she could have  
11          made better decisions. She could have had tightened the  
12          reins on her daughter, but she also trusted him.

13               That was by design. That was by Mr. Honea's design.  
14          You know what he would do to get access. Make everybody  
15          comfortable. Because if his actions showed mom that  
16          something might happen, she would have never let this kid  
17          be around him from the very beginning.

18               I want you to think about what you know about the  
19          longevity of their relationship. They break up. They  
20          have reunions. These aren't friend break-ups. I'm not  
21          talking to you because she didn't walk to school with me.  
22          These are break-ups. These are arguments. Morgan is  
23          crying. She's upset. There is phone calls. There's  
24          arguments. That's not how you argue with a brother and  
25          sister relationship. All of that is evidence of boyfriend

1 girlfriends behavior. Their behaviors are consistent with  
2 that throughout this case.

3 I asked you a lot of questions during voir dire about  
4 kids being sought out and groomed. There are also  
5 questions from the defense about what would it take for an  
6 adult to get control and management over a kid or  
7 influence a kid. I think those words are designed in part  
8 any way to what influence did I have over Morgan in  
9 orchestrating this whole prosecution and getting this all  
10 together. But truly those are important questions. What  
11 influence can an adult have over a young kid. I know the  
12 Morgan you saw here, I know you probably didn't like her.  
13 I got news for you, I didn't like her in here either.  
14 That was not enjoyable. That was not the way the State  
15 would prefer to impart evidence on a jury that is devoting  
16 your time to us. But she is a product of everything  
17 that's happened to her.

18 And when she was 11, she wasn't the girl you saw in  
19 here. When she was 12, she wasn't the girl you saw in  
20 here. The woman -- she's a woman now. When she was 13,  
21 she wasn't what you saw in here. And you know from what  
22 you heard from Mr. Pacult what it takes to get to a kid  
23 and hear him talk about a kid that's vulnerable. Grooming  
24 is preparing them for sexual contact.

25 In the first year, 6th grade, when he was still a

1 senior in high school, they didn't have sex. But you know  
2 what they had. They had the romanticizing, the phone  
3 contact, the flirting. Then it started with kissing. He  
4 was admonished for taking her out to the car, but this  
5 activity grows. And part of the explanation for why you  
6 saw Morgan as you did in here is how long this  
7 relationship went on and how she did feel. Morgan walked  
8 in here and when she saw Mr. Honea she started crying.  
9 That grooming, that control that started when she was 11  
10 and lasted until she was 15 almost 16, that control lasted  
11 until she came in here.

12 I submit to you grooming was emotional. It was  
13 romantic. It was positive. You know, the dinners, the  
14 trips, the movies, all of that. It was negative. It's  
15 going to get your mom in trouble. It has to be a secret.  
16 It's going to get me in trouble. All those things work to  
17 shape that form that dynamic. I think that was really  
18 evident in this case to you from Morgan.

19 He demands secrecy of her. He injects himself into  
20 the adults around her and makes the adults around him,  
21 even in his own family, not question his conduct. No one  
22 around him is questioning what's going on with Morgan.  
23 Because probably, in a lot of venues Josh is a good kid,  
24 and every single one, except the one, that involves his  
25 obsession with Morgan Savage.

1           Even Mr. Pacult told you these kids are the product  
2 of this for awhile. They are going to thrive on the  
3 positive. They are part of the guilt. They are not going  
4 to want to come in here and talk. I submit to you had I  
5 known, after I passed the venire for cause, we would have  
6 had protracted discussions with you as jurors about  
7 recants and how those came about and what your thoughts on  
8 those were. That wasn't something that was ever the  
9 State's intention to spring on you, okay. That was an  
10 over-night development. Otherwise, if there was some of  
11 you who had some strong feelings or thoughts that that  
12 would never happen, we would have had discussions about  
13 that.

14           John Pacult identified the things within  
15 relationships between Morgan and Mr. Honea that he thought  
16 were attributable to grooming. The age differential. The  
17 power differential. Holding himself out to be Metro. At  
18 one point she said I thought he was safe. She's a kid.  
19 He has a uniform on. She doesn't know the difference. To  
20 her that's powerful, safe.

21           Probably one of his latest efforts to control her is  
22 during that telephone call when Detective Dicaro is there  
23 Lieutenant Ray Spencer is there, and he is on the phone.  
24 He's smart, no victim, no crime. No victim, no crime that  
25 just parrots and echoes what he's telling her for years.

1 Don't say anything. Nobody knows. It worked for a  
2 minute. It worked for a minute until she got to an age  
3 she decided she had had it.

