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Respondent.

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Docket 79036 Document 2020-19259

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CHRISTOPHER SENA
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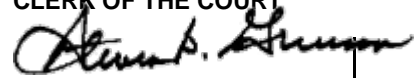
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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	CASE NO. C-15-311453-1
)	
Plaintiff,)	DEPT. NO. XIX
)	
v.)	
)	
CHRISTOPHER SENA,)	
)	
Defendant.)	
_____)	

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

TUESDAY, FEBRUARY 19, 2019

**RECORDER'S TRANSCRIPT OF HEARING
JURY TRIAL - DAY 15**

APPEARANCES:

FOR THE STATE:

JAMES R. SWEETIN, ESQ.
Chief Deputy District Attorney

MICHELLE L. SUDANO, ESQ.
Deputy District Attorney

FOR THE DEFENDANT:

VIOLET R. RADOSTA, ESQ.
DAVID E. LOPEZ-NEGRETE, ESQ.
Deputy Public Defenders

RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 19, 2019

2 (Case called at 11:04 A.M.)

3 (Outside the presence of the jury.)

4 THE COURT: All right. Back on the record in the
5 case of State of Nevada versus Christopher Sena in C-311453.

6 I'd like the record to reflect the presence of the
7 defendant, his counsel, as well as the State and their
8 counsel. We're outside the presence of the jury.

9 Ladies and gentlemen, I want you to -- this is for
10 the gallery. I don't mind anyone being here. Just whenever
11 the parties are involved in their arguments, I'd ask that you
12 stay in here, unless you have an emergency or something and
13 you have to leave. I think it's rude to get up and leave in
14 the middle the attorneys -- you know, they work really hard
15 on these cases and they have people running in and out of
16 here, it is pretty distracting, and so I'd ask that you stay.

17 Your more than welcome to come and go, but I'd like
18 you to, whenever they're making arguments, remain seated.

19 Okay? All right?

20 And for everyone that just came in, same thing.

21 You're welcome to come and go. I mean, I recognize you.

22 You've been here before. But during the closing arguments,
23 just be a little bit courteous to them and not move and out
24 of the courtroom when they're arguing. Okay? All right?

25 Okay. So anything?

1 MS. RADOSTA: All I was going to say, Judge, is I
2 think we're all going to be kind of lengthy today, so --

3 THE COURT: Oh, I know, I know. That's why I said
4 if they have to --

5 MS. RADOSTA: Yeah.

6 THE COURT: If you have to leave, you have an
7 emergency, or a good reason, then I'm fine. Be quiet,
8 though, when you do it. Okay? And my Marshal will be there
9 to help you out the door and that.

10 So go ahead and bring the jury in, Ed. Okay.

11 (Pause in the proceedings)

12 THE MARSHAL: All rise for the presence of the
13 jury.

14 (In the presence of the jury)

15 THE COURT: All right. Everybody go ahead and have
16 a seat.

17 Good morning, everybody. In is the continuation of
18 the jury trial in Case No. C-311453, the State of Nevada
19 versus Christopher Sena.

20 (COURT CALLS ROLL OF THE JURY)

21 THE COURT: Okay. Is everybody settled in? All
22 right.

23 The parties have all answered to the -- of the
24 jury, have answered to the call. Will the parties stipulate
25 to their presence?

1 MR. SWEETIN: Yes, Your Honor.

2 MS. RADOSTA: Yes, Your Honor.

3 THE COURT: All right. Ladies and gentlemen,
4 before we -- I hope you had a good weekend, but before we
5 took our weekend, the parties had rested their case, I had
6 charged you. You should have with you a copy of the jury
7 instructions that we -- that I read to you last Friday.
8 Those -- you can take those with you when you go in to
9 deliberate.

10 At this point in time, it's the time set for
11 closing argument. State?

12 STATE'S CLOSING ARGUMENT

13 MS. SUDANO: Thank you, Your Honor. This is how
14 people show that they love each other. If you love me, you
15 would do it. And This is normal.

16 Those are all thins that the defendant in this
17 case, Christopher Sena, told these four children over the
18 course of years of physical, emotional, and sexual abuse.
19 Not only these children, but the additional victims in this
20 case as well.

21 In every single criminal case the State of Nevada
22 has to prove two things to you all beyond a reasonable doubt.
23 First, we have to prove that the crimes charged were
24 committed.

25 Second, we have to prove that the defendant in the

1 courtroom is the person that committed the crimes. When I
2 say the defendant in the courtroom, for purposes of your
3 deliberation, you're focusing just on Christopher Sena.

4 You have an instruction that says that you're not
5 here to determine the guilt or innocence of any other
6 individuals other than the defendant. And you're doing that
7 based on the evidence in this case. So that's regardless of
8 whether or not you believe that Terrie and Deborah are just
9 as culpable, more culpable, or less culpable than the
10 defendant here.

11 The defendant is guilty you shall so find
12 regardless of your opinion about Terrie and Deborah.

13 Now, the culpability of Terrie and Deborah has been
14 something that's come up a lot in this case, ladies and
15 gentlemen. And they both pled guilty to sexual assault.
16 You've got the documents with you in the jury room. You'll
17 be able to look at them.

18 They're both currently serving prison sentences
19 right now, minimum of ten years. They could be there for the
20 rest of their lives. And if released, they're still going to
21 be on parole, and they're always going to be sex offenders,
22 subject to those requirements.

23 Now, you heard all of the children say that
24 initially they were surprised or upset that their mothers
25 were arrested. But then you also heard Brandon testify that

1 if you do something that's against the law, you're going to
2 be punished.

3 So the children have taken the time, the four years
4 since this case has been pending, they've reflected back on
5 it, and now they can acknowledge their mothers were in the
6 wrong for a lot of the actions that happened in this case.

7 But not only their mothers, this man right here,
8 the defendant. Because the defendant is the person that
9 abused seven members of this family. His three biological
10 children, Ryan Sena, his stepson, his sister-in-law, Melissa
11 Clark, and his two nieces through marriage, Tamara Grisham
12 and Erin Clark.

13 Now, you've heard a lot about the family dynamics
14 in this case. The defendant had access to all of those
15 individuals when they were children, either because they
16 lived in his residence, or they were related to his first
17 wife, Terrie Sena.

18 Defendant maintained his access through a variety
19 of tools, through threats, through flattery, attempts to
20 normalize his sexual behavior, anything that he could do to
21 keep his access to those children and keep being able to
22 victimize them.

23 You heard that Terrie and Deborah, for their part,
24 both participated in the abuse. But when they were not
25 directly involved, they looked the other way about a lot of

1 things that were happening inside that residence.

2 So you've heard the information, the charging
3 document in this case a couple of different times at this
4 point. You may have noticed that there are a number of
5 different theories of liability that are charged, the first
6 one being that the defendant directly committed the crimes.
7 So he was the one that was sexually abuse the child. You have
8 that in a number of counts involving Anita, involving Ryan,
9 or that the defendant and the wives aided and abetted one
10 another.

11 So that means that the defendant was directing
12 Terrie or Deborah to sexually abuse the children while he was
13 watching or filming. And then finally, you have that the
14 defendant conspired with his wives to commit these acts.

15 So the defendant and Terrie or the defendant and
16 Deborah planned ahead of time how they were going to
17 specifically abuse the children and how that abuse was going
18 to occur.

19 So we're going to talk a little bit about each of
20 these different theories of liability, and then we're going
21 to talk about each and every one of the crimes that's
22 charged, and the elements of the charges, and then we're
23 going to talk about the specific conduct of the defendant and
24 Terrie and Deborah that satisfies each of the elements of all
25 of the count that are charged.

1 So aiding and abetting. That -- you've got an
2 instruction that says all persons who either directly or
3 actively commit the offense or who knowingly and with
4 criminal intent aid abet in its commission, whether present
5 or not, who advise and encourage its commission with the
6 intent that the crime be committed are equally guilty.

7 So that instruction right there tells you that if
8 the defendant is procuring or encouraging or enticing Terrie
9 or Deborah to commit the acts, with the intention that those
10 acts be committed, he's just as guilty for the things that
11 happened when he's in the room, for the things that happened
12 when he's out in the corner filming, for the things that
13 happened while he's undressing or masturbating, he's equally
14 guilty as the -- or excuse me, as Terrie and Deborah.

15 Because aiding and abetting means with criminal
16 intent, aiding, promoting, encouraging, or instigating by act
17 or advice a crime with the intention that that crime be
18 committed.

19 So as I've just said, under this theory, it does
20 not matter who actually abused the child. It can be the
21 defendant directly, it can be Terrie or Deborah, so long as
22 the defendant was the one that was instigating, he was the
23 one that was encouraging, promoting, aiding, he was doing all
24 of those things. And you've seen the video.

25 And then we also have this conspiracy theory. And

1 so a conspiracy is just an agreement between two or more
2 persons for an unlawful purpose.

3 So any person who knowingly does any act to further
4 the object of the conspiracy is guilty. So mere knowledge or
5 mere presence is not enough to be part of the conspiracy.
6 You actually have to take some affirmative act in furtherance
7 of the conspiracy.

8 Now, there's no formal meeting required. Right?
9 So we don't have to show you that there was some meeting
10 together in a smokey back room. We don't have to show that
11 the defendant drew something up and put it in writing as to
12 this conspiracy with Terrie and Deborah.

13 So instead, because that almost never happens, you
14 can infer the existence of a conspiracy from all of the acts
15 that tend to show a common intent.

16 So the State is also, in this theory, not required
17 to prove exactly which conspirator did which act. So same
18 thing as aiding and abetting, we don't have to prove that it
19 was defendant that directly did these acts. It's just that
20 he's conspiring with Terrie and Deborah for these acts to
21 happen.

22 Because each conspirator is bound by the acts of
23 the others so long as they all share the necessary intent.
24 So as long as everybody goes in knowing what's going to
25 happen, and intending that it happen, they're all equally

1 liable.

2 Now, the thing that you have to keep in mind for
3 conspiracies and aiding and abetting is that the defendant is
4 legally responsible for the specific intent crime of another
5 person so long as the specific intent crime of that other
6 person was intended by the defendant.

7 And we'll talk in just a second what a specific
8 intent crime is. For a general intent crime, so one that
9 does not require specific intent, defendant is legally
10 responsible for any foreseeable consequences of the acts of
11 the other even if he's not present at the time of the
12 commission of such an act.

13 So specific intent and general intent. General
14 intent just means an intent to commit the act in question.
15 Specific intent is the intent to accomplish the precise act,
16 which the law prohibits.

17 So basically, for a specific intent it usually says
18 it in the charging document. For instance, you've got
19 lewdness with a minor charged several times. Lewdness with a
20 minor, we'll talk about this in a minute, is willfully
21 committing any lewd or lascivious act with the intent of
22 arousing, appealing to, or gratifying.

23 So basically, because it's a specific intent crime,
24 there's some additional element of intent that's written into
25 the charging document. So it's more than just committing an

1 act upon one of the children. That an act also has to be
2 done with the intent to arouse, appeal, or gratify. So
3 there's something more in a specific intent crime.

4 Here, you've got lewdness with a child under the
5 age of 14 and use of a minor in producing pornography, which
6 are specific intent. So there's something more required than
7 just the intent to commit the act itself.

8 Everything else that's charged in this case is a
9 general intent crime. So, sexual assault, incest, open and
10 gross lewdness, child abuse, preventing or dissuading a
11 witness from reporting a crime, possession of visual
12 presentation depicting sexual conduct of a child, all of
13 those are general intent crimes, which means that for the
14 defendant to be on the hook for any of those crimes, he just
15 has to intend that some act happened and that whatever acts
16 follow are reasonable foreseeable.

17 So as I said, now we're going to talk about all of
18 the charges that we have in this case and the elements of
19 each of those charges. And then after that, we're going to
20 go back and tie those in to each of our seven victims in this
21 case.

22 So sexual assault occurs when a person subjects
23 another person to sexual penetration against the victim's
24 will or under certain circumstances in which the perpetrator
25 knows or should know that the victim is mentally or

1 physically -- or excuse me, incapable of resisting or
2 understanding the nature of the conduct.

3 So the age of the victim is an element for the
4 charge of sexual assault with a minor under 14 years of age,
5 or sexual assault with a minor under 16 years of age.

6 So sexual penetration is any intrusion, however
7 slight, of any part of one person's body into the genital or
8 anal opening of another.

9 So this includes fellatio, oral sex, and it also
10 includes sexual intercourse, vaginal intercourse in its
11 ordinary meaning. So digital penetration is the placing of
12 one or more fingers into the genital or anal opening of
13 another person. Fellatio is oral sex or touching of the
14 penis by the mouth or tongue of another person.

15 And sexual intercourse is any intrusion, however
16 slight, of the penis into the genital opening of another.
17 And anal intercourse is any intrusion, however slight, of the
18 penis into the anal opening of another.

19 So all of those are the different types of
20 penetration that you can have for sexual assault. So it's
21 basically, any part of one person's body going into another
22 part of another person's body, and it's however slight.

23 So it doesn't have to be full vaginal penetration.
24 It just has to be slight penetration beyond the lips of the
25 vagina. It doesn't have to be a certain depth for fellatio

1 or anything like that. It's just any intrusion, however
2 slight.

3 So sexual assault also requires that that
4 penetration be against the victim's will. So there's no
5 requirement for sexual assault of physical force. So there's
6 no consent when a person is induced to submit through fear of
7 death or serious injury.

8 And a person is not required to do more to resist
9 than is reasonable given that person's age, strength, and all
10 of the surrounding circumstances.

11 Submission is not the equivalent of consent. Just
12 because somebody submits to the conduct does not mean that
13 they are consenting to that conduct.

14 So when we're looking at whether or not conduct is
15 against the victim's will, you have an instruction that tells
16 you that it's not a sexual assault if the defendant has a
17 reasonable and good faith belief that the victim was
18 consenting.

19 However, it's not a reasonable and good faith basis
20 where a defendant's belief is the product of force, violence,
21 duress, or menace, and there's some sort of ambiguous conduct
22 on the part of the victim.

23 So if a victim is behaving in a way that could go
24 either way, but then there's force, violence, duress, menace,
25 fear, or immediate and unlawful injury, then that's not a

1 reasonable and good faith belief that a victim is consenting.

2 Now, you also have a number of counts of lewdness
3 with a child under the age of 14 that are charged.

4 So lewdness occurs when a person willfully commits
5 any lewd or lascivious act upon or with any part of the body
6 of a child under the age 14, with the intent of arousing,
7 appealing to, or gratifying the lusts or passions or sexual
8 desires of that person or the child.

9 So this is one of those specific intent crimes that
10 he with talked about because any of those acts upon the child
11 or with that child's body also have to have the second part
12 of intending to arouse, appeal, or gratify the sexual desires
13 of one of the two parties.

14 So lewdness is separate and distinct from sexual
15 assault. So we talked about sexual assault being any
16 penetration. Lewdness is basically, anything up to and
17 around that, but not including, any penetration.

18 So for lewdness, we indicated that there is that
19 intent element that's required. But there's no requirement
20 that either side actually be aroused.

21 So if that's the intent at the time that this
22 touching occurs, but something happens to prevent either side
23 from actually being aroused, that doesn't mean that a
24 lewdness didn't occur because it's just the touching or the
25 action with the intent regardless of whether or not either

1 side's passions are actually aroused.

2 And again, we look to all of the circumstances
3 surrounding the act to determine the intent with which the
4 exact is done. So when we're looking at the intent to appeal
5 or gratify the lust or passions, we're looking at all the
6 circumstances that go around to determine to that intent.

7 So consent is not a defense to lewdness with a
8 minor. So you also have charged a number of counts of
9 incest. So incest is fornication, which is unlawful sexual
10 intercourse between two unmarried persons, and in this
11 context sexual intercourse means vaginal penetration, sexual
12 intercourse in its normal context, within the degree of
13 consanguinity within marriages are declared by law to be
14 incestuous and void.

15 You also have an instruction that tells you that
16 any sort of sexual intercourse between a parent and that
17 parent's natural child are within that degree of
18 consanguinity where the marriage is void.

19 So we're looking at in this case any time that
20 there's sexual intercourse between a parent and a natural
21 child, that is incest.

22 Just like with the lewdness with a minor counts,
23 consent is not a defense to incest.

24 You also have open and gross lewdness, which is any
25 indecent, object scene or vulgar of a sexual nature that is a

1 committed in either a public place, even if the act is not
2 observed, or if it's committed in a private place, it's
3 committed in an open manner as opposed to a secret manner and
4 with the intent to be offensive to the observer.

5 So for child abuse and neglect, child abuse is when
6 a defendant causes a child under the age of 18 to suffer
7 unjustifiable physical pain or mental suffering as a result
8 of abuse or neglect or places that child in a situation where
9 they may suffer unjustifiable physical pain or mental
10 suffering as -- excuse me, as a result of abuse or neglect.

11 In this case, you have two different theories of
12 child abuse. The first is sexual abuse. So sexual abuse is
13 any act of incest, sexual assault, lewdness with a minor,
14 open or gross lewdness that's committed opinion a child under
15 the age of 18.

16 And the second theory that you have in this case
17 for child abuse is sexual exploitation. So different than
18 the sexual abuse, sexual exploitation is forcing, allowing,
19 or encouraging a child to view pornographic material or be
20 filmed in any manner which captures the child's genitals or
21 any sexual conduct with the child.

22 You also have use of a minor in producing
23 pornography, which is where a person knowingly uses,
24 encourages or entices a minor to engage in or simulate sexual
25 conduct to produce a performance, or when a person knowingly

1 uses, encourages, entices, coerces, or permits a minor to be
2 the subject of a sexual portrayal.

3 Now, we'll talk about what these two things, sexual
4 conduct and sexual portrayal mean in just a minute because
5 there's also elements of possession of visual presentation
6 depicting sexual conduct of a child.

7 That is the possession for any purpose of a film,
8 photograph, or visual depiction showing a person under 16
9 years of age as either the subject of a sexual portrayal or
10 engaging in or simulating sexual conduct.

11 So sexual conduct is defined as sexual intercourse,
12 lewd exhibition of the genitals, fellatio, cunnilingus, which
13 is oral sex being performed upon a female, bestiality, anal
14 intercourse, et cetera. There's a number of additional types
15 of conduct that are listed in the statute that are not
16 present in this case.

17 Now, one of the things mentioned there for sexual
18 conduct is lewd exhibition of the genitals. So to determine
19 whether something is a lewd exhibition of the genitals of a
20 child, you look to whether the focal point of the picture,
21 the video, whatever the depiction is, is the child's
22 genitals.

23 You look to whether or not the setting of the
24 picture, the video, or the depiction is sexually suggestive,
25 whether the child is depicted in an unnatural pose or

1 inappropriate attire given the age of the child, whether the
2 child is nude or clothed, whether the depiction suggests a
3 sexual coyness or a willingness to engage in sexual activity,
4 and whether or not the visual depiction is intended or
5 designed to elicit a sexual response in the viewer.

6 So you don't have to have all of these factors.
7 This is just what you're looking to. But it's a totality of
8 all of those things given all of the surrounding
9 circumstances, including the age of the child for whether or
10 not a depiction of a child's genitals -- excuse me,
11 constitutes a lewd exhibition.

12 So you also have sexual portrayal, which is the
13 other way that we can get to use of a minor in producing
14 pornography or possession of essentially child pornography.

15 For sexual portrayal, we're looking at a depiction
16 of a person in a manner which appears to the prurient
17 interest in sex and which does not have serious literary,
18 artistic, political, or scientific value.

19 So what we're looking at there is something that
20 appeals to a sexual interest, but that's not beneficial to
21 society. So we're not talking about medical pamphlets.
22 We're not talking about artistic films. We're talking about
23 things that don't have value for society above and beyond
24 being graphic depictions of children.

25 So a prurient interest is a shameful or morbid

1 interest in nudity, sex, or excretion, or involving sexual
2 responses over and beyond those that would be considered
3 normal.

4 So what we're looking there is the focus of this
5 work is nudity, it's sex, it's hypersexualized in some way
6 beyond what would be normal. So what we are not talking
7 about with the sexual portrayal is, you know, bath time photo
8 of a baby with nothing more, right?

9 We're looking at things that are appealing to the
10 sexual interest. We're looking to things that don't have any
11 value or any place in society.

12 So you also have charged a number of different
13 counts of preventing or dissuading a witness from reporting a
14 crime. That is the use of intimidation or threats to prevent
15 or dissuade a victim from reporting a crime commencing
16 prosecution or causing the arrest of a person in connection
17 with a crime.

18 So those are the charges that we have in this
19 particular case.

20 Now we're going to talk about the specific counts
21 that we have involving the defendant, involving Terrie and
22 Deborah.

23 So count 1 is conspiracy to commit sexual assault.
24 So as we talked about before, a conspiracy is an agreement
25 between two or more persons for any unlawful purpose. So

1 each defendant must intend to commit the specific agreed upon
2 crime.

3 In this particular count, the crime is the
4 agreement to do something unlawful. It doesn't matter
5 whether or not it's actually successful. So just conspiring
6 getting together to come up with this plan to commit an
7 unlawful act is the crime itself. It doesn't actually matter
8 whether or not that conduct occurs.

9 So here, for our conspiracy to commit sexual
10 assault we're looking at the defendant's conspiracy with
11 Deborah and the defendant's conspiracy with Terrie to commit
12 a number of different acts, sexual assaults upon the children
13 in the residence.

14 So how do we know that there was a conspiracy
15 between the defendant and his wives to abuse the children in
16 this case? It's inferred from the circumstances. So it's
17 not like there's just one incident, right? The sexual acts
18 with the children occur repeatedly, with each of the wives,
19 and each of the children, there's multiple different acts
20 that take place.

21 In fact, in this case, we have a number of
22 different videos, and the videos themselves show us that we
23 have a conspiracy. So in the video with Tails, you can hear
24 the defendant asking Deborah if she wants two cocks before
25 the defendant goes out and gets Tails and brings Tails into

1 the room.

2 So at that point, Tails -- or excuse me, Deborah
3 and the defendant are both aware of exactly what's going to
4 take place once Tails comes into that room. And they're
5 aware of that, and they agreed upon that before they ever go
6 and get Tails and bring him in for any of the sexual conduct.

7 And you also have that in the video with Ryan. At
8 the very beginning of the video with Ryan in the bedroom, the
9 defendant's explaining to Terrie what she should do before
10 Ryan comes into the room. And you've got both of those clips
11 and we'll talk about them in just a second.

12 So this is the beginning of the video with Tails.

13 (Playing video)

14 MS. SUDANO: So, ladies and gentlemen, you'll have
15 that video back with you as part of the evidence in this
16 case. At the very beginning of the video the defendant says
17 to Deborah, Do you want two cocks and then she says, no, just
18 one; or just this one for now, and then he continues to
19 repeat it, and she says, I can't get two cocks in my mouth at
20 the same time.

21 And shortly after this, the defendant goes out of
22 the room in the nude, while Deborah stays in the room in the
23 nude, and they bring Tails in. So that tells you exactly
24 what's going on in this room, right? They both know that
25 Tails is coming in for sexual conduct at the time that this

1 is taking place.

2 All right. And then this is the video with the
3 defendant describing to Terrie what's going to happen before
4 Ryan comes in.

5 (Playing video)

6 MS. SUDANO: And again, you'll have that video in
7 the back with you. At the very beginning, you can see the
8 defendant adjusting the camera, you can hear him say the word
9 "Ryan", and then he starts addressing someone off the scene,
10 who we know to be Terrie. He's telling Terrie -- or asking
11 Terrie what's going to happen before the defendant comes back
12 into the room. And you can see him gesturing to his chest.
13 You can hear him say -- start taking off his clothes and
14 something about having Ryan kiss or lick Terrie's nipples.
15 And you'll have that video back there with the speakers. You
16 can listen to it and confirm that that's exactly what the
17 defendant is say something.

18 But, again, from this video, from the fact that
19 there are multiple videos in this case, there's conduct that
20 can repeatedly occurs with each of the children and each of
21 the wives. It's clear that the defendant and Terrie and the
22 defendant and Deborah are part of a conspiracy to sexually
23 abuse these children. Everybody knows exactly what's going
24 to happen when these kids come into the room.

25 Everybody is on exactly the same page, and

1 specifically intends for each of those acts to take place.

2 Now, we're going to talk next about all of the
3 counts involving Anita. That's counts 2 through 53 of the
4 Information. And that is Anita here when she's ten. She's
5 wearing that Tasmanian devil shirt that she told you was her
6 favorite. And she said that that was her favorite shirt when
7 the time -- or excuse me, the time that the abuse started
8 when she was approximately 11 years old.

9 And Anita remembers many incidents where the
10 defendant was sexually abusing her, but she's not sure which
11 is the first in time.

12 She said abuse happened several times a week from
13 when she was in sixth grade to approximately her sophomore
14 year of high school and then it slowed down a little bit
15 after that as she got older and the defendant got a job, and
16 there was less time that this were alone in the house for
17 that abuse to occur.

18 So initially, that abuse took place in the living
19 room, in the master bedroom, and the boys' bedroom. And
20 Anita described to you that her memory was something like a
21 VHS tape, right? She said that it would rewind and fast
22 forward to different spots, but that throughout it all, she's
23 certain that all of this abuse occurred, she just didn't know
24 which specific incidents took place first.

25 You have an instruction that deals with that as

1 well. You have an instruction that tells you that there's
2 not a specific date requirement when a child is victim of
3 sexual assault or lewdness with a minor. If the child
4 doesn't remember the specific date, the State may prove a
5 timeframe for the act.

6 So in this case, we've got a number of counts that
7 are charged from the period that Anita was 11 to 13, and then
8 we have some additional acts that are charged when Anita was
9 14 and 15, and then some additional acts that took place
10 after Anita turned 16.

11 So we don't have to prove that any of these things
12 happened on January 7th of 2002. We just have to prove to
13 you the date range. And for each of these counts, the date
14 range is exactly what Anita told you, from the time that she
15 was 11 to 13, the time that she was 14 and 15, and then after
16 she was 16.

17 You also have an instruction that tells you that a
18 victim has to testify with some sort of particularity
19 regarding each incident in order to uphold the charge. So
20 what you have in this case is, we've already said, Anita
21 can't remember each specific incident because they were too
22 frequent. They happened all the time.

23 So most of the conduct is charged once per year.
24 So once when Anita was 11, once when she was 12, once when
25 she was 13.

1 So Anita remembers one incident when she was
2 approximately 11 where she came home from school and she saw
3 the defendant masturbating in the bedroom. The defendant
4 said to her during this incident that if you love me, you'll
5 show me. He made her undress and began to touch and fondle
6 and breasts and her vagina in the master bedroom.

7 And then he took her out to the living room to make
8 sure that the front door to the residence was locked. Once
9 out in the living room, and Anita was fully undressed, the
10 defendant began to rub and massage her vagina going in
11 between the lips so that he could touch other clitoris. Then
12 the defendant put her down on the living room floor,
13 penetrated her anus with his penis, and when she objected and
14 told him that it hurt and that she didn't want to do this, he
15 told her to get used to it. So that's one specific incident
16 that Anita describes to you.

17 You also have Anita's testimony regarding a
18 different incident that start -- where the defendant started
19 to fondle her breasts in the living room, and then moved her
20 into the master bedroom before he again, anally penetrated
21 Anita while she was on the bed.

22 Another one of these incidents when Anita was
23 between 11 and 13 was an incident that she described as
24 taking place in her brother's bedroom. She indicated that
25 the defendant brought her back to that room or told her to go

1 back to that room and take her clothes off before he anally
2 penetrated her on her brother's bed.

3 She told you that the defendant liked to abuse her
4 in that particular room because that's the room with the
5 window that faced the driveway and faced the street so he
6 could look out the window while these things were happening
7 and make sure that nobody else was coming home.

8 Anita described to you a number of different
9 locations that this abuse took place, the living room, the
10 master bedroom, the boys' bedroom. She also described a
11 number of different ways that the defendant would anally
12 penetrate her.

13 She indicated that there were times where the
14 defendant used no lubrication, such as that time that started
15 in the bedroom and then went out to the living room. There
16 were other times where baby oil was used. Other times where
17 the defendant would spit on his hand and then use that as
18 some sort of lubrication.

19 So Anita described a number of different incidents
20 that took place when she was between 11 and 13.

21 She also described that the abuse took place
22 several times a week, mostly on school days when nobody else
23 was home, right? She told you that throughout her entire
24 life, because of the age difference between her and her
25 brothers, she was the one that was home first. And she was

1 consistently home about an hour before any of her brothers
2 came home, a couple hours before Deborah or Terrie came home.
3 So there was plenty of time for the defendant to abuse her
4 without anybody else being present.

5 So Anita also indicating starting when she's 11, so
6 sixth grade, the defendant would force her to take off her
7 shirt and bra and use his hands to touch and fondle her
8 breasts.

9 Again, this happened several times a week when she
10 was 11, 12, and 13 years old. It happened just like the
11 other abuse in the living room, the master bedroom, and the
12 boys' bedroom.

13 And for this act of touching Anita's breasts,
14 fondling Anita's breasts with his hands, the defendant's
15 guilty of counts 2, 10, 13, and 18.

16 Anita also described that on multiple occasions, at
17 least one occasion, he forced her to undress and rubbed his
18 penis against her genital area before anally penetrating her.
19 And that was abuse that took place in this first timeframe
20 when Anita was between the ages of 11 and 13.

21 For that conduct, using his penis to rub or fondle
22 or touch Anita's vaginal area, the defendant is guilty of
23 count 5, lewdness with a child under the age of 14.

24 Anita also described at least one incident that we
25 talked about earlier where the defendant rubbed his hands on

1 her vaginal area going inside the outer lips of her vagina to
2 touch her clitoris. And this is sexual assault with minor
3 under 14 years of age, and for this the defendant is guilty
4 of count 3 for the digital penetration.

5 Remember what we said about penetration earlier?
6 It's any intrusion, any penetration, however slight. So when
7 he penetrated the lips of Anita's vagina to touch her
8 clitoris, that is sexual assault.

9 We also have for that same conduct count 4, which
10 the defendant is also guilty of, so lewdness with a child
11 under the age of 14 for touching or fondling Anita's genital
12 area with his hands.

13 You also heard Anita describe that, starting when
14 she was about 12, so a little bit after the other sexual
15 abuse, the defendant would frequently make her perform oral
16 sex on him, perform fellatio. She indicated that this
17 happened at least once a year from the time that she was 12
18 and 13 on.

19 She indicated that it happened on the living room
20 couch while the defendant was sitting on the couch with her
21 between his legs, and that it also happened in the master
22 bedroom while the defendant was sitting on the bed with her
23 between his legs.

24 For this, the defendant placing his penis in
25 Anita's mouth, the defendant is guilty of counts 14 and 19,

1 sexual assault with a minor under 14 years of age for that
2 fellatio.

3 For the same conduct, the defendant placing his
4 penis on or near Anita's mouth, touching her mouth, the
5 defendant is also guilty of lewdness with a child under the
6 age of 14, which is counts 15 and 20.

7 Now, Anita described that several times a week from
8 when she was 11 all the way up until later in high school,
9 but certainly through the time when she was 13, the defendant
10 subjected her to anal penetration. She described these
11 incidents taking place in the living room, the master
12 bedroom, the boys' bedroom. We've already talked about three
13 of those specific incidents.

14 She indicated it happened several times a week,
15 certainly several times a year during those times. For
16 sexual assault with a minor under the age of 14 for anally
17 penetrating Anita, the defendant is also guilty of counts 6,
18 8, 11, and 16.

19 For that same conduct, for using his penis to touch
20 or rub against Anita's anal area, the defendant is also
21 guilty of lewdness with a child under the age of 14, counts
22 7, 9, 12, and 17.

23 Now, Anita described for you that this abuse didn't
24 stop once she left middle school, once she turned 14. In
25 fact, the abuse continued. It worsened. It became more

1 varied.

2 She described that once she was 14, the defendant
3 started to alternate between anal and vaginal intercourse.
4 She described that first incident that she remembers of
5 vaginal intercourse taking place in the shower in the
6 bathroom to the trailer when Anita was in ninth grade and she
7 was 14 years old.

8 She told you that she was showering after school,
9 and the defendant came into the bathroom without her
10 permission, turned her around, and placed his penis inside of
11 her vagina, and then after that, placed his penis inside of
12 her anus.

13 She indicated that after that first incident, when
14 she was in ninth grade, it was about 50/50. Half of the time
15 the defendant would subject her to anal course, the other
16 half of the time it was vaginal intercourse, with the abuse
17 happening still multiple times per week, still when she's the
18 first one home in the residence and then everybody else comes
19 home an hour or two later. Because, remember, throughout
20 this entire period, the defendant's not working. He's just
21 home waiting for Anita after she comes back from school.

22 So for this conduct, the defendant is guilty of
23 counts 21 and 26, sexual assault with a minor under 16 years
24 of age, for having vaginal intercourse with Anita when she
25 was 14 and 15 years of age. It certainly happened more than

1 once a year, that's how it charged here, once a year for 14
2 and 15.

3 For that same conduct, having vaginal intercourse
4 with Anita, when she was 14 and 15, the defendant is also
5 guilty of incest. Remember, incest is vaginal intercourse
6 between two members of a family that are so closely related
7 that their marriage is going to be deemed void.

8 And you have the instruction on incest, that any
9 sexual intercourse between a parent and their natural child
10 is within that degree of consanguinity, that it's void.

11 So for subjecting Anita to sexual intercourse when
12 she was 14 and 15, the defendant is guilty of two counts
13 incest, 22 and 27.

14 Throughout that same period of time, as we already
15 discussed, there was also anal intercourse that was happening
16 several times per week. The defendant is also guilty of
17 counts 23 and 28 for subjecting Anita to anal intercourse
18 when she was 14 and 15 years old.

19 Anita also indicated that the other types of abuse
20 didn't stop when she got into high school. When she was 14
21 and 15, the defendant continued to touch and fondle her
22 breasts. She indicated that this happened at least a couple
23 of times per month, sometimes as part of the other sexual
24 conduct that was going on, sometimes as its own separate
25 thing.

1 The defendant also continued to make Anita perform
2 fellatio on him during this period of time. She described
3 that during this period, the sexual acts and specifically the
4 fellatio, happened in the office, the living room, and the
5 master bedroom.

6 Anita described one incident of fellatio where she
7 was in the back office with the defendant, he was showing her
8 some type of a cartoon pornography involving a father and a
9 daughter having sex, and he also showed her photographs of
10 Melissa when she was young.

11 While this was happening, the defendant was
12 gesturing to Anita and indicating that he also wanted her to
13 perform fellatio on him in the same way that these depictions
14 that he was showing her, which she did.

15 Now, for that conduct, for using his hands to touch
16 and fondle Anita's breasts when she was 14 and 15, the
17 defendant is guilty of open and gross lewdness, counts 24 and
18 29.

19 For forcing Anita to form oral sex on him, perform
20 fellatio, the defendant is guilty of sexual assault with a
21 minor under 16 years of age, counts 25 and 30, for when Anita
22 was 14 and 15.

23 So while we're talking about the office, we need to
24 talk briefly about this exhibit. All the children told you
25 that there were a number of different depictions of nude

1 women, scantily clad women, some in real life, some cartoon
2 characters, some figurines in the back office.

3 So we wanted to show you what the children were
4 talking about. So this is the computer desk in the back
5 office. And if you look at all of these different areas,
6 there's a number of different depictions of nudity.

7 So over here, we'll zoom in on this in just a
8 second, there's a picture of someone performing fellatio and
9 then a scantily clad woman. Up towards the top, there's a
10 number of action figures and animae characters that are
11 scantily clad or nude. The mouse pad is nude animae women.
12 There's initial action figures up towards the top right as
13 well as a depiction of just a number of cartoon breasts. And
14 those are all located right there in that office.

15 So this is that zoomed in area -- I don't know if
16 it's hard to see or not -- of the defendant's office. So
17 right next to Deborah's phone number and something for his
18 company, Knight Imaging, you can see here a woman performing
19 fellatio or oral sex on an individual, and then you can see
20 up beneath -- or excuse me, up above that the depiction of a
21 woman's hind quarters in some small underwear.

22 So that's the kids are talking about when they're
23 describing all of these things in the back office. And you
24 can also see kind of on the other corner of the back office
25 some additional depictions of nudity of scantily clad women

1 that's just part of the defendant's atmosphere that he's
2 creating in this back office when he's bringing not only
3 Anita, but all of the other children back there.

4 So as we indicated, the abuse with Anita didn't
5 stop when she was early in her high school years. It slowed
6 down some after she turned 16. That was more because the
7 defendant stopped having access to her as consistently,
8 right?

9 She indicated that during this period, the
10 defendant was working. She indicated that she was not around
11 as often, he wasn't around as often. But she said that the
12 defendant continued to grope and fondle her breasts during
13 this period, continued to make her perform fellatio on him
14 throughout her high school years and continued to make her
15 perform anal and vaginal intercourse with him.

16 She indicated that each form of abuse happened at
17 least once a year when she remained in the house and
18 certainly through her high school years.

19 So for this, the defendant is guilty of sexual
20 assault, vaginal intercourse, counts 31, 36, and 41 for the
21 conduct that happened when Anita was 16, 17, 18, and beyond.

22 Same thing as before, any time that there's vaginal
23 intercourse between a parent and a natural child, we're also
24 looking at counts of incest. So the defendant is guilty of
25 three counts of incest for this time period, 32, 37, and 42.

1 The anal intercourse did not stop during this
2 period. So the defendant is guilty of three counts of anal
3 intercourse for the time that Anita was 16, 17, 18, and
4 beyond. And those are 33, 38, and 43.

5 And the defendant also continued to grope and
6 fondle Anita's breasts for the period where she was 16, 17,
7 18 and beyond. For that, he's guilty of three counts of open
8 and gross lewdness, counts 34, 39, and 44.

9 And again, she indicated that that conduct was
10 sometimes happening as part of the other sexual conduct.
11 Sometimes it was just happening as she was sitting on the
12 couch near him.

13 And again, the defendant continues to make Anita
14 perform fellatio or oral sex on him during that period where
15 she's 16, 17, 18, and beyond. For that he's guilty of three
16 counts of sexual assault for fellatio, and that's counts 35,
17 40, and 45.

18 Now, in addition to all of the conduct that was
19 taking place with the defendant and Anita by herself, you
20 also heard testimony about an incident that took place
21 between the defendant, Deborah, and Anita.

22 Both Anita and Deborah described this incident as
23 taking place right at the end of Anita's senior year of high
24 school when she was either 17 or 18. They're not sure
25 because her birthday falls at the end of May.

1 So the defendant called Anita and Deborah into the
2 living room and made them perform sexual acts on each other.
3 And they both described the defendant standing by and
4 watching and directing all of the conduct.

5 So the defendant was telling Anita and Deborah to
6 kiss each other, telling them to fondle each other's breasts,
7 directing them when to go from standing to kneeling to laying
8 down in the living room.

9 They both described to you that they didn't want to
10 participate. And the only reason they were participating in
11 this conduct was because of the defendant, and their fear of
12 the defendant.

13 And they both describe the defendant as going from
14 standing by and directing to actually participating in the
15 abuse after he had already directed all of those acts.

16 So Anita described for you that she was laying on
17 the ground while the defendant vaginally penetrated her while
18 Deborah was on top of her, and that at a different point
19 during that, the defendant also penetrated Deborah, but
20 Anita's not sure where, because she couldn't see where.

21 Now, for this, the defendant is guilty of sexual
22 assault for directly having vaginal intercourse with Anita
23 during this incident, and that's count 46.

24 And accompanying this vaginal intercourse is count
25 47 for incest. The defendant is also guilty of count 47.

1 Now, you heard testimony from both Anita and
2 Deborah that during this incident, the defendant was also
3 directing them to touch each other's vaginal areas. And they
4 both told you that based on the angle, they were both trying
5 to get away with touching each other as little as they
6 possibly could, but that Anita actually penetrated Deborah's
7 vagina with her hands, and she had to do that because of the
8 angle.

9 She couldn't get away with just touching Deborah on
10 the outside of her vagina because she knew that the defendant
11 was sitting in such a way that he was watching and could see
12 where her hands were going.