4 I want to talk to you about the believability of the  
5 recant. Over 800 days Morgan Savage has had opportunity  
6 after opportunity to reach out to this office through my  
7 investigator, through anyone in my office and say this  
8 didn't happen.

9 We've had discussions. Yes, I went and found her in  
10 an alley with the assistance of the Las Vegas Metropolitan  
11 Police Department. Never said it then. Never said it was  
12 a lie. If that had been known the decision might have  
13 been made, but, again, 7:30 at night after learning about  
14 punishment now it's a lie.

15 If you notice she did a lot up here to help that side  
16 of the room. At first she denied that punishment was ever  
17 discussed. Remember that on the stand with me. No, we  
18 didn't talk about punishment. We had to replay a hearing  
19 from the previous day where Mr. MacArthur asked her the  
20 question about -- I don't know how -- I don't know how he  
21 phrased it. He spoke about punishment, and I didn't give  
22 you a number, but that I told you that Joshua could go to  
23 prison for a long time.

24 MS. MACARTHUR: Objection, as to that having  
25 been said by anyone.

1           THE COURT: There was discussion earlier in the  
2 court that indicated there was testimony about a long  
3 time. I'll let the jurors recall whether the modifier  
4 would apply that that tracks to that discussion.

5           MS. MACARTHUR: Thank you.

6           THE COURT: Overruled.

7           MS. KOLLINS: So after disclosures to Detective  
8 Cho, you saw that interview after testifying at the  
9 prelim, then on November 29th, 2017, everything I  
10 previously said categorically is a lie, except for the  
11 things she can't deny or things that are helpful for  
12 Mr. Honea. I submit to you she's still under his control.  
13 Even though she is on her own, even though they have been  
14 separated this 11 to 15 years old, that's not only -- 21  
15 to 24, not that big a deal. Twenty-five to 29, not that  
16 big a deal. An 11 year old, preteen to teenager who's  
17 getting ready to drive, those developmental years or huge.  
18 And he was in control of her for all of them. Basically  
19 raised her and taught her what he wanted her to.

20           Is the recant believable, in light of the things you  
21 know. Do you call your sibling, baby, and put it in a  
22 Christmas collage. Do you kiss your sibling on the lips  
23 and touch her on the butt. No. No. I heart my brother.  
24 No.

25           What is reasonable. Is it reasonable to try to

1 squeeze these photographs into a couple of months and say,  
2 well, you know, this is just Josh waiting. No. There is  
3 protracted, long series of photographs of these kids  
4 together all the time. This was boyfriend, girlfriend.

5 Ms. Rhoades hit on this. Morgan had that photo album  
6 in her room with her belongings, presumably. Notably none  
7 of the kissing pictures are in that album. None of those  
8 because what if somebody found the pictures that were in  
9 there, they would get Josh in trouble. The kissing  
10 pictures, the ones that were in the computer, the ones  
11 that aren't printed out, those are the ones that get Josh  
12 in trouble. That's why they stayed on the computer.

13 If she was motivated and hell bent to get him in  
14 trouble, why didn't she just bust out the kissing pictures  
15 right out of the gate. Get them right out of the gate.  
16 Why didn't she print those out and go into Detective Cho,  
17 there you go. I'm done. That's what was going on for  
18 years and years. You know why. Because she didn't plan  
19 that story. Se didn't orchestrate or manipulate,  
20 monopolize a version of facts at 15 years old. I submit  
21 to you she wasn't that sophisticated. If she was she  
22 would have grabbed the best evidence and plopped it down.  
23 She wasn't. She's just a kid answering questions about  
24 the truth.

25 Now, we've heard a lot of reasons about why Morgan



1       made it up, how she's capable of making it up. What  
2       prompted her to make it up. How satisfied she was at the  
3       notion of framing Josh. Wow. Wow. Just more bashing.  
4       She's a bad kid. Bad kid, she's a drug user. Again, it  
5       plays both ways.

6               She made it up because of her exposure to crime  
7       novels. Remember the questions about crime novels.  
8       Well, does that make, probably, anyone who's read a crime  
9       novel, a 15 year old, that makes them able to come up with  
10      a story to a tape recording, go back to court, testify to  
11      the same conduct because you read a crime novel.

12             Good fight. I love the fight. First there is this  
13      fight. And on direct examination -- and your memory is  
14      your own -- but I submit to you Morgan could not give me  
15      a reason for that fight in the 4 times I asked her. Could  
16      not give me a reason. The first time it was kind of a  
17      fight that spanned over several months, but couldn't  
18      remember what started it. Then she narrowed it down to  
19      January or February. There is a fight, but we still don't  
20      know the reason, but that's the reason that I made up all  
21      this stuff about Joshua, because of this fight.

22             Now, not until 5 days later, which again, I apologize  
23      for it, but I have to do my job the way I have to do it.  
24      I'm sorry it was painful. Five days later, first time,  
25      cross-examination -- more like direct examination because

1 Morgan was really a defense witness at that point. We  
2 hear that she is mad because he lost his virginity. Now,  
3 let's juxtapose that. Back to the statement given my  
4 Joshua Honea. Is there anything in there about mad about  
5 losing his virginity. No. It's not there.

6 Now, where this gets kind of crazy is Mr. MacArthur  
7 argued today that the virginity loss is in June, July and  
8 that's what made her mad. Katerina Babin got to get up  
9 here and speak about her conversation with Mr. Honea  
10 places it in March, April. So that means she waited from  
11 March and April, all the way to July because she is so mad  
12 because he lost his virginity. So mad bout what happens.  
13 Doesn't make sense.

14 The time line is a hot mess. And she couldn't get  
15 her story straight in here. For a kid that's so smart, in  
16 2015 to be able to put her story together and come back  
17 and reiterate it in front of another judge in another  
18 courtroom, she certainly couldn't get her recant lined  
19 out. Couldn't get that time line right. That's because  
20 it didn't happen that way.

21 When I spoke to her, you know, you saw her demeanor  
22 up here. Was she responsive. Was she appropriately  
23 responsive. Did she want to help me answer her questions.  
24 Juxtapose how she acted in here at 18 to the kid you saw  
25 on the video tape in her interview with Detective Cho.

1           The questions from Cho, open-ended. She would  
2 narrate to Detective Cho. I had to lead her line, by  
3 line, by line through 120 pages of voluntary statement, a  
4 200 page probable cause hearing because she wasn't going  
5 to tell me anything. Because she is going to protect him,  
6 still, still.

7           This point bears repeating. She came in here time,  
8 after time, after time, after time and said to me, I made  
9 up all those details, all those details to make everything  
10 I was telling you believable. My details make me  
11 believable. She couldn't give one detail about her  
12 recant, other than blanket lie, blanket lie. Unless it  
13 helped Josh in here.

14           She gave all those details to make everything so  
15 believable, but she never testified or gave you solid  
16 motive about that fight. She never did. One fight, a  
17 single fight, it bears repeating. Literally, for someone  
18 who is so careful to calculate those details of a  
19 believable statement, you'd think that this would have  
20 been handled in here.

21           If you remember, go back to defense opening, the  
22 catalyst for Morgan's motive was that she was mad because  
23 he violated a confidence with mom about weed. Wow. That  
24 has nothing to do with virginity loss. I mean, those  
25 stories couldn't be more disparate and more non-linear, if

1       you will.

2               You certainly can't reconcile what she had to say in  
3 here with what Josh Honea had to say in his interview with  
4 Las Vegas Metropolitan Police Department. Because he says  
5 never romantic, no way. Didn't think about it. Didn't  
6 talk about. I never kissed her. All of that, deny, deny,  
7 deny, deny, deny. Initially on direct in here she tells  
8 me, not sexually attracted to him. On cross, well, yeah I  
9 was waiting for him. I was attracted to him. We've been  
10 talking about a relationship for a long time. We talked  
11 about being on the brink of this relationship for a long  
12 time. Not what Josh told the police.

13              She was mad because they couldn't be together. Josh  
14 never told the police that. Josh never told the police,  
15 this little teen age girl is coming to close, and I shot  
16 her down. And she's pissed. And she's coming after me.  
17 Never said that. He was just big brother, mentor. Big  
18 brother, stick my hand in the beehive and get stung. That  
19 response in that 19 page narrative as a response to the  
20 question, how do you know Morgan. And he goes on, and on,  
21 and on, and on. You never hear any of this.

22              Never says she's a woman scorned. Never says she's  
23 after him. Never says they discussed a romantic  
24 relationship.

25              Again, my direct examination felt more like a

1 cross-examination, but she tells the State that she  
2 doesn't remember Defendant ever talking to Franco.  
3 Remember that on direct exam. She wouldn't even give me  
4 that.

5 Mr. MacArthur gets her, she says the conversation  
6 happened and Defendant threatened Franco so he would leave  
7 her alone. Remember that. She couldn't give me that  
8 conversation.

9 The burning of the photos. It's funny, the being  
10 with Taylor and the burning of the photos and smoking pot  
11 and them writing the notes about what happened. Then  
12 Morgan has her interview. Isn't that just as consistent,  
13 the burning of the photos, when she's just turned 16.  
14 She's in her prelim transcript, and I think in her  
15 voluntary statement she just finally got to the point  
16 where, what is happening. Is this my life. This is  
17 wrong. He shouldn't be with an 11 year old. She's mad.