13 So for that count, for the defendant aiding or
14 abetting, encouraging, inducing, otherwise procuring Deborah
15 to be involved in that conduct, so that Anita had to touch
16 the inside of Deborah's vaginal lips, touch her on the
17 clitoris, the defendant is guilty of count 48 for sexual
18 assault, for causing Anita, forcing Anita to have that sexual
19 conduct with Deborah.

20 Now, you also heard that the two were touching and
21 fondling their breasts because the defendant was directing
22 them to do that, and they were frightened and afraid and knew
23 that they couldn't tell the defendant no in that situation.

24 So the defendant's also guilty of counts 49 and 50,
25 both open and gross lewdness. The first count for having

1 Deborah touch Anita's breasts, and then the second one, count
2 50, for having Anita touch Deborah's breasts. And again,
3 during both of those acts, although the defendant was not
4 specifically the one that was touching Anita, the defendant
5 was the one that was procuring Deborah to touch or be touched
6 by Anita. He was encouraging and instigating their acts. He
7 was working, aiding and abetting Deborah to do these things,
8 conspiring can Deborah to make sure that these things were
9 done. So for that, the defendant is guilty of counts 49 and
10 50.

11 Now, you also heard Anita and Terrie describe
12 another incident that took place between the defendant,
13 Terrie, and Anita. Anita described this as taking place much
14 earlier in high school. She said she was 14 or 15 had this
15 particular incident took place.

16 So she goes to the back office, and she finds the
17 defendant back there with Terrie. And this is the incident
18 where the defendant starts telling Terrie that Anita had
19 never had anal sex and that he knew that Anita was curious
20 about anal sex. So during this incident, while Anita is
21 sitting back there with her biological mother, Terrie Sena,
22 the defendant subjects her to anal penetration, places his
23 penis inside of her anus while Terrie is there watching and
24 participating.

25 At the defendant's behest, Terrie is kissing Anita,

1 touching Anita's breasts, while this incident is taking
2 place. So for this, the defendant is guilty of sexual
3 assault for this incident of anal intercourse with Terrie.
4 And that's count 52.

5 Now, Anita was never a consenting partner to any of
6 this action. She told you that as she got older, she
7 realized that when the defendant was in a violent mood, when
8 he was particularly threatening or abusive towards Anita and
9 her brothers, she learned that the only thing that she could
10 do to calm him down was to go to him, throw herself at his
11 mercy, and subject herself to sexual abuse.

12 She said that when she did that, that was the only
13 time that he would back off and be nicer to her brothers, be
14 nicer to her. So she was buying time, buying protection for
15 herself and her brothers throughout.

16 But Anita was never a consenting partner for any of
17 the defendant's actions. We know that because the defendant
18 started abusing Anita when she was 11 years old, when she was
19 in middle school, well before Anita started forcing herself
20 to go to defendant to buy protection for herself and her
21 brothers.

22 The defendant very early on told her that it was
23 normal for a parent to have a sexual relationship with his
24 child. And Anita believed that because she thought a parent
25 is supposed to teach their child.

1 So she didn't realize until she was far older that
2 there was anything abnormal about the defendant's conduct in
3 this case. In addition to trying to convince Anita that this
4 was all normal and appropriate, the defendant also threatened
5 Anita if she told anyone, right? Told her that she would be
6 the one to go to jail because he knew all the cops. Told her
7 that he knew how to hide bodies. Told her that nobody would
8 believe her.

9 And he subjected her to violence and verbal abuse
10 if she ever disobeyed anything that he said. So not even
11 just his sexual requests, but any time she wasn't home when
12 she was supposed to be, any time she wasn't in front of the
13 cameras when those came into play later, she was subject to
14 violence. She was told that she was stupid, that she was
15 useless, that she was worthless. Also that the defendant
16 could continue to control her even after she got older.

17 Now, the effect of all of this is that the sexual
18 abuse that Anita experienced became normalized over time,
19 right? She just thought that that was how this happened in
20 this family. That doesn't mean that she was consenting to
21 any of that conduct or that she wanted any of that conduct.
22 She just thought, based on the defendant's influence and
23 control over her, that that was normal.

24 Now, because the defendant was Anita's abuser for
25 this entire period, for more than a decade, he knew or should

1 have known that throughout all of this conduct Anita was
2 mentally or physically incapable of resisting, right? And
3 that's our standard for consent.

4 The defendant's the one that's put Anita in this
5 situation. The defendant's the one that's been abusing Anita
6 for all of these years from the time that she was 11 on
7 wearing those cartoon T-shirts. So he knows that she's not
8 consenting. He knows that the only reason that she's
9 engaging in any of the conduct that she's engaging with him
10 in is because she wants to protect herself, she wants to
11 protect her brothers, she's frightened of what happens if she
12 doesn't give into him because of all of the threats, because
13 of the all of the violence, everything that's she's
14 experienced.

15 So throughout this, from the time that she's 11 up
16 until the time she leaves the house when she's 24, Anita's
17 never consenting to anything that the defendant does.

18 Now, we talked a little bit just now briefly about
19 some of threats that the defendant made to Anita. Again, he
20 tells her that he knew the police, and that she would be the
21 one to go to jail, she would be the one to get it trouble if
22 he ever tried to report -- or if she ever tried to report
23 him. Tells her, hey, if you report me, when I get out, I'll
24 break your legs, go back to jail, get out and break your legs
25 again, or even kill you if I have to.

1 He also tells her, go ahead and call the cops
2 because, you know what, I have 45 minutes to do whatever I
3 want before the cops even get here.

4 So for those threats and that conduct to prevent or
5 dissuade Anita from going to the police or reporting to
6 anyone all of the things that are happening inside of that
7 residence, the defendant is guilty of count 53, preventing or
8 dissuading a witness from reporting a crime.

9 Now, you have an instruction that tells you that
10 there's no requirement that the testimony of a victim of
11 sexual assault or lewdness with a minor be corroborated. But
12 what you do have in this case with Anita and with all of the
13 other victims that we're going to talk about here coming up
14 is that they're all corroborated, Anita is corroborated.

15 So Terrie, Deborah, and the defendant himself all
16 corroborate that the defendant is having sexual contact with
17 Anita from the time that she's a child.

18 So the defendant tells Terrie, Anita's mother, that
19 Anita is better in bed than Terrie, than basically anyone, at
20 the time that Anita's 12. So that tells you right there that
21 the defendant is already having some sort of sexual contact
22 with Anita by the time that she's 12, because that's the only
23 way that the defendant can go to Terrie and brag about how
24 good Anita is in bed because he's already subjecting her to
25 sexual abuse before that period.

1 You also heard defendant's statement to police. So
2 in that statement the police start confronting him with the
3 fact that they're there investigating allegations of sexual
4 abuse. And the defendant initially says, I've only had sex
5 with my wife. I don't know what you could possibly be
6 talking about. And then he backtracks and adds, well, I
7 mean, I guess, you know, my ex-wife, maybe a girlfriend here
8 or there.

9 And then he starts to indicate, okay, well, Anita
10 and I got drunk, and I did have sex with her when she was 22.
11 But he says, but she was 22, I don't understand the big deal
12 with this because she was an adult. And then he goes back
13 even further and says, okay, well, it wasn't just sexual
14 contact with Anita, I also had sex with Anita with my wife,
15 Deborah.

16 And then says, okay, well, maybe I had sex with
17 Anita three or four different times just with Anita by
18 herself. And then says, okay, maybe there was also that one
19 time with Anita and Terrie.

20 But throughout this entire interview, throughout
21 everything that the defendant is telling the detective, he
22 doesn't see what's wrong with having sex with Anita because
23 throughout, according to the defendant, Anita's 18.

24 So what's wrong with that is that the defendant is
25 acknowledging the sexual contact between him and Anita, and

1 at a minimum, acknowledging incest, which he sees nothing
2 wrong with. But then the defendant also says, you know, she
3 started to come to me for sex. You know, she'd come into my
4 bedroom and I started to turn her away.

5 So you have an instruction about common sense.
6 Your common sense instruction tells you that you have to
7 bring into the consideration of the evidence your everyday
8 common sense and judgment as reasonable men and women.

9 So let's talk about what the defendant is telling
10 the detective about his sexual relationship with his
11 biological daughter and apply that -- or apply our common
12 sense to that.

13 So you can draw reasonable inferences from the
14 evidence. So using your common sense, why would Anita, who
15 according to the defendant, was an adult woman, just start a
16 sexual relationship with her biological father just out of
17 the blue at 22, get drunk and have sex with her father?

18 If you use your common sense, ladies and gentlemen,
19 you know that she wouldn't. There's years of sexual abuse,
20 manipulation, control, and conditioning that go into that,
21 right? Anita's not just at 22, hey, you know who I want to
22 have sex with? My dad. No. This starts years and years and
23 years before.

24 Now, also think about what the defendant tells the
25 detective, that he started this sexual relationship with

1 Anita when they were drunk, but it was no big deal because
2 she was 22. So under that scenario, he's perfectly
3 comfortable having a sexual relationship with his biological
4 daughter, doesn't see any issue whatsoever with that, but
5 then says, you know what, I was the one that put a stop to
6 it, I was the bigger person, I'm the one that walked away
7 from it.

8 Use your common sense again. Why would the
9 defendant be okay with starting that relationship but then
10 just end it out of the blue? Again, he wouldn't be
11 comfortable with that, right?

12 The defendant sort of corroborates Anita in the
13 fact that there's sexual contact between them, but he tries
14 to blame it all on Anita, say, oh, well, Anita, you know,
15 started it, she got drunk, and then she was the one that
16 would come on to me.

17 The defendant is playing the victim, right? He's
18 blaming everything that's happened with Anita on Anita. But
19 if you use your common sense, all of the evidence in this
20 case, you know the abuse with her started when she was 11 and
21 continued for years and years and years. You know that she
22 was never consenting. You know that she was never willing.
23 You know that she never just went in to him because she
24 thought it would be fun and new.

25 Everything that happened with Anita was the

1 defendant's doing, was the defendant's fault, was caused by
2 the defendant, and subjects him to liability for those
3 counts.

4 The State's proven each and every one of them, 2
5 through 53 with Anita, beyond a reasonable doubt.

6 Now, moving on, then, to counts 54 through 69.
7 These are the counts involving Tails. So you heard a little
8 bit about Tails' initial statement to police in September of
9 2014, shortly after the defendant was arrested. You know
10 that almost nothing that Tails told the police in that first
11 interview was true, right?

12 He says that he's unaware of any sort of sexual
13 abuse in the home, that he himself is not a victim of
14 anything, he's not aware of anything, he's never been a party
15 to any of the sexual abuse taking place in the house.

16 He also telling the police that if anything like
17 that were to have happened in the house, he'd be the smart
18 one. He would have been the one that left.

19 But fast forward to the point where the police
20 review the video, and they know that none of that's true,
21 right? Because Tails is on the video. Tails is on the video
22 from the time when he's 13, 14, 15 years old being subjected
23 to sexual abuse by Deborah and the defendant, at the behest
24 of the defendant, being recorded without his knowledge by the
25 defendant.

1 So why was Tails saying those things? Why did
2 Tails initially tell the detectives that nothing had happened
3 in the house? So let's think about this from Tails'
4 perspective. Tails is the only one that stays in the house
5 with the defendant after everybody else leaves. It's not
6 necessarily Tails' choice to stay there. Tails gets left
7 behind, right?

8 Deborah takes off with Brandon, and then also takes
9 Anita, who's Tails' full biology sister, right? So they
10 leave, and they don't tell him what's going on. And then
11 just like every other time Terrie and Ryan leave, they don't
12 take Tails with them.

13 So Tails gets left in the house, nobody else will
14 tell him why they left or what's going on. So all he's left
15 with is the defendant. Tails also said that Anita was
16 primarily the defendant's favorite child, right? Or
17 sometimes it was Brandon.

18 Not until he's the only kid left in that house does
19 Tails finally become the defendant's favorite. And then
20 you've got the defendant talking to Tails after his arrest,
21 telling Tails, hey, don't believe them.

22 So even though Tails knows that there's abuse
23 taking place in the house because Tails is a victim of that
24 abuse, the defendant's saying, no, no, no, don't believe that
25 any of your siblings or your mom or your stepmom might say.

1 Just don't believe any of it.

2 So we can see that the defendant at this time still
3 has control over Tails, still has the ability to manipulate
4 Tails because Tails just wants to be the favorite, wants to
5 feel like he's belonging, and the only person that's telling
6 him that's going on is the defendant, even if what the
7 defendant is telling him isn't true.

8 So what do we actually know about Tails, right?
9 What did he sit up here and tell you? He told you that he
10 was embarrassed, that he didn't want to be a victim, that he
11 didn't want to be associated with this case because he was
12 worried about what that would do to his name, to his ability
13 to find a job or to live his life.

14 But despite all of those things, we know that Tails
15 is a victim in this case because there's video evidence
16 showing that Tails is a victim.

17 So Tails and Deborah both describe two different
18 incidents that happened when he's between 13 and 16 years
19 old. One of them is on video, and then the other one is
20 partially on video.

21 So the first incident was that shower incident that
22 Deborah and Tails both described for you. Tails said he was
23 between 13 and 15 when this incident took place. Deborah
24 said he was between 14 and 15. So somewhere in that late
25 middle school/early high school age is what we're looking at

1 with Tails.

2 So the defendant is up on the roof painting with
3 that silver paint, and then he splatters some roof -- or
4 excuse me, some paint on that mobile trailer that's right
5 next to the roof, and he gets upset because there's paint on
6 the equipment trailer, and nobody else is listening to him
7 and getting that paint off the trailer quickly enough, so he
8 loses his temper and he throws the paint roller down at Tails
9 and gets paint all over Tails and Deborah.

10 After that, they all go inside, and the defendant
11 tells Tails and Deborah to get in the shower, and orders them
12 to wash paint off of each other. And you've got that video.
13 You can see the defendant setting up the camera. You can see
14 the defendant going into the shower, manipulating Deborah and
15 moving him around -- or excuse me, moving her around in front
16 of Tails so that you can get the better camera angle.

17 You can hear him telling them where to watch and
18 how to wash. You can hear when there's the slightest inkling
19 of anybody resisting, the defendant loses his temper and
20 starts yelling at them to just clean, and then the camera
21 goes off.

22 But we know exactly what happens after that camera
23 goes off, right? Because Deborah and Tails both told you.
24 So the defendant tells Deborah to perform fellatio on Tails,
25 and then after she's done that, he instructs Deborah to turn

1 around and have sexual intercourse with Tails.

2 They both told you that there's no actual sexual
3 intercourse in the shower. There's no penetration. Deborah
4 says that she kind of put her hand down and blocked Tails'
5 penis. And Tails says that he was touching Deborah's legs or
6 her genitals, but he never actually penetrated her vagina on
7 that particular incident.

8 And they both told you that the defendant was there
9 the entire time both in and outside the bathroom, filming,
10 instructing, directing.

11 And then you also heard from Deborah that the
12 defendant made her watch that video or tried to make her
13 watch that video a few days later when they were in the back
14 office. The defendant was trying to have sex with Deborah
15 while she was watching that video. She got upset, and he
16 reacted badly.

17 So for that conduct involving Tails in the shower,
18 the defendant is guilty of one count of sexual assault with a
19 minor under 16 years of age, for causing Deborah to perform
20 fellatio, oral sex, on Tails, right? For aiding and abetting
21 her in the commission of that act, encouraging, promoting,
22 otherwise directing her to perform fellatio on Tails or
23 conspiring with her to perform fellatio. And that's count
24 54.

25 The defendant's also guilty of child abuse,

1 neglect, or endangerment for sexual abuse. And remember, our
2 sexual abuse, when we're talk being child abuse, is causing
3 the child to engage in some sort of sexual act, so sexual
4 assault, lewdness, fellatio, open and gross lewdness, any of
5 those different acts.

6 So for this one you have the conduct where the
7 defendant is instructing and encouraging, ordering, and
8 directing Tails and Deborah to watch each other while they're
9 nude in the shower, while sitting there filming that conduct.
10 For that, he's guilty of count 55.

11 And then there's also count 56, that open and gross
12 lewdness count for causing Tails and Deborah to watch --
13 excuse me, watch each other in the shower. So under that
14 same theory, right, where's directing, encouraging Deborah to
15 do those acts, he's ordering and filming all of those acts.

16 And then there's also another count of child abuse,
17 neglect, or endangerment. So this isn't for the washing. It
18 was those last two counts. This is for ordering and
19 directing that act of sexual intercourse that doesn't take
20 place.

21 But what does take place is that Tails' penis comes
22 into contact with Deborah's body at some point, right? It's
23 either Tails' penis in Deborah's hand or Tails' penis kind of
24 touching the leg or genital area of Deborah. And again, he's
25 the one that's instructing and directing this to take place.

1 He's causing Deborah to do this. He's procured her for this
2 act or they've conspired together for this act to take place.
3 So for that, the defendant is guilty of count 57.

4 And then also going along with that again is an
5 open and gross lewdness count, count 58, same conduct for the
6 defendant causing Tails' penis to come into contact with
7 either the hand or the leg or genitals of Deborah. For that,
8 the defendant is guilty of count 58.

9 Now, this is our first count of use of a minor in
10 producing pornography. So we talked about that before.
11 There's two different ways that you can get to the use of a
12 minor in producing pornography, and we'll talk about that in
13 just a second. But for filming what he hoped was going to be
14 sexual conduct in the shower, or for filming Tails in a
15 sexual portrayal, the defendant is guilty of count 59, use of
16 a minor in producing pornography.

17 And then we'll talk about this later, and with some
18 of our other counts, but not only did the defendant film that
19 video and create that video, at the time that the police went
20 into the back office on September 18, 2014, pursuant to their
21 search warrant and recover all of the hard drives and all of
22 the thumb drives and all of the computers out of the back
23 office, they also find in that safe the red flash drive that
24 has all of the deleted videos and photographs from this case.

25 And one of the videos that they find is this

1 particular video, right, of Tails in the shower with Deborah.
2 So because the defendant possessed that video on September
3 18th of 2014, he's also guilty of count 60, possession of
4 visual presentation depicting sexual conduct of a child.

5 Now, the video in the shower depicts sexual
6 conduct. So Tails is fully nude, right. When we're looking
7 at our sexual conduct, it's either some sort of sexual act or
8 a lewd exhibition of the genitals. So we've got Tails fully
9 in the nude with another person, his stepmother. We've got
10 the video focusing on his genitals. At one point the
11 defendant has a shot framed up towards Tails' face, and then
12 he directs it down towards Tails' genitals.

13 And then we also know the defendant's intent while
14 creating this video was to arouse his sexual interest. We
15 know that because just a few days later, the defendant is
16 trying to watch this video while he has sex with the
17 defendant.

18 So obviously, there's something sexually gratifying
19 about this particular video if he's trying to put it on while
20 he's having sex with his wife.

21 Now, the video is also a sexual portrayal, right?
22 So when we're talking about the sexual portrayal, we're
23 talking again about a video that lacks any sort of societal
24 benefit and it shows that morbid benefit in sex or nudity.

25 So again, this isn't something that's done for

1 medical purposes. It's not done as part of any sort of
2 artistic expression. It's just to depict his interest in sex
3 or nudity.

4 And so here's just a clip of this where you can see
5 the defendant reframe the video to show Tails' genitals.

6 (Video played)

7 MS. SUDANO: So despite the frame capturing Tails'
8 face, the defendant pulls it away from his face to actually
9 focus on Tails' exposed genitals at the time that he's 13,
10 14, 15 years old.

11 Now, there's also that second incident between
12 Tails and Deborah that takes place in the bedroom. And they
13 both described this one as taking place a little bit after
14 the first incident.

15 Defendant -- or excuse me, Deborah says that she
16 had told the defendant that there was no penetration during
17 that shower incident. And the response to that is the
18 defendant saying, oh, well, if there wasn't penetration last
19 time, you better believe that there will be penetration this
20 time.

21 So they both said that Tails is a little bit older
22 this time. Tails said probably about 15. Deborah said 15,
23 maybe 16 during this incident.

24 So the defendant calls Tails into the master
25 bedroom, and they both say that the defendant is there the

1 entire time directing, filming, watching this take place. So
2 the defendant instructing Deborah to perform fellatio on
3 Tails while he's on the master bed. After that takes place,
4 the defendant has Tails get on top of Deborah, and then
5 there's vaginal penetration.