18 She said in Minnesota her feelings for Josh turned to  
19 hate. Isn't that outburst just as consistent as her  
20 burning those photos. Just, this man, this grown man has  
21 had control over me since I was 11. That's just as  
22 consistent with that.

23 Again, she comes in here and said she felt strong  
24 about the Defendant. She's frustrated there was no  
25 relationship. That they were off and on friendship.

1 That's the reason they were fighting. Now it's because  
2 they couldn't be together. Never heard that before. That  
3 was all designed by Morgan to help him in here. Because  
4 she harbors guilt. She harbors responsibility for that  
5 relationship. Right. Wrong. Right. That's what  
6 happened. That's what you saw. Your job is to find the  
7 truth. I submit to you what she said is here is not the  
8 truth.

9 She did with me, remember, she denied all of that to  
10 me that she ever had feelings for him on direct. All of a  
11 sudden it becomes helpful to Mr. Honea on  
12 cross-examination.

13 Everything -- I want to you think about how she spoke  
14 up here. Everything he had to say to you reverted back to  
15 it's my fault. I'm a bad kid. I did this. I did drugs.  
16 I was in trouble all the time. Even the school witness  
17 corroborate that. Everything she had to say about  
18 herself, all of that self-loathing, I guess, sounds just  
19 like she is parroting the Defendant's statement to Las  
20 Vegas Metropolitan Police Department.

21 She went so far as to say, yeah, I went to sex abuse  
22 counseling, but I didn't participate. I didn't  
23 participate. How credible is that. You go to session  
24 after session of sexual abuse counseling, the preliminary  
25 statement you talk about being sexually abused, but you

1 terminated from that counseling. I submit to you that's  
2 because she was sexually abused from a young age. She  
3 went to that counseling. I don't know whether she  
4 finished or not, but she went. Her mom paid for it.

5 I know you have been in here a long time. I want to  
6 hit on some of these facts, more commentary. But I want  
7 you to think about these details that came out of the  
8 prelim and her voluntary statement that should ring  
9 credible to you. It should ring true to you. It should  
10 ring to you as part of the truth. Things that, details  
11 that make the story compelling. Certainly not the details  
12 that you were given in the recant.

13 The Defendant tells her get down in the back seat so  
14 she is not seen. She goes out with Metro police. She  
15 shows them specific location where she was sexually  
16 abused. She contrivers the detail that Defendant tell her  
17 the make your mom believe you are sick so you can stay  
18 home. Picked her up at CVS. Why that detail. Why that.  
19 The birth control, stops using condoms. There was a  
20 waiting period between the birth control and stop using  
21 condoms. Is that a salient detail. Is that something  
22 that happened or is that made up. Those are salient,  
23 believable, truthful details.

24 The detail about not being able to have sex early on  
25 because of a physical disparity. That is a good salient

1 descriptive detail about sex. She tells you that she had  
2 no friends. Why does that make the story more believable.  
3 A salient detail, she's isolated. She's isolated because  
4 of her interaction with the Defendant. She told him no  
5 for awhile. That he was angry. He was angry when she  
6 went to Minnesota. That's a salient detail.

7 That the first time they had sex she was at Taylor's  
8 and Taylor told you about that. She didn't know why she  
9 was leaving. She knew she was going to go see a boy.  
10 Salient detail that can be corroborated by someone else.  
11 You think she was such the great forecaster that she knew  
12 that, well, Taylor will be able to say there was a summer  
13 when I just turned 12 and we had a sleep over. No,  
14 because that happened.

15 Again, telling mom sick and sneaking out to see him.  
16 She grew up and one of the things she said was that she  
17 realized that the things that Josh is doing were designed  
18 to get close to her mom. He became angry when she brought  
19 friends. Is that a believable detail. The Defendant  
20 didn't want anyone else around but Morgan. The one story  
21 she tells is he picks her up at Boca Park, she's got a  
22 friend. He gets pissed off. Is that real. Of course  
23 it's real. That he'd come up with this brother/sister.  
24 That he'd come up with this notion of how to label the  
25 relationship. That's real. That's a salient detail.



1           He had passwords. What is the purpose of letting the  
2           detective know that the Defendant was in possession of her  
3           passwords. How does that -- is that something that a 15,  
4           16 year old is going to contrive a few years ago. Trying  
5           to make the story sound better. Juxtapose to the recant.