6 So this time Tails' penis does go into Deborah's
7 vagina. And then the defendant has Tails and Deborah switch.
8 So he has Deborah get on top of Tails and then there's a
9 second incident of vaginal penetration during this one.

10 And then after both of those acts, the defendant
11 then instructs Deborah to perform fellatio on Tails a second
12 time while the defendant comes up behind Deborah and performs
13 intercourse on Deborah.

14 So for that conduct in the video, which was not
15 only described to you by Deborah and Tails, but which you've
16 actually got the video of, the defendant is guilty of sexual
17 assault with a minor under 16 years of age for causing,
18 procuring, instructing, and directing Deborah to perform
19 fellatio on Tails, two counts, one at the beginning, one at
20 the very end, and those are counts 61 and 67.

21 These two, count 62 and 68, it's exactly the same
22 conduct. It's the defendant procuring, directing,
23 instructing Deborah to perform fellatio on Tails at the
24 beginning and at the end of that incident in the bathroom --
25 or excuse me, in the bedroom.

1 The only difference here being that Deborah says
2 Tails -- or excuse me, Tails says Deborah -- Tails says he is
3 15 years old, Deborah's not sure if he's 15 or 16.

4 I would submit to you, ladies and gentlemen, that
5 they both indicated that this incident took place just a few
6 months after that first incident, which would put Tails still
7 in that first age range of under 16 years. However, the
8 reason that that second count is there is because that takes
9 into consideration the possibility that Tails was over 16
10 years during that incident.

11 So for this act in the bedroom that took place with
12 Tails and Deborah, the defendant is also guilty of two counts
13 of sexual intercourse -- or excuse me, sexual assault with a
14 minor under 16 years of age for sexual intercourse for
15 directing, instructing, procuring Deborah to commit sexual
16 intercourse.

17 And there's two counts because it's Tails on top,
18 and then the defendant instructs them to switch positions, so
19 they break, switch positions so that Deborah's on top. So
20 that's two counts, 63 and 65. And then same thing with that,
21 there's also the two alternative counts for the contingency
22 that Tails was over 16 at the time of this abuse.

23 Same thing, the defendant created this video, he
24 saved this video, he directed his video. For his conduct in
25 filming Tails, when Tails was 15 years of age, the

1 defendant's guilty of use of a minor and producing
2 pornography, which is counts 69.

3 Same thing as the video in the shower. This video
4 depicts sexual conduct. So we've got fellatio and sexual
5 intercourse that are depicted there. So that's how this is
6 sexual conduct. It could also be a sexual portrayal because,
7 again, it lacks any sort of societal benefit, and just shows
8 this morbid interest in sex and nudity.

9 So moving now to our counts with Brandon. Brandon
10 and Deborah, who's Brandon's biological mother, both describe
11 at least one incident with Brandon when he was 14 or 15, and
12 that's partially recorded on video.

13 So the defendant calls Brandon outside and makes
14 him get in the pool and watch while the defendant and Deborah
15 have sex. Brandon tries to go back inside, and the defendant
16 call him back out, makes him strip down, and get into the
17 pool with them.

18 They return to the house, and then defendant calls
19 Brandon into the master bedroom. Defendant instructs Brandon
20 to take off his clothing and orders Deborah to perform
21 fellatio on Brandon in the master bedroom, and then has
22 Deborah get on top of Brandon, and there's sexual penetration
23 there. Brandon's penis goes inside Deborah's vagina. And
24 then same thing is the incident with Tails. The defendant
25 orders a break in the action, and instructs them to switch

1 position, has Brandon get on top of Deborah. And again,
2 there's sexual penetration there.

3 Just like the incident with Tails earlier, the
4 defendant has Deborah, after those two acts of sexual
5 intercourse, perform fellatio on Brandon. Just like the
6 previous video, the defendant is there the entire time
7 directing, and in this video you can actually see him in the
8 corner of the screen kind of coming and going, and you can
9 tell that he's masturbating. He's nude, he's watching this,
10 he's sexually aroused while this is taking place.

11 So for this conduct, the defendant is guilty of --
12 or excuse me, child abuse, neglect, or endangerment for
13 sexual abuse, count 70, for causing Brandon to watch while
14 the defendant and Deborah have sexual intercourse in the
15 pool.

16 The defendant is also guilty of two counts of
17 sexual assault with a minor under 16 years of age for
18 fellatio, for the defendant instructing, directing, causing
19 Deborah to perform fellatio on Brandon in the bedroom. Same
20 thing as before, two counts because there was one at the
21 beginning and one at the end.

22 The defendant is also guilty of two counts of
23 sexual assault with a minor under 16 years of age for vaginal
24 intercourse causing, directing, procuring Deborah to have
25 sexual intercourse with Brandon, her biological son. Counts

1 72 and 74 because, again, there's one act, the defendant
2 directs a break and a change in positions, and then a second
3 act.

4 And because the -- or excuse me, because Deborah
5 and Brandon are parent and natural child, we also have two
6 counts of incest for the two acts of vaginal intercourse in
7 this particular case. The defendant is also guilty of those
8 counts, counts 73 and 75.

9 Just like the prior video with Tails, the defendant
10 filmed this conduct. For that, he is guilty of use of a
11 minor in producing pornography, count 77. And because this
12 video was recovered during that search warrant on September
13 18, 2014, the defendant is also guilty of possession of
14 visual depiction -- or excuse me, visual presentation
15 depicting sexual conduct of a child, count 78.

16 Now, just like the video with Tails, this video
17 also depicts sexual conduct and also represents a sexual
18 portrayal. Now, the thing that I want to note about Brandon
19 and also the abuse with Ryan is that we know that everything
20 that took place with Brandon and Ryan took place before they
21 were 16 because they were both out of the house and away from
22 the defendant before they were 16. So all of these counts
23 involved children under 16.

24 Now, Brandon also described a couple of incidents
25 at that took place with his stepmother, Terrie. So they

1 described at least two different incidents in the back office
2 when Brandon was between 14 and 15 years of age. So the
3 first incident Brandon goes to the back office to play video
4 games because he's not allowed to do that without the
5 defendant's permission.

6 He finds that Terrie's in the back office with the
7 defendant. Defendant makes Terrie lift up her shirt, flash
8 Brandon, and then makes Brandon touch Terrie's breasts.
9 After that, the defendant instructs them to get naked, take
10 off their clothing, has Terrie perform fellatio on Brandon
11 while he's standing up, and then he has them get on the floor
12 in the office. Once they're on the floor, he has Terrie get
13 on top of Brandon, and there's vaginal penetration there.
14 Brandon's penis goes inside of Terrie's vagina.

15 Now, the entire time that this is taking place, the
16 defendant is back in that office. He's standing there. He's
17 directing the conduct, and he's watching and masturbating.

18 Now, there's also -- well, for this incident, that
19 first incident in the back office with Brandon, the defendant
20 is guilty of one count of sexual assault with a minor under
21 16 years of age for causing, directing, instructing Terrie to
22 perform oral sex on Brandon. That's count 79.

23 The defendant is also guilty of one count of sexual
24 assault with a minor under 16 years of age for causing,
25 directing, instructing Terrie to have vaginal intercourse

1 with Brandon, and that's count 80.

2 Now, there's also child abuse, neglect, or
3 endangerment, sexual abuse for count 81, and that goes along
4 with count 82, opening and gross lewdness for causing Brandon
5 to touch Terrie's breasts.

6 So same thing with that, the defendant is the one
7 that's instructing it. The defendant's the one that's
8 procuring Terrie for this act. He is directing everything
9 that takes place back in that office. So not only is that
10 subjecting Brandon to sexual abuse, it's also an open and
11 gross lewdness.

12 Now, that second incident also takes place in the
13 back office. Brandon goes back there, again, to ask to play
14 video games, and he finds the defendant and Terrie having
15 sex. When he tries to leave, the defendant calls him back in
16 and makes him get into the bed with him and Terrie.

17 Defendant then makes Brandon touch Terrie's
18 breasts, and then orders him to vaginally penetrate Terrie
19 while they're sitting there still on that bed.

20 After Brandon vaginally penetrates Terrie, we have
21 the same thing that we've seen a number of the other
22 incidents, then defendant instructs Terrie to perform
23 fellatio on Brandon while the defendant is then having sex
24 with Terrie himself.

25 So for this incident, the second incident in the

1 office with Brandon and Terrie, the defendant is guilty of
2 one count of sexual assault with a minor under 16 years of
3 age for vaginal intercourse for instructing, procuring,
4 directing Terrie to have vaginal intercourse with Brandon,
5 that's count 83.

6 He's also guilty of child abuse, neglect, or
7 endangerment, sexual abuse, which is count 84, and again,
8 this goes along with the open and gross lewdness for causing
9 Brandon to touch Terrie's breasts, and that's count 85.

10 Now, similarly to Anita, the defendant also said a
11 lot of things to Brandon to prevent Brandon from reporting
12 this to the police or from seeking help. The defendant told
13 Brandon, I brought you into this world, and I can take you
14 out. Told Brandon the same thing that he had told Anita,
15 that if you tell anybody, I'll break your legs or I'll kill
16 you. And for this, the defendant is guilty of preventing or
17 dissuading a witness from reporting a crime or commencing
18 prosecution, which is count 86.

19 Now, we've next got the counts with Ryan, counts 87
20 through 106. So Ryan is not the defendant's biological
21 child, right? He's the biological child of Terrie with
22 another man. So because of that, Ryan has it the worst of
23 anybody in the house old. He's the only male child who
24 experienced direct sexual abuse at the hands ever the
25 defendant. He was repeatedly and systematically told that

1 nobody loved him, that his own father didn't the him, and
2 that he was basically stuck with the defendant.

3 So Ryan described that from the time that he was 11
4 to approximately 13, there were three separate incidences
5 where the defendant anally penetrated Ryan inside that
6 residence. He described an incident that took place in the
7 living room, an incident that took place back in the office,
8 and an incident that took place in Ryan's bedroom.

9 For those three incidents where the defendant
10 subjected Ryan to anal penetration, the defendant is guilty
11 of three counts of sexual assault with a minor under 14 years
12 of age, anal intercourse, and that's counts 87, 89, and 91.

13 Now, for that same conduct, the defendant is also
14 guilty of three counts of lewdness with a child under the age
15 of 14 or using his penis to touch or rub against Ryan's anal
16 area, and that's count 88, 90, and 92.

17 Now, there are two counts of sexual assault that
18 are charged for when Ryan was 14 or 15. During the course of
19 this trial, Ryan didn't testify about those particular
20 incidents that happened when he was 14 or 15. So those are
21 counts 93 and 94. And on those two counts you're going to
22 find the defendant not guilty because Ryan didn't talk about
23 those two incidents.

24 Ryan, however, did talk about some incidents that
25 took place with his biological mother, Terrie, when he was 14

1 or 15 years old. Both of these incidents that happened with
2 Terrie are recorded on video.

3 So the first incident that happened is in the
4 master bedroom. The defendant calls Ryan into that master
5 bedroom, Terrie takes off Ryan's clothes, and then performs
6 fellatio on Ryan while he's on the bed. Defendant is there
7 the entire time directing the conduct, instructing the
8 movements.

9 After that act of fellatio, the defendant has Ryan
10 get on top of Terrie, and there's sexual penetration. Ryan's
11 penis goes inside of Terrie's vagina. After that, the
12 defendant then has sex with Terrie. Same thing as the other
13 conduct, Terrie's performing fellatio on Ryan while the
14 defendant is penetrating her.

15 So for this first incident that took place between
16 the defendant and Terrie and Ryan in the bedroom, the
17 defendant is guilty of to counts of sexual assault with a
18 minor under the age of 16 for causing, directing, or
19 procuring Terrie to perform oral sex on Ryan. That's counts
20 95 and counts 98. Just like the other incidents we've talked
21 about the other boys, there's two acts of fellatio because it
22 happens at the beginning of the incident and it happens at
23 the end of the incident.

24 The defendant is also guilty of two counts of
25 sexual assault with a minor under 16 years of age for

1 causing, directing, procuring Terrie to have vaginal
2 intercourse with Ryan during that incident, and that's count
3 96.

4 Accompanying that count of vaginal intercourse is
5 one count of incest, because Terrie is Ryan's natural mother.
6 Defendant is also guilty of that count for procuring,
7 instructing or directing Terrie, and that's count 97.

8 During that particular incident in the bedroom, we
9 know that this conduct was filmed, we know that the defendant
10 was the one that was filming that. Because it's filmed, the
11 defendant is also guilty of use of a minor in producing
12 pornography, which is count 99. Because that video was
13 recovered later during the search warrant, the defendant is
14 also guilty of possession of visual presentation depicting
15 sexual conduct of a child, which is count 100.

16 Just like all of the other videos that we've talked
17 about with Tails and Brandon, the video in the bedroom
18 depicts sexual conduct, and it also is a sexual portrayal.

19 So for the incident involving -- or excuse me, Ryan
20 and Terrie in the office, this is the one where we didn't
21 actually have the video, we just had all of the still shots
22 of the conduct that was taking place because the video wasn't
23 recovered in its full form.

24 So during this incident, the defendant calls Ryan
25 back into the office, and Ryan and Terrie were both talking

1 about Ryan had an ingrown toenail, and he had gone back there
2 because the defendant was supposed to look at his toenail.

3 So after they have this brief conversation, the
4 defendant makes Terrie take off her clothing, makes Ryan take
5 off his clothing and performs fellatio an Ryan.

6 Defendant is there the entire time sitting at the
7 computer desk in his chair watching and directing as this
8 happens right in front of him. The defendant then takes off
9 his clothes, and you can see him enter into the front of the
10 video. He then has Terrie stop performing fellatio on Ryan
11 so that Terrie can perform fellatio on him, and then the
12 defendant has the conduct switch back so that Terrie is again
13 performing fellatio on Ryan.

14 So just like we've talked about with the other
15 counts, a defendant can be found guilty for multiple sex acts
16 during a single encounter. So we've talked about that
17 throughout. There's a number of different acts of vaginal
18 intercourse, fellatio that are taking place with all of the
19 children. So the defendant can also be found guilty for
20 multiple counts of the same conduct if there's an
21 interruption between the acts which are of the same specific
22 type.

23 So just how we talked about with Brandon and Tails,
24 the defendant directing the break in the action and
25 encouraging and ordering the parties to switch positions, and

1 how that's two separate acts; this is also two separate acts
2 here because the interruption is distinct from the specific
3 individual act itself.

4 So when the defendant instructs Terrie to stop
5 performing fellatio on Ryan and start performing fellatio on
6 him, that's two separate acts of fellatio when she goes back
7 to Ryan for the second time.

8 So we can also have acts of the same specific type
9 interrupted by a different type of sexual act, and so that's
10 what we have here.

11 So in the back office Terrie stops performing
12 fellatio on Ryan to start performing fellatio on the
13 defendant and then goes back, so that's two different counts
14 of fellatio.

15 However, we have the video of Terrie in the bedroom
16 with Ryan. When Terrie's performing fellatio on Ryan and the
17 defendant is behind Terrie penetrating her, Ryan's penis
18 falls out of her mouth and she puts it back in; so that's
19 just one count of fellatio because that's not a break in the
20 action that's really directed by the defendant. That's just
21 an incidental break in the action. So that's the
22 distinction. That's what you're looking at not only with
23 Ryan but also with the videos with Tails and Brandon. You're
24 looking for some distinct break in the action that's directed
25 by the defendant to be two different conducts.

1 So for the incident that took place with the
2 defendant, Terrie, and Ryan in the back office, the defendant
3 is guilty of two counts of sexual assault with a minor under
4 14 -- or excuse me, 16 years of age for fellatio for the
5 defendant directing, instructing, or causing Terrie to
6 perform fellatio on Ryan, and again, that took place at two
7 separate times because there was a break in the conduct when
8 Terrie was performing fellatio on the defendant.

9 Because that was recorded or captured at the time,
10 the defendant is also guilty of use of a minor in producing
11 pornography, which is count 103, and because that recording
12 or the still shots were captured in that search warrant, the
13 defendant is also guilty of possession of a visual
14 presentation depicting sexual conduct of a child, which is
15 count 104.

16 And just like all of the other videos with the
17 other boys, the stills in office depicts sexual conduct or a
18 sexual portrayal.

19 So there's some additional conduct that Ryan talked
20 about. There was one incident when he was 14 or 15 where the
21 defendant called him back into the office and had him sit on
22 that stool next to the computer desk and showed him a video
23 of the defendant and Terrie having sex.

24 So for forcing, encouraging Ryan to view
25 pornographic material, the defendant is guilty of child

1 abuse, neglect or endangerment for sexual exploitation, and
2 that's count 105.

3 So just like be heard with Anita and with Brandon,
4 there were a number of threats that were made to Ryan by the
5 defendant. So he would tell him that he didn't love him or
6 that his own father didn't love him, and he once attacked
7 Ryan for saying that he didn't feel loved within the house,
8 right? And continued to hit Ryan until Ryan gave him the
9 correct answer.

10 He told Ryan, just like he told the other children,
11 that if Ryan tried to tell anybody what was happening in the
12 house, that he was going to come after Ryan or that he was
13 going to try and kill Ryan.

14 So for this conduct of threatening Ryan, the
15 defendant is guilty of preventing or dissuading a witness
16 from reporting a crime or commencing prosecution, and that's
17 count 106.

18 So in addition to the defendant's own children or
19 the children living within his residence, we also heard about
20 a number of different victims and a number of different types
21 of conduct involving people that the defendant had access to.

22 So the defendant's niece through Terrie, Erin
23 Clark, is the victim in counts 107 through 116. She told you
24 that the defendant would fondle her breasts and genitals
25 almost every time that she went to the house.

1 She indicated that this always took place in that
2 back office. The defendant would be sitting at the computer
3 desk, and she would be stand next to him, and that she told
4 you that this probably happened, you know, more than ten
5 times. She wasn't really sure the exact number, but she did
6 say it was exactly the same every time. There was never a
7 time where he just touched her breasts and not her genitals
8 or a time where he touched her genitals but not her breasts.

9 She said it happened at least one time when she was
10 in the fifth grade, more than once in the sixth grade, and
11 more than once in the seventh grade.

12 She also said that she grew to expect this abuse
13 because it never really stopped. It happened essentially
14 every time that she went over there. She didn't tell anybody
15 because she was scared and embarrassed. She also said that
16 there was nobody else there. So even though Tamara would
17 often go over to the house with her, these incidents either
18 happened times that she went by herself or when Tamara was in
19 another part of the residence.

20 She told you that Ryan and Brandon would bring her
21 back to the office, and then leave her alone with the
22 defendant. You also heard that that was the case from Ryan
23 and Brandon, that they would be told by the defendant to
24 procure either Erin or Tamara, send them to the back office,
25 and then once the girls were back there, to leave.

1 So you also heard Anita describe that Erin would
2 ask her -- or excuse me, the defendant would ask Anita to
3 talk sexually about Erin, and Anita said that that happened
4 or started happening when she was about 17 or 18, which would
5 mean that Erin was seven or eight during these incidents
6 where the defendant would ask her to talk about Erin during
7 sex.

8 The defendant also told the same thing to Deborah
9 and Terrie. He's asking them to talk sexually about Erin
10 from about this period on. We also have Ryan who told us
11 that when he was maybe 11 or 12, the defendant tried to
12 convince him to have sex with Erin so that he could watch.

13 So we know that all of these incidents with Erin took
14 place not only from her testimony about the incidents, but
15 from all of the facts and circumstances and what everybody
16 else told us about Erin and the conduct with Erin.

17 So the defendant is guilty of four counts of
18 lewdness with a child under the age of 14 for touching or
19 fondling Erin's genital areas. She described that he would
20 always pull her pants down, and that he would sometimes touch
21 her over her underwear, sometimes he would touch her under
22 her underwear, but that it always happened in that back
23 office area.

24 She said it happened fifth grade, sixth grade, more
25 than once, seventh grade more than once. So that's four

1 counts. It's counts 107, 109, 111, and 113.

2 She described that during those same incidents, the
3 defendant would also always have her lift up her shirt so
4 that he could touch her breast area, he could touch her
5 underneath her bra, skin to skin on her breasts, and that
6 again, happened fifth grade, sixth grade more than once,
7 seventh grade more than once. So we're look being at four
8 different counts, counts 108, counts 110, counts 112, and
9 114.