6           She made the decision. Well, she even said before  
7           she made the decision that somebody needed to know the  
8           truth. She made that decision. That's consistent with  
9           her time line and everything she did.

10          If you notice back when you look at the tape -- go  
11          watch the video -- she thought her mom was going to get in  
12          trouble there. We mentioned her mom in here. That made  
13          her get emotional that her mom was going to get in  
14          trouble. That is a real detail. That is emotion, not  
15          fake. In that video interview with Detective Cho that  
16          emotion was real. That is one of the primary first  
17          concerns, I'm afraid my mom is going to get in trouble.  
18          It's going to be by the hands of Josh. That's what she  
19          thought. That emotion was real. That is not -- in that  
20          video subject to her being able to be an actress. If  
21          she's being an actress, she didn't do a good job in  
22          here.

23          The frequency and quality of their time together. I  
24          know you've seen these pictures ad nauseam. Oh, my God,  
25          there's Disneyland, Carlsbad, I get it. Four years, 11 to

1 15, four years. There's dinners, concerts. First she  
2 says 3 times a week. Katerina Babin comes in and says  
3 she's with him all the time. You have to think of the  
4 time line. The Defendant graduated high school in 2011,  
5 when he was finishing 6th grade. So that was when  
6 Katerina Babin was in school with the Defendant.

7 The Defendant didn't start being a volunteer patrol  
8 service representative right when he out of high school.  
9 He didn't start as a part-time employ with the gang unit.  
10 He actually had another job before that. He didn't  
11 have -- he still was a metro Explorer when he got out of  
12 high school. So there's all this frequently early on,  
13 this kind of --

14 MS. MACARTHUR: Objection. Did we have somebody  
15 testify to this fact in evidence.

16 MS. KOLLINS: What facts in evidence.

17 THE COURT: I recall there being testimony from  
18 the prior statement.

19 MS. MACARTHUR: All right. I'll withdraw.

20 THE COURT: The voluntary statement and  
21 preliminary hearing.

22 MS. KOLLINS: So what it's designed to do is  
23 give him an alibi. I am way to busy to have time to  
24 access this kid. You can go back and look at the time  
25 line. That's not the way it was. He just graduated high

1 school when she was leaving 6th grade. He turns 18 that  
2 spring. There's never been a 4 year age difference  
3 between them, so that was also inaccurate.

4 You've seen all of this. I'm going through it. This  
5 is four years. Hotel, that's a hotel bill, Carlsbad.  
6 They went together. They stayed. That corroborates.  
7 That's preserved on Defendant's iPad. I don't know when  
8 he would keep that, but he did. Years and years of  
9 contact. It's not like your best friend that lives down  
10 the street and you have a beer once every two months, or  
11 you go to a movie once a month or twice a month, or go to  
12 dinner. Look, there is so many photos and tickets and  
13 events. This is not brother and sister. It's not.

14 Valentine's Day, nobody else with him, ever. None of  
15 these pictures ever do you see anybody else but those two  
16 when she's underage and he's an adult. That's by  
17 design.

18 His 21st birthday, there's that one last picture when  
19 they do the search warrant in his room. One last picture.  
20 By the time Joshua was arrested he has had time to clean  
21 out everything. You notice there is no -- there's just  
22 some cutesy pictures on his iPad -- Morgan with the dog,  
23 Morgan with her mom, but everything is gone. The only  
24 hard copy picture left of Morgan they find in his room,  
25 bottom drawer, in the closet, under a bunch of clothes.

1 All that stuff, that's been sanitized.

2 Why do you sanitize if you're not doing anything  
3 wrong. There's no reason to. If this kid is just your  
4 brother and sister, why don't you have photos on the wall.  
5 Why don't you have everything laid out with Morgan, if  
6 this is so open and natural and there's not a problem.  
7 You don't because you know, you know you're not supposed  
8 to be with her. You know you're not supposed to be with  
9 her alone. You know you're not supposed to have anything  
10 sexual with her. So you just can't let go of that last  
11 picture though.

12 She has to come up with an explanation for the mole.  
13 You go back there and you decide, mole, circumcised. She  
14 comes in here and tells me, oh, it's so and so. The  
15 picture isn't sexual, so I don't know why she would think  
16 that that would be some sexual picture of this other guy.  
17 I wouldn't know. That's what she said to me.

18 Defendant's conversation that he has while this  
19 investigation is pending with Katerina Babin, Humberto  
20 Zerate, Joe Belmonte, those are damning questions that  
21 he's asking. That's damning information he's exchanging.  
22 Discussing the statute of limitations for sex cases, I  
23 know Mr. MacArthur gave you a very eloquent explanation  
24 about why he's having that discussion, but that just  
25 sounds guilty. How he's asked if Morgan keeps talking --

1 something like. That he sends text messages, like he's  
2 wondering about Morgan and internal affairs. We know he  
3 continues after Morgan doesn't disclose. She even said  
4 that. I don't think she meant to, but she did. That he  
5 was continuing to talk to her asking her about what was  
6 going on.