10 We also know that in addition to fondling Erin's
11 breasts and genitals in the back office, the defendant also
12 recorded Erin in the shower, and that was the shower in the
13 back office, and you heard about that from Terrie. So Terrie
14 knew that the defendant was the one that was recording these
15 videos because she was performing fellatio on the defendant
16 while these videos were being recorded.

17 So Erin was 13 when she went and talked to the
18 police. And at the time she went and talked to the police,
19 we know that this video existed because this video existed
20 prior to them calling Erin, and that's how they called them
21 in, because they saw the video and they had Anita come and
22 identify who was in these videos.

23 So we know that Erin had to be under 14 at the time
24 that the abuse took place because of the time the police
25 found it and brought her in she was still 13.

1 So the defendant filmed Erin engaged in sexual
2 conduct or as part of a sexual portrayal. So for the sexual
3 conduct, again, we've got the lewd exhibition of the
4 genitals, she's totally nude. Just like with Tails, the
5 defendant actually zooms in on her breasts and her genital
6 areas, goes away from her face and towards her breasts and
7 genitals.

8 We know that there was a sexual purpose behind this
9 video and it was meant to arouse a sexual response because
10 the defendant was receiving fellatio while recording this
11 video.

12 Just like the shower incident with Deborah and
13 Tails, the defendant also played this particular video with
14 Erin back while he was having sex later on with Terrie. So
15 obviously, again, there's a sexual response to this
16 particular video because he's causing to be played while he's
17 having sex with his ex-wife, Terrie.

18 It's also a sexual portrayal because, again, like
19 the videos that we've talked about before, it lacks a
20 societal benefit, and it's just a morbid interest in sex and
21 nudity. So there's that shot of Erin in the shower. You can
22 tell that the focus is on her genitals. You can tell that
23 she's very young. You can tell that she doesn't want -- or
24 she doesn't have any knowledge that that particular video's
25 being recorded.

1 So for recording Erin in the shower, the defendant
2 is guilty of use of a minor under the age of 14 and producing
3 pornography. That's count 115. The defendant is also guilty
4 of possession of visual presentation depicting sexual conduct
5 of a child, that's count 16. And that's because, again, this
6 video was recovered during the search warrant.

7 We also have the counts involving Tamara. So
8 Tamara was the only victim in this case who was not directly
9 subjected to abuse by the defendant. Remember that the
10 defendant told Anita that Tamara was fat and ugly, and at
11 that point, he stopped requesting that Anita make the same
12 types of comments about Tamara that she was being requested
13 to make about Erin.

14 So the defendant doesn't want to hear comments
15 about Tamara while he's having sex with Anita because he
16 thinks that Tamara is becoming fat and unattractive.

17 So Tamara told you that she stopped going to the
18 house when she was about 15 because defendant's comments
19 about her sexual life made her uncomfortable. So we know
20 that anything that happened with Tamara happened before she
21 was 15 because that's when she cut off ties with the
22 defendant.

23 So just like happened with Erin, the defendant
24 would call Tamara into that back office, Tamara was always by
25 herself. One of the boys, either Ryan or Brandon, would come

1 get her, bring her back to the office, and then the boys
2 would leave.

3 So when she was about between 11 to 13 years old,
4 the defendant showed Tamara videos of people having sex,
5 pictures of his penis, and pictures of fellatio. In addition
6 to that, the defendant showed Tamara a picture of Melissa
7 performing fellatio on the defendant, which is important
8 because within that flash drive and everything that was
9 recovered on the defendant's flash drive, there's also a
10 picture of Melissa performing fellatio.

11 So in addition to showing Tamara the videos and the
12 photographs on that computer, just like he did with Erin, the
13 defendant also recorded Tamara in the shower.

14 Same thing that we talked about, it was Tamara
15 engaged in sexual conduct or as part of a sexual portrayal.
16 So the sexual conduct is the lewd exhibition of her genitals,
17 same thing as Erin, focusing on her genitals, actually
18 zooming in to make sure this he's getting a shot of her
19 breasts. Defendant was also receiving fellatio while this
20 particular video was being recorded.

21 And, again, it's also a sexual portrayal because it
22 lacks any sort of societal benefit and applies -- or excuse
23 me, just appeals to this morbid interest in sex and/or
24 nudity. And so there's the video of Tamara in the shower,
25 same thing as Erin, she's unaware that this is being filmed,

1 but the defendant is receiving fellatio while it's taking
2 place.

3 So for the defendant forcing or encouraging Tamara
4 to view pornography, he's guilty of child abuse, neglect, or
5 endangerment, sexual exploitation, and that's count 117. For
6 filming Tamara in the shower, when she was under 16 years of
7 age, he's guilty of use of minor in producing pornography,
8 count 118. And for possessing that particular video at the
9 time that the search warrant was served, he's guilty of
10 possession of visual presentation depicting sexual conduct of
11 a child, count 119.

12 So we also have count 120, which is for Melissa
13 Clark. So you heard testimony that the defendant began
14 photographing Melissa when she was 14 or 15, and that he took
15 a number of photographs of her posing with a vibrator or a
16 dildo. She told you that she was 15 when those photographs
17 were taken, and that she knows that she was 15 because she
18 had a very distinctive tan line in all of those photographs,
19 and the only time that she was that tan was her sophomore
20 year when she had done cheerleading camp.

21 So the photographs that were recovered of Melissa
22 show her in a variety of sexual poses with that toy. So the
23 defendant photographed Melissa engaged in sexual conduct or
24 as part of a sexual portrayal. So, so again, this is a lewd
25 exhibition of her genitals, totally nude, focus is on her

1 genitals posing with the sex toy in a sexually suggestive
2 position that suggests some sort of willingness to engage in
3 sexual activity.

4 And this photo, just like all the other videos, is
5 intended to elicit a sexual response in the viewer. It's
6 also a sexual portrayal because it lacks any societal
7 benefit, and it appeals to this morbid interest in sex and
8 nudity.

9 So for possessing those photographs of Melissa when
10 she was 15 years of age at the time of the search warrant,
11 the defendant is guilty of possession of visual presentation
12 depicting sexual conduct of a child, count 120.

13 Now, that's all of the count that you have in this
14 case. But in addition to those counts, you still have some
15 other instructions that I want to talk to you about just
16 briefly.

17 So this is your reasonable doubt instruction. It
18 talks to you about the burden, which is always on the State,
19 and we welcome that burden. But it tells you what a
20 reasonable doubt is.

21 We talked a little bit earlier about the fact that
22 you have another instruction that tells you that there's no
23 requirement for corroboration of a victim's testimony. But
24 the reasonable doubt instruction does not say that every
25 element or every charge must be on video.

1 In this particular case, you have a number of
2 videos, but you also have counts that are not on the video.
3 However, the video paints a picture of everything else that's
4 happening in that house, recording or unrecorded. When you
5 watch that video, you can see that the defendant is the one
6 that's calling all the shots. He's directing everything that
7 happens in the video. He's the one that's causing all these
8 things to take place.

9 Now, you have an instruction that talks to you
10 about motive. So a motive is what prompts a person to act.
11 The State doesn't have to prove a motive to you, but if there
12 is one, it can be considered.

13 So the defendant's motive throughout this case,
14 throughout the video, throughout everything that's been
15 described to you, is control. The defendant controls
16 everything that happens in that house. He knows exactly what
17 to say to each and every individual member of the family to
18 gain that control, because it's not the same thing for all of
19 them. It's something different for everybody.

20 The defendant is able to control Terrie by the
21 promise of getting back together with her and by the access
22 to her children, right? Because the defendant got her back
23 into the household in the first place by threatening to
24 withhold her children or trying to withhold her children. So
25 the defendant's able to control Terrie through that.

1 For Deborah, it's this comparison to Terrie.
2 Terrie doesn't necessarily care about being compared to
3 Deborah. But every time the defendant wanted Deborah to do
4 something, it was, if you love me, you would do it or Terrie
5 loves me enough that Terrie would do this.

6 MS. RADOSTA: Objection, Your Honor. I don't
7 believe the testimony -- that testimony was borne out.

8 THE COURT: Ladies and gentlemen, I'll remind you
9 that you are the sole judges of the facts in this matter, so
10 your objection's noted.

11 MS. RADOSTA: Thank you.

12 THE COURT: Go ahead.

13 MS. SUDANO: All right. So throughout, the
14 defendant would tell Deborah that Terrie would do something,
15 that Terrie loved him enough that she would do these things.

16 And then after the incident with Brandon, where the
17 defendant is telling Deborah that it's recorded on video when
18 Brandon was three, the defendant starts telling Deborah, I've
19 got you forever, now you can never leave me because she
20 thinks that she's stuck in that relationship now because of
21 the threat of what will happen if she tries to leave.

22 For Melissa, the defendant was able to maintain
23 access to her by threatening her with not seeing Terrie or
24 threatening her with not seeing her niece and her nephew,
25 without seeing Anita and Tails again.

1 You also heard testimony from Melissa that the
2 defendant was able to control her or encourage her to take
3 those photographs by telling her things like, oh, you should
4 be a model. So by flattering her, by appealing to her
5 vanity, he's able to control Melissa and to get Melissa to do
6 what he wants.

7 Now, for the kids, you heard from Anita all of the
8 threats of violence. The defendant also told her, you know,
9 if you loved me, you would do this, this is just how people
10 show their love. So preying on her feelings towards him as a
11 father and towards her belief that a parent is only going to
12 do what's right for their kid.

13 For Tails, it was this idea that he didn't want to
14 create problems between the defendant and Deborah, right?
15 That he just wanted this peaceful, happy family because the
16 divorce between his parents was tough on him, and he just
17 wanted some sort of stable family life. So that's how he's
18 able to control Tails.

19 With Brandon, he was able to control Brandon with
20 those same threats of violence because he knew that Brandon
21 was embarrassed to talk about what had happened, not only
22 with Terrie, but also with his biological mother.

23 Ryan, again those threat of violence. And then
24 with Ryan, it was telling Ryan, your father doesn't love you,
25 nobody else wants you. So controlling Ryan by making him

1 feel less than all of the other kids in the house.

2 Erin indicated that she felt fear of the defendant,
3 and that the defendant had told her that this is normal. So
4 just like with Anita and with Melissa, the defendant was able
5 to control Erin by trying to paint everything that was
6 happening in that back office or in that house as something
7 totally normal.

8 Now, the defendant is able to get everybody to
9 engage in all of these acts with him or with the wives
10 because of his control. So nobody wants to do the things
11 that they've talked to you about. Everybody came in and told
12 you that they didn't want to do these things, and that the
13 only reason they that they did them was because they were
14 afraid of the defendant.

15 All of the witnesses in this case essentially
16 agreed that the defendant is the one that's in charge around
17 the house, right? That the kids do anything that the
18 defendant says to do; the defendant controls the surveillance
19 cameras, he controls the kids whereabouts, right?

20 If they're not home within a certain time after
21 school, if they're not in front of the cameras when he thinks
22 that they should be in front of the cameras, he controls when
23 they play video games, what they could do around the house,
24 he controls whether or not they can make food for each other.
25 Everything that goes on in the house is subject to the

1 defendant's control, right?

2 Brandon and Anita both talked to you about that
3 incident where the defendant hit Brandon, backed him up into
4 the corner because Brandon was making food for his sister.
5 And Anita said that part of the reason the defendant was
6 upset is because that's not something that a boy is supposed
7 to do for his sister, right? We're not supposed to cook food
8 for women.

9 Now, you heard that in June of 2014, Brandon,
10 Anita, and Deborah leave the residence. And as that happens,
11 the defendant's control starts to slip away. So the
12 defendant's trying to pull them back, and you heard a number
13 of different people testify about the things that he was
14 doing.

15 He's leaving voicemails, he's threatening suicide,
16 he's calling repeatedly, he's asking Tails and Terrie to
17 reach out to them and contact them and bring them back. He
18 leaves a note on Anita's paycheck at work, telling her to
19 come home.

20 Deborah and Brandon talked about the fact that he
21 was holding those signs up for the surveillance camera
22 telling them to come back or asking them to come back. He's
23 sending a number of different e-mails to Deborah and the
24 children trying to get them back all because he's starting to
25 lose control. Once they're out of the house, he can't pull

1 them back.

2 So this is one of the items that was found in the
3 back office. It's a draft letter that's signed by
4 Christopher Sena, and he's talking about what's going on with
5 Deborah.

6 He says, 69 days, and you guys want to say that I'm
7 the monster, and yes, I have the truck. You know I won't lie
8 to you. I'm selling it to take care of all the
9 responsibilities that you've abandoned me on and left me with
10 because you know I did not have a real job. That I was
11 studying and learning and making a company work that we built
12 together, get off the ground, and the little bit of money
13 that I didn't make it back into the house.

14 So this is a document that's found back in that
15 back office, and that explains the defendant's starting to
16 feel this lack of control, right? He can't pay the bills.
17 He can't keep them here. He can't get them to get into
18 contact with him.

19 So that kind of begs the question. We heard that
20 Terrie and Ryan left a number of different times, that Tails
21 was gone for a year at one point. So why did the defendant
22 let Terrie leave and have an issue when Deborah, Anita, and
23 Brandon left?

24 There's a couple of reasons for that ladies and
25 gentlemen, but it always comes back to the defendant's

1 control. So if we look at Deborah and Anita, and Terrie and
2 Tails, so Deborah and Anita are the ones that are paying the
3 bills, right? That's what he just says, I can't pay the
4 bills, I don't have a job, I don't do this without you guys
5 here supporting me.

6 But we know that Terrie and Tails aren't really
7 consistently paying the bills. The defendant can manage
8 without them, and he knows that he can manage without them
9 because he's done it in the past. He also knows that Terrie
10 always comes back on her own. Whenever she leaves, she just
11 sort of shows back up.

12 And he also has video of both Terrie and Tails. So
13 that's part of his control, right? He knows that they're not
14 likely to say anything or talk about what's going on in the
15 house because it could be bad for them, too, because there's
16 video of both of them.

17 But there's no video of Anita. So he can't use
18 that video to control Anita and to make sure that Anita's not
19 going to say anything. So what does he start doing instead?
20 He starts making sure that that video evidence is all in
21 order. So this is the flash drive that come out of that back
22 office.

23 We know that the defendant is the one that controls
24 the video in this case. The videos came off of that thumb
25 drive, which is formatted on June 13th of 2014, which is

1 after everybody else is already out of the residence.

2 So we know that the defendant's the one that's
3 accessing then. Prior to them leaving, the defendant had
4 told Deborah that I had copies of the video if he ever needed
5 to use it.

6 We also know that he has control of the video
7 because he tells the detectives exactly where the video is.
8 And tells them what -- or excuse me, what content is on that
9 flash drive. But he's only telling them the undeleted
10 content, right? Because he thinks that he's been able to
11 delete everything else off of this flash drive.

12 So he had told Deborah that the flash drive was
13 stored somewhere back up in the arm to this particular T V.
14 But we know that that's not the case, and we know that the
15 defendant is the one that has access to it because he's able
16 to correctly tell the detectives that that flash dive is in
17 the safe.

18 So after the defendant starts to access the videos
19 and get everything in order, he e-mails Deborah on April 14th
20 of 2014 with the subject, TPO, temporary protective order,
21 and he tells her, "I can honestly say that in the eyes of the
22 law, I am not an abuser. And I can also say that you will
23 not find any bad things about me, not even the bad pictures
24 or bad videos to hold against me because it all requires
25 proof. All I have is rumors, and you can't prove rumors.

1 Rumors are only cheap talk by people when they're upset with
2 you."

3 So at this point, in August of 2014, when the
4 defendant feels that control slipping away, he lets Deborah
5 know that she's not going to be able to get a TPO, that she's
6 not going to be able to have the last word because all of the
7 videos of the defendant are gone. He knows that they're gone
8 because he's deleting them at this point.

9 But he knows that he's got access to them. He's
10 got the video. He's got control of that video showing
11 Deborah engaging in the conduct.

12 So the defendant throughout all of the e-mails that
13 he sends to Deborah also kind of has this e-mail countdown.
14 And you can see that there's this calendar in the back office
15 when the detective served the search warrant. And you can
16 actually see that he's counting the days since they've been
17 gone, and he's referencing that count throughout as he's
18 getting more and more upset, as he's feeling that control
19 start to slip away. And he references that count as though
20 something's going to happen if Deborah's not getting back
21 into contact with him, and she's not communicating with him.

22 So what happens is that the defendant is the one
23 that's controlling the release of the video. He's
24 controlling that countdown. So September 11th of 2014, we
25 get the two e-mails that are sent to Deborah's work from her

1 e-mail address containing the still photos of Deborah with
2 the dog.

3 And then three days after that, the defendant goes
4 back to e-mailing Deborah again. He says, "I just wanted to
5 see how all of this is working out for you. I already know
6 things are not going well for you, but this is just the
7 beginning."

8 So throughout, the defendant is letting Deborah
9 know that he's still in control even though they're gone. So
10 that same e-mail from September 14th, he's referencing, must
11 read, important info, 95 days on his countdown. He says,
12 "You are running away from a problem that you are not even
13 trying to fix, and you're creating a new situation that's
14 beginning to turn into a problem. How does that work?"

15 And then he mentions, "At the poker run yesterday,
16 there was some talk about a woman having bad pictures at
17 work, and they said she should go to jail for them. It
18 sounded like they do not like that lady very much."

19 So this is the defendant letting her know that he's
20 the one that's controlling the video and controlling how and
21 where that video gets sent, and letting her know that there's
22 potential consequences for her not resorting -- or not coming
23 back to him and submitting to that control.

24 And then he goes to say, "I feel very stupid now
25 that I've been telling everyone ever since we got married

1 that you were the brightest, smartest woman I'd ever met and
2 that you would never pull a Terrie move. Everyone expected
3 Anita to do this, but not you."

4 And then further, "Are we going to start
5 communicating and start solving some of these problems or do
6 I have to lower myself to the childish level and finish when
7 you started? It is all up to you. I really -- if you really
8 think about it, I do not have much to lose, but you have a
9 lot to lose."

10 And then finally, three days after that, September
11 17th, the defendant's telling her, "The only thing that I've
12 been asking from you is communication, 98 days."

13 He starts talking to her referencing mom and dad.
14 He says, mom knows that dad has not even begun yet and she
15 knows that she will not win. That the whole family will lose
16 horribly, especially her. This is a very dangerous game you
17 are playing with our family.

18 And then he tells her, since you're trying to make
19 everything so hard for me, I will do whatever I can to make
20 things extremely hard for you.

21 Now, these e-mails are just part of the defendant
22 showing that he's the one that's in control. So the videos
23 also show that the defendant is in control. He's the
24 director.

25 So the defendant is the one constant in the videos.

1 The kids change, the wives changed, it's all over the house
2 in different locations. But every single one of those videos
3 has the defendant in it. You can either see him, hear him,
4 both. He's manipulating the camera and setting it up. So
5 he's there for all of it.

6 You know that he's sexually aroused by those videos
7 because you can see him masturbating in some of them. He's
8 involved in sexual activity at the end of those videos. He
9 makes Deborah and Terrie watch them later during sex.

10 You also know that Terrie and Deborah never see
11 those videos unless the defendant is showing them because
12 he's the one that controls the video and controls the conduct
13 in those videos.

14 Now, the defendant told Deborah in one of those
15 videos, I can prove everything, can you? If there's any
16 doubt whatsoever that the defendant is the one that's
17 controlling everything that's happening, just watch this last
18 second of the video here with Ryan. And this tells you that
19 the defendant is the one in charge of everything.

20 (Playing video)

21 MS. SUDANO: For that conduct, where the defendant
22 is directing, controlling, instructing his 14-year-old son
23 Ryan, watch your daddy fuck your mama, the defendant is
24 guilty. All of the counts in this case, all of them, 1
25 through 92 and 95 through 120, when you go back to

1 deliberate, the State's going to ask that you so find, you
2 hold defendant accountable for his actions. Thank you.

3 THE COURT: All right. Thank you, Ms. Sudano.

4 Ladies and gentlemen, do you want to take a lunch
5 break or at least a short break and give the defense an
6 opportunity to get -- I mean, get their notes together.
7 Whatever you want to do. You want to take a lunch or would
8 you rather just take a short break and do -- speak up?

9 UNIDENTIFIED JURORS: Short break.

10 THE COURT: All right. Okay. We're going to take
11 a 20-minute break. Is that enough? Okay.

12 During this recess, you're admonished not to talk
13 or converse amongst yourself or with anyone else on any
14 subject connected with this trial or read, watch, or listen
15 to any report or commentary on the trial or my person
16 connected with this trial by any medium of information,
17 including without limitations to newspapers, television,
18 Internet, or radio, or form or express any opinion on any
19 subject connect with this trial until the case is finally
20 submitted to you.

21 It's now 25 after. So if you're ready to go by a
22 quarter 'til. All right? So we'll be at ease while the jury
23 exits the courtroom.

24 (Outside the presence of the jury at 1:23 P.M.)

25 THE COURT: All right. We're outside the presence

1 be of the jury. So be ready by a quarter 'til. All right?

2 (Court recessed at 1:23 p.m. until 1:50 P.M.)

3 (In the presence of the jury.)

4 THE COURT: All right. Everybody go ahead and have
5 a seat.

6 We're back on the record in the case of State of
7 Nevada versus Christopher Sena in C-311453. I'd like the
8 record to reflect the presence of the defendant, his counsel,
9 as well as the State and their counsel, all members of the
10 jury. Will the parties stipulate to the presence of the
11 jury?

12 MR. SWEETIN: Yes, Your Honor.

13 MS. RADOSTA: Yes.

14 THE COURT: All right. So Ms. Radosta.

15 MS. RADOSTA: Thank you. Okay. I wasn't sure if I
16 was on.

17 THE COURT RECORDER: You're on.

18 DEFENDANT'S CLOSING ARGUMENT

19 MS. RADOSTA: Thank you. Good afternoon, everyone.
20 As we've been saying since the beginning of this case, and
21 which surprised many of you, we want you to check the tape,
22 or actually, in this particular situation, check the tapes.

23 The case at first really seems to revolve around
24 the videos. We talked about it a lot in voir dire. There
25 was a lot of focus on it, but as you all have been sitting

1 here for the last few weeks, you've realized that they're
2 actually a small part of the case, but they are very, very
3 important part of the case. Because they show what really
4 happened. They show the dynamic between Christopher and
5 Deborah and Terrie, the wives, the dynamic between the wives
6 and the children.

7 So shows how things really happened as well. And
8 it also shows what didn't happen. So while they are not
9 important to every single count, they do kind of stand above
10 all of the counts.

11 The tapes, as we've said, they're self-evident.
12 There's no photoshop. There's no inconsistencies in the
13 tape. The tapes are what they are. They show the conduct as
14 it is. There are no contradictions in the tapes. And it is
15 the objective unbiased truth of those interactions and the
16 dynamic, the family dynamic, the husband and wife dynamic,
17 the parent-child dynamic, all of it is there on the tape.

18 But wouldn't it be interesting to think about what
19 this case would have been like had there been no video? It
20 would be a completely different trial.

21 The State would have been allowed to present just
22 the testimony without any question of everybody, Deborah,
23 Terrie, Anita, Brandon, Ryan, Erin, Melissa, everybody.
24 There would have been only their testimony and nothing to
25 contradict their testimony. And it would have painted a

1 completely false picture of those interactions.

2 Think about how Terrie and Deborah were on the
3 stand. Think of how they testified and how they said these
4 interactions went, and compare them with what you saw on
5 videos. Was it the same thing at all?

6 Without the videos, this trial would have been
7 totally different. Their stories would have been
8 unchallenged. The video allows us to know what really
9 happened, how they really acted, "they" being Deborah and
10 Terrie.

11 That Deborah would have been allowed to testify
12 unchallenged, that she had sex with Brandon and she had sex
13 with Tails because she was scared of Chris. That's what her
14 testimony was. Think back to the video, ladies and
15 gentlemen. Did Deborah seem in any way scared of anybody
16 while she was engaging in sex with Tails or Brandon? Or was
17 she engaging in sex, and that's it, no scared look, no tears,
18 no fear on her face whatsoever?

19 Same thing with Terrie regarding her sex with Ryan,
20 which the two -- the video and the bunch of stills that we
21 have with the interaction with her and Ryan. She also
22 testified she did this because Chris, Chris threatened her,
23 threatened Ryan, that's why Terrie did those things, that's
24 why Terrie had sex with Ryan.

25 Once again, think back to that video with Terrie

1 and Ryan. Do you see any fear on her face at all? Do you
2 sense that she's doing this for any reason other than she
3 wants to be there?

4 They would have been allowed to present a very
5 untrue description of Chris. The -- Deborah and Terrie,
6 Brandon, Anita, and Ryan they all painted this picture of
7 someone who was a master manipulator. He made us do all of
8 these things. He got us to do all of these things. He was
9 blackmailing us, he was threatening us.

10 Did you see any behavior consistent with that from
11 Chris on those videos? He might have been in the room. But
12 is he forcing them to abuse those boys? Is he standing over
13 them and yelling at them or standing over them and saying,
14 you better do this or else? Or is he simply in the room when
15 those things are happening?

16 But they wanted to paint the picture, Deborah and
17 Terrie particularly wanted to paint the picture of Chris as a
18 master manipulator because that way they're not responsible
19 for their own actions.

20 They say that he was insulting all the time. Do
21 you see that on the video at all? We have more than one
22 video. We have multiple videos here. So it's not
23 happenstance that on that one video you didn't hear it.
24 Multiple videos you never hear any insults, you never hear
25 any threats. You -- it's almost cartoon-ish the way they

1 describe Chris. That he was always threatening to break
2 their legs or threatening to come after them or these --
3 almost snarling in a way is how they would describe him.

4 But we are lucky enough that the video allows you
5 as the jurors to truly see how Chris was in those
6 interactions, and it's nowhere close to how he's described by
7 everyone that came to testify in this particular case.

8 Video shows the real situation. What else don't
9 you see on those videos, which you would have -- the
10 witnesses would have been allowed to testify to these things,
11 as they did anyway, that there was a lot of abuse in the
12 home, physical abuse.

13 Did you see any evidence of that on the videos?
14 Bruises? Did you see ever any actual domestic violence on
15 the videos between Chris and Terrie or Chris and Deborah or
16 towards any of the kids? No. You didn't see any of that on
17 the videos.

18 But had the videos not existed, those witnesses
19 would have been able to testify to all of that unchallenged.

20 What else do you see in those videos? Who's taking
21 off whose clothes? Who's making these situations begin?
22 It's Deborah and Terrie. They are either naked when the
23 videos start or they are taking off their own clothes very,
24 very easily and very, very willingly.

25 Even at one point, Terrie takes off her clothes and

1 then tells Ryan to take off his clothes. He says no. Chris
2 is nowhere in the shot, nowhere in the frame at all, nowhere
3 in the room. Ryan says, no to his mom, and she just says,
4 uh, and takes off his shirt and takes off his pants. He says
5 no to her, she doesn't care. She's going to take his clothes
6 off and then they engage in oral sex and then they engage in
7 sexual intercourse.

8 Almost every single Deb and Terrie initiated with
9 the sex with the children. Actually, I shouldn't say almost
10 every single time, every single time Deborah and Terrie
11 started and initiated the sex with the boys.

12 There's not a situation where you see Chris walking
13 in the room and pushing somebody's head down on someone's
14 penis or, you know, pushing somebody back on the bed and
15 making someone else get on top. That is not what was
16 happening here. These moms were full participants. They
17 wanted to be there and they were initiating the sex.

18 Additionally, the videos help us and help you see
19 the real situation, which is that Chris is not always in the
20 room. Despite the State's assertions during their closing
21 statements, he is not always in the room. You do see him
22 wandering around occasionally. You do see him naked. But
23 he's not always there.

24 You also see no violence, no raised voices, no
25 threats. There are suggestions. He's in the room. There

1 are definitely suggestions of sexual positions and things of
2 this nature. But the State paints a picture and the State's
3 witnesses paint a picture of somebody ordering, somebody
4 demanding, somebody manipulating and controlling those sexual
5 situations, and it's just simply not that.

6 It's like, hey, why don't you try this? Hey, what
7 about this? It feels, of course, very uncomfortable because
8 we know who the people are involved. Parents and children,
9 mothers and sons, fathers. It feels uncomfortable, but the
10 reality of it is, these are suggestions, these are not
11 orders, and the State would paint a completely different
12 picture if given the opportunity.

13 Additionally, the State's witnesses refer to
14 several -- several statements, several sentences during the
15 videos of Chris saying things during the videos. And this is
16 one of those situations where I'm going to ask you to rewatch
17 videos. I believe it is the Tails and Deborah video.

18 It is not an order. It's not a demand. It's
19 almost, if you will, dirty talk. It's almost, he's standing
20 there, there's no doubt about it, he's in the frame, there's
21 no doubt that he is naked, and I believe he's masturbating.
22 But he's talking about and saying things that he sees, saying
23 things that he would want to see. But it is in the sense of
24 -- it is a sexual encounter, ladies and gentlemen.

25 As I said, it's not the thing that makes anybody

1 comfortable to watch, even if it were consenting adults, but
2 this is parents and children. So it seems much more
3 upsetting. It seems much more uncomfortable. But the fact
4 of the matter is, he is in the room and having dirty talk
5 while he's watching Deborah have sex with her stepson.
6 That's what's happening. He is standing next to the bed. He
7 is not participating in the actual sexual act.

8 And don't forget, at no point in any single video
9 does Christopher touch Brandon, Ryan, or Tails. He does not
10 physically touch any of them, and yet, is he charged with
11 multiple counts of sexual assaulting them, lewdness with a
12 child under the age of 14, open and gross lewdness. I think
13 there's 30 some counts of him specifically with Brandon,
14 Ryan, and Tails, and not once does he physically touch them
15 on those videos.

16 The video also shows, though, ladies and gentlemen,
17 exactly how unreliable Deborah and Terrie are. They got up
18 here and they said, I didn't want to be there, I didn't want
19 to have sex with Ryan, I didn't want to have sex with
20 Brandon, I didn't want to have sex with Tails. And yet, when
21 you watch those videos, their behavior is completely opposite
22 of what their testimony was.

23 As I just said, they repeatedly said they were
24 forced, but there's absolutely no evidence that on the video.
25 Point to one thing, one thing that shows that they were

1 forced to be there. It's simply not on those videos.

2 They were enjoying the sex with their sons and
3 stepsons, up until the point where the -- where Metro got
4 involved, where outside forces got involved. Then their
5 whole story changed, and they began to try to save
6 themselves.

7 Oh, no, we didn't want to. Oh, no, I wasn't
8 participating. I was being made to. He was forcing me. He
9 threatened me. And yet, there's absolutely no evidence of
10 that outside of their words.

11 There's no denying the fact, though, that Chris
12 made some bad decisions. There's no doubt about that, ladies
13 and gentlemen. He did things that hurt his family. He did
14 things that didn't protect his family. He, though, is taking
15 responsibility for the things that he is responsible for,
16 unlike, of course, Deborah and Terrie, who -- I mean, it's
17 their mantra, not my fault, not my fault. But Chris is
18 taking responsibility.

19 He is, as we stated early on in this case, we would
20 not be asking you for not guilties across the board on this
21 particular one. He is guilty of some of the offenses that he
22 is charged with, and I want to talk to you about those right
23 now.

24 Possession of the videos and the photos.
25 Specifically, the charge is possession of a visual

1 presentation depicting a sexual conduct of a child. There's
2 multiple counts of this. The simple facts are these, there
3 was a red flash drive, he possessed it, he admitted it to
4 Detective -- to Detective Samples when he spoke to Detective
5 Samples on the evening of, I think, it was September 18,
6 2014.

7 He told him the location in the safe. He told him
8 the combination to the safe. Chris was very upfront with
9 Detective Samples when given the opportunity.

10 And the counts specifically that we are admitting
11 to are counts 78, 100, 104, 119, and 120. Some those had to
12 do with Ryan, some of those had to do with Tamara. 120 is a
13 count involving Melissa Clark. So they're a little bit some
14 -- these are the videos and the photos of some of the charges
15 -- I'm sorry, some of the alleged victims, sorry.

16 And this is just merely possessing, having them in
17 the safe, having them on the red flash drive. But those five
18 counts right there, we are acknowledging and admitting to.

19 There are other charges, though, making the videos.
20 You all saw the videos. You saw that Chris -- well, the
21 technical -- the name of the charge is use of a minor in the
22 introduction of pornography.

23 You can see him on the video. You can see him
24 sometimes turning at the beginning of the video or sometimes
25 at the end of the video turning off. There is little to

1 dispute about whether or not he knew those videos were being
2 made.

3 These are also counts that require us, the alleged
4 victim, the alleged minor to be under the age of 18. The
5 counts that we're talking about are ones that have to do with
6 Tails, Brandon, Ryan, and Tamara, and they are all under the
7 age of 18, which is a requirement as well for that particular
8 charge at the time that he makes the videos.

9 The counts that we are conceding are counts 69, 77,
10 99, 103, and 118. And once again, these are for creating the
11 actual videos that the State has presented in their case.

12 There are some of those counts, though, that we are
13 not conceding because in our opinion the State has not proven
14 beyond a reasonable doubt all of the elements that are
15 required for the use of a minor in production of pornography.
16 And those counts are 59, 115, and 116.

17 And you'll be able to have a chance when you're
18 back in the deliberation room, I think you will see the
19 difference between some counts of a use of a minor in
20 production of pornography and some others.

21 The counts of 59, 115, and 116 all have to do with
22 either Tails or Erin in the shower, and there are some
23 certain additional elements that the State needs to prove
24 that this is a sexual portrayal or its sexual conduct.

25 It's a very intricate and detailed legal analysis.

1 It contains -- the information is contained in five or six
2 different jury instructions. Jury instructions 34 through 39
3 deal with whether or not something is a sexual portrayal or
4 it is a sexual conduct.

5 So it's our position that Tails being in the shower
6 washing Deborah or Erin simply being in the shower and taking
7 a shower does not rise to the level of it being a sexual
8 conduct or sexual portrayal. So we would be asking for not
9 guiltyies on those particular counts.

10 There's also one additional count of possession,
11 count 60, and it's regarding Tails. That particular count
12 requires the person to be under the age of 16, and the
13 testimony was less than clear as to Tails' age at the time of
14 the shower incident.

15 He says he was -- I think, Tails says he was 14 or
16 15, maybe 16, and Deborah says 15 or 16. I might have those
17 backwards. They might be reversed, but there is conflicting
18 evidence as to his age, and that is an element that needs to
19 be proven by the State. When the evidence is in conflict, I
20 submit to you that it is not proven beyond a reasonable
21 doubt. So we would be asking for not guilty on that one as
22 well.

23 Oops. I knew there was one slide that was not
24 going to behave, and I think I just found it. There are also
25 some counts of incest that we will be conceding.

1 Specifically, counts within Anita.

2 And this is based on his statement to Detective
3 Samples. He did admit that there were a few sexual
4 encounters between he and Anita when she was over the age of
5 18. Now, this is in his statement, and he was very
6 forthcoming in his statement, as I've already pointed out.
7 He pointed out where the red flash drive was. He admit where
8 the guns were, things of that nature.

9 So his statement has the credibility that Deborah
10 and Terrie are lacking. But beyond that, Deborah does
11 corroborate that there was a threesome with Anita as well.
12 So that's an additional count of lewdness. I'm sorry, that's
13 an additional count of incest. My apologies.

14 Although Deborah is at times less than forthcoming
15 in her statements, we have now have Chris and Anita and
16 Deborah all saying that there was some type of sexual conduct
17 between the three of them. So there is enough corroboration
18 there to acknowledge that there was at least an account of
19 incest that was -- that Mr. Sena was responsible for.

20 The details of the threesome we'll get to later
21 because there's -- they're completely in dispute, but -- so
22 the counts that we are acknowledging are counts 32, 37, 42,
23 and 47.

24 There are some other additional incest counts that
25 we are not conceding. Certain ones dealing with Anita,

1 counts 22 and 27. She's the only one who says anything
2 happened to her when she was under the age of 18 -- or under
3 the age of 16.

4 The entirety of Anita's testimony is unreliable,
5 and we'll get into that more later, but so we are not
6 conceding all of the incest counts, just those four that I
7 mentioned a moment ago, which were 22, I think it was --
8 well, not -- 32, 37, 42, and 47.

9 And then there are some further ones with Ryan and
10 Brandon. Specifically, because the conduct is not Chris's
11 conduct, and yet, he has been charged with a count of incest,
12 which as the State laid out the legal definition of incest is
13 sex between people of specific degree of consanguinity,
14 parents and children, things of this nature.

15 Chris did not have any sexual contact with Brandon.
16 Deborah did. And yet, Chris is the one charged with this --
17 with one much these counts, which is why we are not conceding
18 that. He didn't actually have the sexual contact, I don't
19 see how he can be convicted of the charge of incest.

20 Same thing with Terrie and Ryan. Chris did not
21 actually have the sexual contact. It's Terrie. Chris isn't
22 even biologically related to Ryan. He does not have the
23 degree of consanguinity that is required for the count of
24 incest. So for that matter, we ask you to take a much deeper
25 look at those particular incest counts, and we're convinced

1 that once you do, you will find him not guilty of those
2 particular counts of incest.

3 There is one final count that we are conceding, and
4 it's the child abuse, neglect, and endangerment count, and
5 it's count 55.

6 Specifically, this has to do with Tails and Deborah
7 in the shower washing each other. There is video of this
8 one, and you can hear Chris in the background saying, you
9 know, wash the soap off of -- I can't -- I honestly can't
10 remember if he's telling Deborah to watch the soap off of
11 Tails or Tails to wash the soap off of Deborah, but you can
12 hear his voice expressing what he would like them to do.

13 But this is a child abuse charge. Tails is under
14 the age of 18, which is an additional requirement for this
15 particular count. But he did -- the child abuse and neglect
16 statute requires that the State prove that Tails suffered an
17 unjustifiable physical pain or mental suffering as a result
18 of abuse or neglect, and that specifically is laid out in
19 jury instruction number 32.

20 But that's what happened in this particular
21 situation. Chris is in the room, Tails and Deborah are
22 naked, he's not stopping this behavior from going on. He's
23 actually saying why don't you wash her, why don't you -- he's
24 not protecting his son. He is not protecting or preventing
25 this behavior from happening even though he's in the room and

1 he's another parent, he's an adult. He does have that
2 responsibility. Even if Deborah's not going to listen, he
3 still allowed it to happen. So based on that, which is why
4 we are conceding that particular count.

5 But the truth of the matter is, this is -- I get
6 ahead of myself sometimes -- this is the type of charge that
7 Chris should be charged with regarding all of the sexual
8 conduct in this particular case. He didn't protect his kids
9 from Deborah, from Terrie. That's what they charged in this
10 particular count, and it's an appropriate charge.

11 But instead, the State decides to charge sex
12 assault minor under the age of 16 for this type of behavior
13 as well or lewdness with a minor under the age of 14 for the
14 counts for some of the kids are under the age of 14. Open
15 and gross lewdness. Not -- this behavior and Chris not
16 stepping in and not protecting his child does not become
17 those other charges just because Deborah is doing those
18 things or Terrie is doing those things.

19 The DA in this particular case, I think it's pretty
20 obvious that we've been saying this all along, they've
21 overcharged and overreached in what he is actually
22 responsible for.

23 He is being held responsible for the actions of the
24 mothers in this particular case. Deborah and Terrie are the
25 ones having sex with those kids. I'm guessing that when we

1 first started this case, in all honesty, and you heard there
2 was video, and you heard it was a sex assault minor under the
3 age of 14 or under 16, most likely everybody's mind went to
4 parents being the father and even a step further that the
5 alleged victim would be a daughter, because that's just kind
6 of what you hear most of the time.

7 I'm guessing at least some of you were shocked that
8 it was the mothers on video having sex with their sons. It's
9 just not what we hear about, I don't want to say normally,
10 but what is the more common type of factual scenario for
11 these types of cases. It's usually a father.

12 But in this case, the video is of the mothers, and
13 yet, the father is still the one charged with all the crimes.

14 As I stated, the DA is overreaching. There are
15 more than 30 plus charges where it is Deborah or Terrie's
16 sexual behavior that Chris is charged with, that Chris is
17 being held responsible for. It starts at counts 54 through
18 counts 103.