7 Super telling about this case. I submit to you the  
8 fact we step back and take a look at what the truth is.  
9 The Defendant acts like somebody who is de-friended or did  
10 he acts like this was a break up.

11 He's texting. He's calling. He's driving by. He's  
12 having his family call. He's contacting Pam. He's pissed  
13 off he's losing control and he's afraid he's going to be  
14 exposed. So as soon as they start to separate he's acting  
15 like a dumped boyfriend. He's not acting like a friend.  
16 He's afraid that he's going to get caught, and now that's  
17 when the text messages to Pam about Taylor, weed, all of  
18 that. Now we've got to come up with a reason why Morgan  
19 is mad at him. To her mom anyway. The fall back, what a  
20 bad kid Morgan is. Just a bad kid. She's a druggie. In  
21 here on heroin. She's a bad kid.

22 Compulsion to be around this young woman for a period  
23 of years to control her and to outward appearances take  
24 care of her and guide her, I think were her words. It  
25 really turned into a compulsion for him. Sex is a

1 powerful tool. He says that he has repeatedly warned  
2 about his contact with this woman, repeatedly warned. And  
3 his explanation to Metro is, well, I'm just such a great  
4 guy. I help everyone. I'm a big hero and a big savior to  
5 adolescents. That's ridiculous.

6 He's attracted to this young lady. He's obsessed  
7 with this woman. He can't let go. And his compulsion  
8 drives him to a point where he finds himself where he is  
9 today. Because now he's exposed. If he would have set  
10 Morgan aside and buried that relationship, at least in the  
11 eyes of the people at Metro that kept telling him, dude,  
12 you are too old for her. What is going on. If he would  
13 have set her aside and put her away, nobody would have  
14 every found out that his compulsion was so strong to stay  
15 with this kid that he risked everything. That is not a  
16 brother/sister relationship. That is a relationship like a  
17 marriage, driven by sex, driven by control. That is not a  
18 brother/sister relationship.

19 You know, he risked his career. He did. He did  
20 that, not these people. Zafiriz, Wirey, Samples, Dicaro,  
21 they didn't risk his career by doing their job. He risked  
22 his career.

23 I think Mr. MacArthur said, you know, all these  
24 people are in cahoots, maybe not Samples. The only  
25 credible officer you heard from was Humberto Zerate, and

1 he really was coming in here to do the right thing. He's  
2 the only one. I want to talk to about the insinuations  
3 made with Mr. Zerate briefly.

4 Mr. Zerate was asked in our office, did you have a  
5 conversation with Joshua Honea about the investigation  
6 about Morgan. No. Did you talk to Joshua Honea about  
7 investigation regarding Morgan. Answer, no. Mr. Zerate,  
8 here's a text message exchange between you and Joshua  
9 Honea. Is that you, yeah. Well, talk about Morgan,  
10 right. I don't remember. Talks about IAB. I don't  
11 remember. So to sit here and insinuate that that young  
12 officer was threatened by Ms. Rhoades, certainly, if  
13 anyone is risking his career. He just sat in the district  
14 attorney's office and lied about what conversations he  
15 obviously had. We weren't trying to intimidate him.  
16 Young officer, like, dude, are you sure. Because it's  
17 your number and his number. You just told me none of this  
18 happened. So what's going on.

19 Did I call him as a witness. No. I don't need to  
20 inject that into the case. He denied his statement, so it  
21 is what it is.

22 Joshes' compulsion was so strong, he's warned by all  
23 these officers. He's warned by Pam in text messages. I'm  
24 going to get a restraining order. She knows he has been  
25 driving by. She know he's had family members contact

1 Morgan. That's not just coming from Morgan. That's  
2 coming from Pam too. What's going on. What is this  
3 happening.

4 He still keeps going back. He keeps going back.  
5 He's driven by that compulsion. He has a meeting with  
6 Jeff Clark where he's questioned. He still can't stay  
7 away from Morgan.

8 I know that you have been in here a long time. A  
9 couple of points I would like to make. Mr. MacArthur made  
10 a lot of argument about December 2015. The Defendant was  
11 in custody December 2015. I don't know --

12 MS. MACARTHUR: Objection. Misstates. It's  
13 2014.

14 THE COURT: Let me make sure I understand your  
15 objection. Are you correcting prior argument you made,  
16 Mr. MacArthur.

17 MS. MACARTHUR: At the intermission I said 2015,  
18 when I was talking about December 2014. That is  
19 abundantly clear. Just trying to save time.

20 THE COURT: Sustained.

21 MS. KOLLINS: Josh never admitted to that kiss  
22 in that interview. I think that's critical. He never  
23 admitted to interest between he and Morgan. I invite each  
24 of you to go back and watch the interview. Those Mt.  
25 Charleston pictures, if you recall, Pam Savage said Morgan



1 got her braces off May of 2014. So those pictures would  
2 have been --

3 MS. MACARTHUR: Objection, misstatement on the  
4 time she got her braces off.

5 MS. KOLLINS: That's what I have, so I guess the  
6 ladies and gentlemen are free to look through their notes.

7 THE COURT: I'll let the ladies and gentlemen of  
8 jury find it in the evidence as they recall it in the  
9 evidence.

10 MS. KOLLINS: So I submit to you the Mt.  
11 Charleston pictures are December 2014.

12 This is the part of rebuttal where I try to look at  
13 Mr. MacArthur's statement to see if there's anything I  
14 find that I need to comment on. I can't plan ahead for  
15 that. I took notes so bear are me a little bit.

16 I did think the reference to Training Day was kind of  
17 ironic, given that the lead chair is this very polished,  
18 very well-respected, outwardly appearing great guy,  
19 everyone loves him, and you find out at the end he's a bad  
20 guy. That was an ironic reference, given I submit to you,  
21 that Josh had a positive exterior to all those around him  
22 for Morgan. And that was by design.

23 Mr. MacArthur told you Pam's interviews were not  
24 recorded. That is inaccurate. Pam's interview with  
25 internal affairs was recorded. Her interview with Las

1 Vegas Metropolitan Police Department was recorded. I  
2 think Sergeant Marsh and Detective Dicaro testified to  
3 that.

4 There was a big deal about Zach going to talk to  
5 Luann Sacchetti. Zach Marsh tells you he goes to talk to  
6 any potential witnesses. I don't know what Luann said he  
7 said. Metro should have wanted to get rid of him. They  
8 should have wanted to get rid of him by his performance or  
9 what they subscribed about Morgan. He's a part-time  
10 employee. He's not a commissioned officer. Why start out  
11 with that problem. They should have wanted to get rid of  
12 him. Zach Marsh also told you he went and talked to  
13 people that would have worked around Joshua. So that was  
14 fair game. That wasn't them trying to torpedo his  
15 career.

16 There is no evidence in this case about Officer  
17 Zafiris' wife except innuendo that there is some  
18 conspirital link between that March 22nd car stop and  
19 Kevin Zafiris not wanting to get in trouble. And then  
20 getting into trouble that we don't know about. And him  
21 going to Katie to direct information to IAB to start that  
22 investigation. There's no evidence of that. It's all  
23 innuendo. That's not the truth. Don't be distracted by  
24 that.

25 MR. MACARTHUR: Objection. They get to decide

1       what the truth is.

2               THE COURT: Sustained.

3               MS. KOLLINS: Katerina, I mentioned earlier her  
4       description of the phone call where Josh had sex and was  
5       so excited about it was March, April. That doesn't jive  
6       with Morgan's time line.

7               There is some insinuation that there is chit chat  
8       back and forth in late June early July that Morgan is  
9       threatening false allegations. There is no evidence of  
10      that in this case. There is no evidence of that. It  
11      doesn't come from Joshes' statement to the police. It  
12      doesn't come from Joshes' informal interview. It didn't  
13      come from Morgan that she was challenging him and  
14      threatening him with false allegations. There's no  
15      evidence of that in this case.

16              You know, we talked about Morgan bringing this  
17      computer and the photo album and the phone to Detective  
18      Cho. This was all orchestrated to frame Josh, because she  
19      deleted she some stuff, so she's manipulating the  
20      evidence. In the evidence the call data and contacts are  
21      deleted, wouldn't that have been nice it have all of that.  
22      I submit to you she gave us what she had that documented  
23      her relationship with Joshua. Her mind set as she  
24      described it that time, she was done being controlled by  
25      him. She done with this relationship. And getting rid of

1 all that stuff, that was cathartic for that kid. Finally  
2 the lights came on. She had a realization. That's very  
3 consistent with what she said in her involuntary statement  
4 and prelim. I hated him for this. I wanted this done. I  
5 wanted out. I'm tired of being controlled by him. It was  
6 cathartic. It wasn't manipulated and selectively  
7 presented to the detective. She didn't scrub anything to  
8 make herself look better.