19 All types of sexual conduct, intercourse, oral sex,
20 touching breasts, kissing breasts, everything that Deborah
21 and Terrie did, Christopher is charged with.

22 The State wants you to accept that Chris is the one
23 responsible for these acts, that he is the guilty party in
24 these particular situations, even though he did not touch any
25 of the children on the videos.

1 They are -- they're not holding Deborah to the same
2 level of responsibility and they're not holding Terrie to the
3 same level of responsibility that they are holding
4 Christopher to.

5 The truth of the matter is, Chris is charged with
6 over 120 felonies. When this case began, Deborah had 28 for
7 all of the conduct that you saw in those videos, for
8 everything that the kids said happened, whether or not they
9 say she wanted to or didn't want to, she had 28 counts.
10 Chris has 120.

11 She was facing more than 200 years in prison, 200
12 years with a potential life tail, as we say. And she ended
13 up deciding to accept a deal fairly deep into her case, ten
14 years to life.

15 But part of that deal was that she had to testify
16 against Chris. That was part of the deal. She didn't have a
17 choice. And same thing with Terrie. Once again, look at the
18 disparity. Chris has 120 felonies. Terrie has 15.

19 She was facing up to 125 years to life in prison.
20 Once again, she got to take the deal. She was offered a
21 negotiation of ten years to life. Both Deborah and Terrie
22 took their deals long enough ago that they have the
23 opportunity for parole in 2024, five years from now.

24 And part of their deal, though, they had to testify
25 against Chris. If they didn't want to testify against Chris,

1 they couldn't take a deal. They would have to go to trial.
2 They would have been the ones sitting watching the videos in
3 court and trying to convince a jury that they didn't want to
4 do those things. They took deals, and they're testifying
5 against Chris.

6 Once again, what did they say he is? Master
7 manipulator. Not my fault. I didn't want to, he made me.
8 The ringleader. He's the one in charge. He wanted all of
9 this stuff to happen. He was the one that was organizing
10 everything. Again, thank goodness that we have the videos
11 because they show that that's simply not the case.

12 There are flaws in the DA's case. Anita and
13 Brandon and Ryan, along with Deb and Terrie, they tell a
14 particular story of life in that household. As I keep
15 saying, it's not supported by the video. There was physical
16 abuse all the time supposedly. The kids were telling stories
17 of slaps and punches and strangling and choking and being
18 pushed against walls and being thrown up against tables.

19 The one odd benefit of these videos is because they
20 are of people having sex we see people naked. We don't see
21 any bruises on Deborah anywhere. We don't see any bruises on
22 Terrie anywhere or on any of the boys either.

23 You don't hear threats, yelling. But in the end,
24 the State had to make a deal with the devil or in this case
25 the devils, being Deborah and Terrie.

1 It's interesting because it's based on this idea
2 that I was talking about a second ago of what we all kind of
3 expected to hear when you walk into this case, when you walk
4 into this courtroom, it's based on the male and female
5 stereotypes in these types of cases.

6 You know, they're out there saying we didn't want
7 to have sex with our kids. We didn't want to have sex with
8 the boys, because that's what society is used to hearing.
9 They couldn't possibly want to have sex with their sons,
10 right? They're moms. That's just no, no, no. Nope,
11 couldn't happen. They're women, no. The only time that we
12 hear of these types of cases where with women defendants
13 every now and then you hear about a school teacher.

14 But rarely do you hear of a mom being charged by
15 herself for this type of behavior. So when Deborah and
16 Terrie realize that the police are investigating, and people
17 are asking questions, Deborah was the first to say, oh, nope,
18 nope, nope, it was him, it was him. He made me, he wanted
19 it, I didn't.

20 There must be a man behind it all. His ideas, it's
21 Chris' ideas. Chris's desires. He's the puppeteer. He's
22 the one responsible for all of this, not us. It's the
23 stereotypes that Deborah and Terrie and Deborah more so than
24 Terrie because she was the one to first put it out there when
25 she first spoke to the police, with these stereotypes that

1 she's hoping will be accepted by you all and that then she's
2 not responsible for her own behavior.

3 As I said, society somewhat expects an abuser to be
4 a male and the alleged victim to be a female. I think some
5 of you note it in jury questionnaires, things of that nature.
6 I don't want to be on a case like this because I have
7 daughters. And yet, you would look and that person would
8 also have sons, but they didn't reference their sons when
9 saying I didn't want to be part of this case. Because that's
10 where everyone's head normally goes.

11 This is an unusual case and Deborah and Terrie are
12 taking advantage of the stereotypes in order to get away with
13 the behavior that they participated in fully.

14 Deborah, as I just pointed out, was the first one
15 to tell her story. Not right away, though. Remember, they
16 left the house in June, and then nothing. This horrible
17 situation is happening, this awful amount of abuse, physical,
18 sexual, everything, and what do they do? Nothing. They just
19 lay low.

20 Until they finally speak to a divorce attorney.
21 Divorce attorney is the one who calls the police. Deborah
22 never intended for the police to be called. She went to her
23 divorce attorney. She told these facts or something similar
24 to this to her divorce attorney, and we don't know exactly
25 what she said to the divorce attorney, and the divorce

1 attorney is the one who said, oh, we got to get Metro
2 involved in this. This was in the Deborah's call. This was
3 not Deborah's decision.

4 But once the ball was rolling, she hopped right on
5 board. She kind of gave a standard story, if you will, of a
6 dominating husband, dominating father, and it worked because
7 although Deborah in her statement to police admitted to sex
8 with Brandon as a teenager and to performing oral sex on him
9 when he was a child, she was able to leave Metro's interview
10 that day with the child she had just admitted to abusing,
11 sexually abusing for the better part of ten years.

12 And if you'll recall, the detectives did say, they
13 thought she was withholding, they thought she was not being
14 truthful with them, but I believe it was Detective Kurau and
15 Detective Samples both said, you know what, not my call that
16 they let her go home with Brandon and that they let her go
17 home with Anita, who was an adult, but she had just admitted
18 today sexually abusing Brandon, and CPS said, no, at least
19 that's Metro's recollection is that it was CPS's call.

20 So whatever version Deborah told, it worked. She
21 didn't get arrested. She admitted to abusing her child, and
22 she walked out of that station and was free for three months.

23 Contrast that with Chris. Based on the statement
24 given by Deborah and Anita and Brandon, they -- Metro got a
25 search warrant and went to Chris' house at 6012 Yellowstone,

1 he was interviewed by Detective Samples. He was arrested
2 immediately. He said -- he was cooperative in his interview,
3 but he denied sexually abusing Brandon. He admitted to
4 having a consensual sexual relationship with Anita, but he's
5 the one who ends up arrested, not Deborah.

6 He is not believed when he says these things didn't
7 happen. Unlike Deborah. Deborah says, oh, I didn't mean to
8 do it, it was forced on me. She's taken at face value.
9 Chris say, I had a consensual sexual relationship with my
10 daughter, he's not believed, and he's arrested.

11 Once again, keep going back to this idea of the
12 societal expectations and stereotypes of what is believable
13 and what's not believable. And in this particular one,
14 Metro, they latched on to Chris because he's the man.
15 Deborah, she's allowed to stay living with the child that
16 she's been abusing.

17 Deborah continues with the unwilling participant.
18 But what happens then? They find the videos. And Metro
19 starts working their way through those videos. The content
20 of the videos blows Deborah's story out of the water.
21 There's nothing on the videos that supports what she says,
22 that she was an unwilling participant, that she was
23 physically abusing her and making her do these things.

24 But here's the truth, without that video, Deborah
25 and Terrie, they wouldn't be in prison right now. They would

1 have been allowed to tell their story, that it was all forced
2 upon them, and you'd be hearing their fractured version of
3 life at 6012 Yellowstone. That they didn't want to have sex
4 with the boys, not my fault, made me, forced me. All of that
5 stuff would be -- what would be prevented in this trial.

6 The videos are very clear who the predators are in
7 this particular case. It's not Chris. It's Deborah. It's
8 Terrie. To be fair, that's not how the kids saw it. That's
9 not the kids' testimony.

10 But the truth of the matter is they're protecting
11 their moms. This is an unbelievable and unreal situation.
12 They are trying for some amount of normalcy, all of those
13 kids, Anita, Tails, Ryan, Brandon, they're all trying to just
14 survive this, whatever it is. And they're going to protect
15 their moms.

16 The truth of the matter is there's no disputing the
17 fact that Brandon, Ryan, and Tails are victims. We've saw
18 video of the sexual interactions, but there's also no denying
19 that they're affected by all of this, and them being affected
20 by it means that their testimony is also affected by it.

21 We've said it from the beginning, the children in
22 this case, they're the victims, but that doesn't mean that
23 they are to be believed completely. They are unreliable
24 witnesses because of what they went through.

25 The people that were supposed to protect them,

1 their mothers, did not protect them, and they are forever
2 going to be affected by that. But it shows -- their
3 testimony, I think, is obvious that they have biases. Every
4 single one of those kids said that they saw Chris in a
5 different light than they saw their moms. They didn't feel
6 that their moms were responsible for the behavior. That they
7 -- their testimony would change depending on which hearing
8 they were at, who they were testifying for or against.

9 Not -- obviously, understandable. And I think we'd
10 all be a little shocked if it wasn't -- if they weren't
11 affected by all of this. If they weren't biased, if they
12 weren't at times inconsistent. But the fact of the matter
13 is, this is a jury trial. This is things -- these are things
14 that we have to look at.

15 And even though they are, no doubt, victims, Tails,
16 Brandon, and Ryan, we still need to examine their testimony
17 and examine their motivations for saying what they're saying.

18 The truth of the matter is Deborah is one of the
19 manipulators in this case, not Chris. She manipulated Anita
20 and Brandon. She helped, quote/unquote, helped them escape
21 the residence at -- on Yellowstone.

22 How did she help them? She had to think about it.
23 That's what her testimony was. After Anita comes to her and
24 says, Brandon's upset, Brandon's really upset, he can't take
25 it anymore, he's suicidal. Deborah says, let me think about

1 that one. Okay. Okay. I'm going to go with you.

2 Her child is potentially suicidal or at the very
3 least incredibly emotionally upset and she doesn't
4 immediately pack her bags and leave? She has to think about
5 it for a few days? That's because she knows that it's very
6 close to Brandon starting to tell what happened between them.

7 If he is this upset, it's only a matter of time
8 before Deborah's life becomes known to the entire family and
9 maybe to others.

10 Again, Deborah is the one manipulating all of this.
11 She allowed years of physical and sexual abuse to occur in
12 that home at her own hand and the physical abuse at Chris'
13 hand, if you want to believe the stories that were told. The
14 kitchen incident that was talked about over and over and over
15 again of Brandon making a sandwich for Anita and getting
16 slapped supposedly by Chris, Deborah was in the room when
17 that happened washing dishes. Didn't say anything, didn't do
18 anything, didn't even go and comfort Brandon after it was
19 over. That was Anita that went out and checked on him.

20 So she is painting herself as this wonderful mother
21 and caregiver, but it is a facade. She was -- the first
22 alleged incident that Deborah speaks of of some type of
23 sexual abuse was when Brandon was as young as three years
24 old. They don't leave until he's almost 16. She stayed in
25 that house seeing Terrie come and go multiple times, seeing

1 Tails come and go multiple times, and she just stays.

2 She just doesn't ever consider leaving. She'll
3 tell you that oh, it was because she was too scared to leave,
4 but what happened to Terrie when she left? Absolutely
5 nothing. As a matter of fact, Terrie would come back.

6 But Chris didn't do anything when Terrie would
7 leave. So what Deborah was so scared of is simply a fallacy.
8 There was nothing. She just didn't want to leave. She was
9 participating in this behavior in the house and had no desire
10 to leave it.

11 Additionally, after they all left in June, she
12 didn't report the abuse until it became fairly out of her
13 hands at the behest and phone call of her divorce attorney.
14 But why didn't she report? What was her testimony? It was
15 embarrassing. It was embarrassing that this was going on in
16 the house. That she was abusing, sexually abusing her
17 children is embarrassing, that's why you didn't report?

18 Not to mention there are children still left in
19 that house. Tails is still there. Ryan is still there.
20 They say they knew everybody left, but still, they didn't
21 make any attempt to make sure those children were safe.

22 She also said she was worried about herself.
23 That's why she didn't report. She knew exactly what she was
24 doing and exactly how much trouble she was going to get in,
25 so she didn't report it. She had no desire to get anybody in

1 trouble, most of all, herself. That's why they didn't report
2 for so many months.

3 The truth of the matter is if Anita and Brandon, if
4 that kitchen incident hadn't occurred and there hadn't been
5 just Brandon at the end of his rope, Deborah would still be
6 at that house. She wouldn't have left if they hadn't left.

7 But the way she tells it, she was the one helping.
8 It was all her idea.

9 And let's talk about Terrie. She also is
10 manipulating Ryan. Moved in and out of that house how many
11 times? Take him out of that house, bring him back into that
12 house. But Ryan, he testified that while they were in that
13 house, while he was living with his mom, that was his best
14 friend. That's his words as to the nature of their
15 relationship.

16 And yet, I mean, let's think for a second, we know
17 that there was sexual contact between he and Terrie. So
18 where he's getting the idea that they are best friend?
19 That's coming from Terrie. Terrie's telling him that. He
20 wouldn't get there on his own knowing what was going on
21 between them. That's Terrie manipulating him, keeping him
22 close so that he won't say anything to anyone.

23 After she was arrested -- or I'm sorry, after he
24 was removed from her care, because for some reason Ryan was
25 removed from Terrie's care somewhere before she was arrested,

1 unlike Brandon and Deborah, but he was removed and had to go
2 live with his biological dad.

3 When that occurred, daily texts, multiple texts a
4 day, phone calls, constant contact between Terrie and Ryan.
5 Even though they're not living together anymore. And that's
6 on Terrie. Terrie's the one who's encouraging all of that
7 behavior.

8 Ryan testified, he told you he was very, very upset
9 when his mom arrested, and yet, he absolutely know's what was
10 going on in that house, but in his mind, that shouldn't have
11 happened to his mom.

12 He was also very upset when she took a deal and
13 pled guilty. He didn't think she should have done that
14 because in his mind she's not responsible, and he gets that
15 from her. She's the one telling him that.

16 But additionally, and this is kind to go back tot
17 idea of normalcy is, you know, Ryan, he just needs to believe
18 that it wasn't his mom in order to be a normal kid. I mean,
19 at this point, a normal 20-year-old, but it's easier for him
20 to believe it was all Chris and not his mom because of the
21 closeness of the relationship between he and Terrie.

22 If he really accepts the fact that Terrie was doing
23 these things to him on her own and Terrie was the one hurting
24 him, I mean, that is an incredibly difficult thing to deal
25 with. He would rather just blame Chris and have his mom.

1 The truth of the matter is this DA, the State, is
2 kind of speaking out of both sides their mouth on this
3 particular case of the crimes that Chris is charged with that
4 are actually the behaviors of Terrie and Deborah.

5 There is the part of those charges that is the
6 conspiracy part, and that requires somebody to be a willing
7 participant. There needs to be an agreement. Ms. Sudano
8 talked about this briefly, that there needs to be basically,
9 hey we're going to do this to Brandon when he comes into the
10 room. It doesn't need to be a written formal agreement or
11 anything, but both parties need to be on the same page. They
12 need to be wanting to do the same thing.

13 And every single one of these counts, and I believe
14 I mentioned the numbers before, it starts at like count 54
15 and it goes somewhere in the vicinity of 106, or somewhere in
16 that neighborhood, every single one of those counts charges
17 either -- and it gets kind of lawyerly, kind of legal, either
18 that Chris did these actions himself to Brandon to Tails to
19 Ryan. That's simply not the case in any situation where
20 Deborah or Terrie is in the room.

21 But that's how the State opted to charge these
22 crimes. Or that there's a conspiracy. That Deborah or
23 Terrie and Chris agreed to do these things. And then there's
24 the third part of it, which is aiding and abetting.

25 The State either wants them to be willing

1 participants and there's a conspiracy, or they were forced to
2 do it, and then maybe it was aiding and abetting. You can't
3 have both. Either Deborah and Terrie, to be fair, Deborah
4 could have one theory and Terrie could have another, but
5 either they're willing participants and there was a
6 conspiracy or they were forced and then they're not -- I
7 mean, it's confusing.

8 Terrie and Deborah took negotiations, they pled
9 guilty, they said they did these things, and yet, did you
10 hear anything like that come out of their mouths when either
11 of them were testifying? It was constantly and consistently
12 not me, I didn't do it, not my fault, not a willing
13 participant.

14 They were forced. That's what -- that's the
15 inherent conflict in the State's case involving all of these
16 counts.

17 There is a jury instruction, Ms. Sudano also
18 mentioned it, it's the reasonable doubt instruction. Of
19 course, as lawyers, we as criminal lawyers, we talk about
20 reasonable doubt all the time.

21 On these particular counts involving the conduct of
22 Deborah and Terrie, you have to believe beyond a reasonable
23 doubt that Chris is the one responsible for this behavior in
24 either under the conspiracy theory or the aiding and abetting
25 theory.

1 And it goes on to say that you have to have an
2 abiding conviction of the truth of the charge. That's where
3 you have to get. So you have to really believe that he was
4 the person pulling the strings or that he was the person
5 agreeing with Deborah and Terrie to do these particular
6 actions.

7 And I point you most specifically to the video of
8 Terrie and Ryan in the master bedroom. Ms. Sudano argued
9 that first of all, Chris is present during that entire video.
10 I know many of you were taking -- I saw you taking notes
11 during the videos, probably in response to our initial
12 request that you pay attention to the videos because we're
13 going to ask you to watch them again. So I saw many of you
14 taking some pretty good notes during the videos.

15 I'd ask you to go back and look at your notes to
16 see if Chris was in the video during the entirety of that one
17 with Terrie and Ryan. And it's -- there's a period of
18 darkness at the beginning of the video, and then you see
19 Terrie and Ryan come in. Chris is nowhere to be seen.

20 Chris, they argued that he was directing or
21 procuring because their star witness, Terrie, says on the
22 stand I didn't want to have sex with Ryan. But watch that
23 video. This is the one where she says take off your clothes,
24 he says no, and he just takes his clothes off. And then she
25 takes her clothes off.

1 The fact of the matter is I didn't want to have sex
2 with Ryan is simply not borne out by the video. There's no
3 voice in the background. She's making all of these decisions
4 herself. She's showing him how to touch her breasts. She
5 grabs his hand and she puts it on her breasts, and when it's
6 there awkwardly, she takes it off and puts it on differently,
7 and she grabs his other hand and puts it on her other breast.

8 This is all Terrie. This is not Chris directing
9 and procuring and making her do all of these things.

10 Additionally, there's a period of time where Ryan
11 is actually having sex with Terrie, and he's on top and her
12 hands on his hips as he's having sex with her moving him in
13 and out of her. Chris, once again, is nowhere to be seen,
14 nowhere to be heard in that particular video.

15 State is speaking out of both sides of their
16 mouths. Are they willing participants, are they not? Which
17 one is it?

18 The evidence in the case is in conflict. The plea
19 agreement says one thing, the testimony says something else.

20 Did they want to have sex and agreed with Chris
21 ahead of time to do that or were they forced to do what Chris
22 made them to do? Which one is it? How are you going to
23 decide when the evidence is in conflict?

24 The bottom line is the testimony does not match the
25 words of the plea agreement. The State wants to be able to

1 have their star witnesses come in here and take
2 responsibility because that's what the plea agreement says,
3 but that's not what the testimony said, not even close.

4 The other point that is very important is with any
5 of these crimes, whether they're specific intent or general
6 intent, all of the parties need to have the same intent.
7 This is me, once again, kind of talking like a lawyer, but
8 this means that everybody has to want to do the same thing,
9 whether it is a specific intent crime or a general intent
10 crime.

11 If, as the State -- well, if Deborah and Terrie are
12 not willing participants and don't want to be having sex with
13 anybody, don't want to be having sex, don't want to be sexual
14 assaulting anybody, don't want to be there, they do not have
15 the same intent of Chris if he's the one telling them to go
16 do this, because then, in theory, he wants it to be
17 happening, but they don't want it to be happening. They
18 don't all have the same intent.