9 Mr. MacArthur, the pictures speak a thousand words.  
10 Make sure you go back and look at those lip locks.  
11 Picture do speak a thousand words. Those are  
12 representative of the kind of relationship they had from  
13 its inception when the grooming started, the sex started  
14 through 2015.

15 He called the investigation clumsy because, as I  
16 understand it, he says Marsh was interviewed by -- Morgan  
17 was interviewed by Marsh. She said 13 years old, so her  
18 story was internally inconsistent. Morgan was never  
19 interviewed by Zach Marsh or by internal affairs  
20 detectives. She was interviewed one time with Detective  
21 Cho. You saw the interview. There was no messing up the  
22 details that Mr. MacArthur commented on.

23 Morgan Savage did participate in pretrial conferences  
24 with me. Not after she got arrested. I would be derelict  
25 in my job as a district attorney to put a witness in here,

1 especially a kid -- not a kid anymore, but was a kid -- in  
2 here unprepared. Unprepared for 14 people that are  
3 talking about detailed sex stuff. That would be  
4 absolutely derelict. Did I meet with her. Absolutely.  
5 Did I control or manipulate her. No. That's what Steve  
6 Wolfson pays me to do. Brings kids to court to get them  
7 through this.

8 John Pacult talked about Franco. Mr. MacArthur said  
9 that didn't happen. He did talk about the break up of  
10 Franco and Morgan at the urgence of the Defendant. So  
11 that was elicited.

12 Trials are a search for the truth. You are the ones  
13 to decide that. I submit to you that if you step back and  
14 take a deep breath and review the evidence, review the  
15 evidence in it's appropriate time line, how it came out,  
16 know the things that you don't know. You don't have to  
17 fight. You don't know what prompted the information that  
18 Morgan gave back in 2015. As you read the statements  
19 together you will see that information that's between the  
20 two of them, I know how it came out here was painful for  
21 four days, you have been reminded of it 20 times, but if  
22 you step back and you look at that information and you see  
23 what that kid -- she's a kid then, not a heroin addict --  
24 a kid -- you will see what she told, see what she had to  
25 say, watch her interview with Detective Cho, read her

1       prelim transcript and you marry it to all the things we  
2       have that have benchmarked that relationship from 2011 to  
3       2015, I submit to you there is proof beyond a reasonable  
4       doubt in this case of Mr. Honea's repeated and protracted  
5       prolonged sexual abuse of that kid.

6               Reasonable doubt is a standard used in every criminal  
7       case in every criminal court in every state in the United  
8       States, okay. It happens. It happens.

9               I'll reiterate one thing that Ms. Rhoades said. You  
10      probably didn't like Morgan. What's to like -- heroin,  
11      homeless, kind of glib in here. Ask yourself this. She  
12      came from a house by everyone's account, right, that she  
13      wasn't at least supervised to the degree that she should  
14      have been. She probably learned how to be an adult very  
15      early from the Defendant. And now she is what she is. We  
16      don't pick our witnesses. We don't choose them. But I  
17      urge you to go back in 2015, pre-heroin Morgan,  
18      pre-homeless Morgan. The Morgan that still lived at home  
19      with her mom and went to school and had friends.

20              Thank you, ladies and gentlemen.

21              THE COURT: Thank you, Ms. Kollins.

22              As you will recall there are 14 of you and 12 of you  
23      will deliberate. That means that of your number 2 of you  
24      are alternates. The marshall will take control of the 12  
25      who will be deliberating and Ms. Springberg will take

1 control of alternates.

2 THE CLERK: You do swear you will keep this jury  
3 together in some private and convenient place, that you  
4 will not permit any person to speak to them nor speak to  
5 them yourself, unless it be by order of the court to ask  
6 if they have agreed upon a verdict, and that you will  
7 return them into court when they have so agreed, so help  
8 you God.

9 COURT OFFICERS: (Choir of I do.)

10 THE COURT: Before I identify which jurors go  
11 with which officers, understand that it is our attention  
12 to give you the opportunities to have whatever time to  
13 deliberate you need, so I don't want you to be concerned  
14 at this time of the time. Understand you have whatever  
15 time you need to deliberate.

16 At this time I can identify the alternates in the  
17 case. You are not excused until a verdict is reached. You  
18 are under the same admonishment until further information  
19 is given to you by Ms. Springberg. Those jurors are John  
20 Perreault and Sally Ann Khalil. The other jurors may  
21 proceed with the marshall to deliberate. Mr. Perreault  
22 and Ms. Khalil you may proceed with Ms. Springberg and  
23 follow her directions.

24 (Jury deliberating.)

25