19 This is very, very messy. It's very confusing.
20 And in the end, all of these counts are riddled with
21 reasonable doubt because of the testimony of Deborah and
22 Terrie.

23 So we are going to be asking you to find him not
24 guilty on all of the counts involving the Deborah and Terrie
25 sex with the kids. There's 32 of them. And all the counts

1 -- not all the counts, but all of those counts exists between
2 counts 54 and 103.

3 There are some other possessing child pornography
4 counts in there, some other counts of use of a minor in
5 production of pornography in there, some counts of preventing
6 or dissuading a witness. So it's not all counts between 54
7 and 103, but all of those counts are contained within those
8 numbers.

9 Now, I'm going to move on past the incidents with
10 Tails and Ryan and Brandon, and talk about Anita because she
11 was on the stand for quite a long time.

12 It seems like a very long time ago, so there's some
13 important things. Obviously, you've seen all the videos,
14 there's no video with Anita. There's very minimal
15 corroboration to anything Anita says. The one small area is
16 that there were threesomes with Deborah and Terrie. They
17 corroborate Anita's version -- or Anita's statement that
18 there was a threesome. That's the extent of it.

19 The counts involving Anita are counts 2 through 53,
20 more than anybody else. And it's all riding on her
21 testimony. It's all riding on her words. She's clearly
22 biased. Anita is clearly biased in this particular case.
23 She picked Anita -- or I'm sorry, she picked Deborah and
24 Brandon to leave the house with. She left her mother behind
25 in a, what she would want you all to believe is a highly

1 dysfunctional and highly abusive home.

2 She left her mom and she left her two biologically
3 related brothers behind, and she went with Deborah and
4 Brandon. Says that I always felt like Deborah was more of a
5 mother to her, but for whatever reason, she made that choice.
6 And that choice is still with her as she testifies.

7 She's on the stand, she was contradicting herself
8 repeatedly. And I would ask you to consider the difference
9 in her demeanor on the stand discussing the alleged sexual
10 incidents that she spoke -- that she says happened to her,
11 compare her to let's say Ryan.

12 When Ryan was speaking of the incident that we
13 absolutely know what happened because it's on video, think
14 about Ryan's demeanor versus Anita's demeanor. Anita was
15 very -- she didn't like being questioned. She had a lot of,
16 if you will, stock answers to things. If I asked her a
17 question that she didn't have -- she didn't like the question
18 or she didn't want to answer it, she said the same thing over
19 and over and over again.

20 Ryan on the other hand, when he actually had to
21 speak about the incident that was on video, it was like he
22 was going under water. He took a big deep breath, and in
23 about four sentences, he said everything that he remembered
24 happening, and he got all really quickly, and then he was
25 done and then he didn't want to talk about it anymore.

1 Compare that with Anita's demeanor on the stand.
2 And the way -- the reason I'm saying that is because we know
3 incident with Ryan happened.

4 When you think about Anita's demeanor on the stand,
5 she's just simply not credible. She's clearly biased towards
6 Deborah and somewhat towards Terrie. She's biased against
7 Chris, which you know what, for the sake of argument, she's
8 making a choice, too. She's choosing the moms over Chris.

9 But the fact of the matter is her testimony is for
10 sale. She wrote letters on behalf of Deborah and Terrie, and
11 she wrote one to the District Attorney's Office, specifically
12 to District Attorney Steve Wolfson, where she -- it was about
13 a page-and-a-half long. I asked her about it on the stand.
14 It was actually signed by all of the kids, but Anita's name
15 was first. It was signed by her, Tails, Ryan, and Brandon.

16 And the end of the letter, it closed with, Let our
17 moms out of prison, and we will help ensure our father dies
18 in prison or help you ensure that our father dies in prison.
19 That's clearly an offer. Give us what we want, and we'll
20 give you what you want.

21 The fact that the moms are still in custody, still
22 in prison does not change the fact that she made that offer,
23 that she was willing to do whatever she needed to to get her
24 mom and her stepmom out of prison.

25 It's -- just shows you how biased she is. She also

1 wrote letters to the media on her mom's behalf, repeatedly
2 saying, moms were not to be blame. Not their fault.

3 But you have the videos to compare with that.
4 Anita can have her opinion all she wants that the moms are
5 not to blame, but it's just evidence of her bias because we
6 see on the videos exactly how much they participated.

7 As I said earlier, there is some corroboration the
8 threesomes happened, but the details are interesting because
9 regarding Terrie and the threesome with Terrie and Anita and
10 Chris, although, everybody agrees when the threesome
11 happened, Terrie and Chris both say it occurred when Terrie
12 was -- or I'm sorry, Terrie and Chris both say it occurred
13 when Anita was older.

14 Chris says it was over the age of 18. I think
15 Terrie recalled it being when Anita was 16 or 17, maybe 17 or
16 18. So the age is completely different because Anita,
17 Anita's version, is that this happened with she was 14. She
18 also says it only happened one time, one time ever.

19 Both Chris and Terrie say multiple times. Multiple
20 incidents with the three of them. The location of the one
21 incident that Terrie -- or I'm sorry, that Anita recalls
22 changes. Sometimes it was in the office, sometimes it was in
23 the living room. Sometimes she walks into the office and
24 Terrie's giving Chris a blowjob. Sometimes it's in the
25 living room when she comes home -- or when she and Terrie are

1 called into the living room.

2 Depending on who she's talking to, what the hearing
3 is, if it's Detective Samples, if it's a trial testimony, it
4 changes. And Anita says it only happened one time. So the
5 facts shouldn't ever change for her.

6 The sex acts that occurred also change. And then
7 there's this odd story that Anita's the one that tells that
8 she was supposed to be pretend that it was the first time she
9 had anal sex because her mom wanted to see that. Terrie
10 doesn't say anything about that. Terrie has no recollection
11 of that version of events whatsoever.

12 So the fact that it happened is some corroboration,
13 but the details show that Anita is not believable or credible
14 when she's talking about individual incidents.

15 Then there is the threesome with Deborah. Once
16 again, the only corroboration that the event occurred. The
17 version of the sex that Anita tells, because again, she says
18 this only happened one time. Deborah does agree with that,
19 there was only one incident of a threesome between her and
20 Anita and Chris.

21 But what sex occurred changes. First of all, the
22 statement to Samples, then sometimes when she's talking about
23 -- when she was testifying at Deborah's preliminary hearing
24 versus Christopher's preliminary hearing, I'm sure you'll
25 recall, it was constantly giving her statements and different

1 transcripts, and -- because every time she would talk about
2 this, it was a little bit different.

3 Even during the trial, there was a lot of back and
4 forth about whether there was actually touching or
5 penetration of Deborah's vagina or Anita's vagina.

6 At the trial, a few -- earlier during the trial she
7 also testified for the first time ever that there was oral
8 sex that occurred between her and Deborah. Never been, she
9 didn't tell Detective Samples that, she didn't testify to
10 that at any of the preliminary hearing. She is just, for
11 lack of a better word, she's winging it. She's just making
12 it up as she goes along.

13 Whether or not Deborah was naked when she came into
14 the room. Sometimes she was dragged into the room kicking
15 and screaming. Sometimes she was already in the room and
16 told to take off her clothes. This only happened one time,
17 according to Anita. The details should not change. The
18 truth is the truth.

19 This is another demonstration of how I -- Anita is
20 simply not credible about anything that she's talking about
21 having to do with sex in the family.

22 Instruction number 7 is the credibility
23 instruction. And it's pretty standard, and it applies very
24 specifically -- well, it applies to all witnesses, but in
25 this particular situation it really applies to Anita.

1 The credibility or believability of a witness
2 should be determined by his or her manner upon the stand, his
3 her relationship with the parties, his or her fear, motives,
4 interests, or feelings. His or her opportunity to observe
5 the manner in which he or she testified, the reasonableness
6 of her statements, and the strength or weakness of her
7 recollections.

8 Well, the last sentence there, the last phrase
9 there, the strength or weakness of his other recollections,
10 as I've been referencing, Anita changes her story every time
11 she tells it.

12 It goes on, if you believe that a witness has lied
13 about any material fact in the case, you may disregard the
14 entire testimony of that witness. Or any portion of his her
15 testimony, which is not proven by other evidence.

16 So if you think Anita has a credibility issue,
17 which I submit to you she clearly does, you can disregard her
18 entire testimony, and that's counts 2 through 53. You can
19 just go "not guilty" across the board on all of those if you
20 think she has a credibility issue, which she clearly does.

21 The inconsistencies in her statement about the
22 first time, the first incident. Was it in the master
23 bedroom? Sometimes. Was it in the living room? Sometimes.
24 Did the incident occur with her laying on her back with a
25 pillow underneath her or did it occur when she was on all

1 fours in the living room?

2 How old was she when this happened? Sometimes it's
3 as young as nine. Deborah testified that Anita had told her
4 it happened when -- it happened to Anita -- let me rephrase
5 that.

6 Deborah testified that Anita had told her at some
7 point that the first time alleged incident happened when
8 Anita was nine years old.

9 Was -- the one consistency that Anita does have is
10 that there was some type of anal penetration, but even the
11 details of that change. Was there lubrication used? Was
12 there no lubrication used? She changes it depending on when
13 she's testifying and who she's talking to.

14 The first time there was vaginal sex, there's also
15 inconsistencies in this story. Her testimony during the
16 trial is that it was basically an accident. That they were
17 in the shower, and that it -- that Chris inadvertently
18 slipped his penis into her vagina instead of into her anus
19 because she didn't stand up straight enough or something to
20 that effect.

21 She didn't -- it was her fault, but it was not
22 intentional on Chris' part. But she told Detective Samples
23 back in September of 2014 that it was a purposeful event by
24 Chris because she told him she was on her period, and he
25 said, well, then we can have sex. That's like night and day,

1 those two statements. But this is talking about the first
2 time there was vaginal sex.

3 Then regarding the first time, I would ask her
4 questions about the first time things happened, were you in
5 the master bedroom, were you in the living room, and she
6 responded back to me, well, it's not -- that's not
7 necessarily the first time. That's the first time I
8 remember, though.

9 She is splitting hairs when she realized that there
10 were inconsistencies in her testimony. Well, it's the first
11 time I remember. That doesn't necessarily mean it was the
12 first time.

13 We're talking about when you've talked to other
14 people about the first time something happened. I
15 acknowledge that that may be not the first time, but
16 consistently through all of your statements you've referred
17 to the first time. That's what we're talking about. But she
18 wanted to split hairs.

19 This one was kind of crazy about whether or not
20 there was touching of the pubic area, touching of the vagina,
21 penetration of the vagina. Every time she talks about this,
22 it's something different.

23 The trial here, there was no touching of the vagina
24 whatsoever. Each the State had to get up and had to kind of
25 say, are you sure about that? Do you want to maybe look at

1 your prior statement? The statement to Samples, there was
2 penetration with the fingers.

3 But then at Deborah's preliminary hearing, which
4 Anita did not want to participate in, she did not want to be
5 testifying against her stepmother, she's back pedaling.
6 Nope, no penetration. Because she knew that could be bad for
7 Deborah.

8 Then it becomes Anita penetrated Deborah, but
9 Deborah didn't penetrate Anita because Chris couldn't see
10 what she was -- it's -- as I said, every time she speaks of
11 this particular incident, it's a different version.

12 Something that was somewhat unexpected was this
13 idea that they went and got their toys. Deborah testified to
14 this. They were going to have a threesome so Deborah said
15 Anita and I went to get our toys.

16 And it was clarified, do you mean sexual toys?
17 Yes, they got up from the living room, independent of one
18 another, they went into -- Deborah went into the master
19 bedroom, Terrie -- Anita went into her bedroom, and they came
20 back with sexual toys.

21 Does this sound like something that people don't
22 want to be participating in? Deborah even went so far as to
23 say well, I needed something, I needed a vibrator or
24 something in order to orgasm.

25 Once again, does this sound like something that

1 people don't want to be participating in? No. I mean, the
2 -- one of the things that the -- they booked into evidence
3 when they went through the house, and this is Defense Exhibit
4 L, everything that was booked into the house, it goes on for
5 three pages.

6 There are multiple sexual toys that were booked
7 into evidence; vibrators, dildos, things of this nature. It
8 looks like there's about ten different things. And Deborah's
9 the one who's saying that during the sex with her and Anita
10 and Chris, she and Deborah -- or she and Anita went and got
11 their toys so that they would have a pleasurable experience.

12 When Anita was testifying and I would ask her
13 certain questions, she would have these standard responses,
14 like it happened so many times, I just can't get it keep it
15 all straight.

16 She had -- there were a few other things that she
17 said repeatedly. But emotionally, did you see her really
18 break down during her testimony? Of course, everybody's
19 going to respond to things differently, but she got upset
20 when she spoke of Brandon maybe being suicidal. That was
21 what really got her upset. Not any of the incidents that she
22 says happened to her from the age of 11 to -- up to 24.

23 She reported them, she spoke of them, but there was
24 very little emotion behind it. But also very little detail.
25 She spoke of the first time, which may or may not have been

1 the first time. She spoke of the first time of vaginal, and
2 then the threesomes, but said these things had been happening
3 for years and could not really give us details about any
4 others in 13 years.

5 I certainly acknowledge that it might seem harsh to
6 question her motives. She got up here, she told story that
7 if true, sounds horrific, but she is the only witness about
8 many, many counts, and it is part of what you as jurors need
9 to do, that her credibility is essential to believing whether
10 or not these crimes happened.

11 And you can only question credibility if you look
12 at inconsistencies, if you look at demeanor, if you really
13 examine somebody.

14 The fact that there's no corroboration to her story
15 requires that you examine her credibility. There are more
16 inconsistencies than I've mentioned. Why didn't she leave in
17 24 -- well, to be fair, from the age of 18 on, why didn't she
18 leave? She gave various reasons for not leaving. She didn't
19 have the money to do it. Even though she was working. She
20 wanted to stay behind and protect her brothers. He would
21 come after her. She was too scared to leave.

22 Now, to be fair, all of these things could be true
23 at the same time, but those were answers she gave at
24 different times to the same question. It wasn't, I didn't
25 have enough money, I wanted to stay home and protect my

1 brothers and I knew he would come after me. It was all
2 different answers at different times.

3 Was the sex with Chris consensual? As she got
4 older, she said yes, it was, that she would go to him. She
5 had a reason, she said it was so that he would not be so
6 harsh on her brothers. But she's still acknowledging that
7 she was going to him. She was an adult, she was making her
8 own decisions.

9 But then she actually testified during the trial
10 that that started happening when she was as young as 13.
11 That she was going in and having sex with Chris on her own --
12 of her own mind.

13 Does -- is that -- you know, is that something
14 that's believable? She said it. I've been standing up here,
15 of course, saying that she's got some credibility issues, but
16 that's just another example of an inconsistency.

17 She would then revert and say no, no, no, it was
18 always forced, it was always whenever he wanted. Oh, I know
19 I just said I would go to him, but he wanted it all the time,
20 and whenever he wanted, he took it.

21 But then again, she went back the other way. She's
22 told Detective Samples that she said "no" at times. That
23 additionally, they hadn't had sex -- she and Chris had not
24 had sex during that year, which was 2014 or the year before,
25 2013.

1 So she could say no. She did say no, which gives
2 the impression of a consensual relationship.

3 She said he didn't leave -- she didn't leave
4 because he wouldn't let her, would follow her if she left.
5 But Terrie left all the time with Ryan. Chris never cared,
6 never followed. There was no testimony that he ever once
7 went looking for Terrie.

8 Tails moved out at least once, maybe twice after
9 his 18th birthday. I mean, well, he moved out right before
10 his 18th birthday, came back, and then, I think, moved out
11 again. Same thing, Chris didn't care. Wasn't that he, you
12 know, said, you know, don't let the door hit you on the way
13 out, but he was a -- this is his 18-year-old son. You want
14 to leave, you can leave. No problem.

15 Anita's older than Tails. She's saying she
16 couldn't leave. That's clearly not the case. She elected to
17 stay.

18 And when Anita and Deborah and -- or I'm sorry,
19 Anita, Deborah, and Brandon left, what did Chris do? Held up
20 signs to the cameras, please come home. He wrote on her
21 check at work, please come home. This is -- these are the
22 threats. This is the terrible terrifying behavior that they
23 were all so scared of.

24 He didn't leave the house the day that they left.
25 He kicked out Terrie and Ryan and then stayed at home. They

1 were completely convinced, so they would have you believe,
2 that he was going to track -- they left their phones, they
3 left their laptops because he could track them down. He did
4 exactly nothing when they left. There are some other
5 interesting details that Anita testify to. She said at one
6 point he took photos on her phone of them having sex. Oh,
7 but she would delete them every single time, and then he
8 would take them again, and then she would delete them.

9 Nobody bothered to check Anita's phone to see if
10 there was any legitimacy to that statement. They did test --
11 they did analyze a ton of phones, but they got those phone
12 after they initially -- after they had interviewed Anita.
13 She had her phone with her when she was talking to Detective
14 Samples. He could have just said, hey, can I borrow that?
15 Can I keep your phone? That's really important. That's
16 potentially corroborative evidence. We need it.

17 I know it's a big inconvenience to give up your
18 phone, but this could help. They didn't bother to do that.

19 She also gave names of multiple friends who may
20 have seen behavior by Chris that was corroborative of what
21 Anita was talking about, and also may have been alleged
22 victims. She said she thought some of her friends were
23 having sex with Chris. Granted, it was a few years earlier,
24 but Anita's 24 years old; they were talking about incidents
25 that happened with her when she was 11.

1 The fact that it may have been a year or two or
2 three or four years earlier doesn't mean those people weren't
3 potential victims. Nobody bothered to go look for them.
4 Nobody bothered to try to find them.

5 She also mentioned that her boyfriend, Cristoff,
6 had kind of maybe started getting the sense of something
7 wasn't quite right with Anita. That he had asked her some
8 questions, and then she backed off and didn't want to talk
9 about it anymore.

10 How hard would it be to find this kid? I believe
11 she said that they had dated a few years earlier. With
12 social media and everything else these days, it's not that
13 difficult to find them if you want to find them. Nobody
14 bothered to look for anybody that could corroborate Anita's
15 story.

16 Anita's story that all of this horrible abuse,
17 physical and sexual, was happening just simply doesn't make
18 sense, and I'd point you to Tails as evidence of this. Tails
19 was shocked to find out what Anita was accusing their dad of.

20 He said, now to be fair, there are other parts of
21 Tails' first statement to police that are clearly untrue. We
22 know things happened. He denied them. But he was talking
23 about the family in other parts of the statement.

24 Just because he didn't want to reveal the fact that
25 he had been sexually abused doesn't mean that he's lying

1 about the nature of the family relationship.

2 And he had said, you know what, Anita was always
3 with Chris at the house. She was glued to his side. She was
4 like his little buddy at the house. They did computer
5 animation together. Tails was very, very surprised to hear
6 that Anita was accusing Chris of any of this type of
7 behavior, this anything like this could have possibly been
8 going on in that house.

9 The other thing that's interesting, and it is also
10 an exhibit that has been admitted so that you guys can take a
11 look at it is Anita's temporary protective order that she
12 filed two or three days after leaving the house.

13 She is coming into court and saying there was
14 extensive sexual abuse to her for years. She said she didn't
15 leave for years because she was scared he would follow her.
16 They're out now. They've been out now for three days, and
17 she's still saying she's scared of him but she's going to try
18 to get a temporary protective order.

19 So she fills it out, and doesn't mention a thing
20 about sexual abuse, nothing. And it's her -- her handwritten
21 version, and this is Defendant's A, her handwritten version
22 is hardly brief. It goes for an entire page of her
23 expressing the reasons why she needed a temporary protective
24 order, and nowhere does she say a thing about the fact that
25 he had been sexually abusing her.

1 She talks about physical abuse. She talks about
2 physical abuse as long back as May of 2001. She does not
3 mention anything about sexual abuse. It was denied. This
4 temporary protective order was not granted. The judge did
5 not feel that she was in danger or I shouldn't say that. I
6 don't know what the judge was thinking, but the judge did not
7 sign this. Did not feel that it was necessary.

8 But if Anita's truly scared of Chris, and this is
9 denied, and you know you've made held back information
10 because you're scared to really reveal it, don't you step it
11 up at that point? Don't you reapply? You can. You can
12 always ask for another one. You can say, you know what, I
13 have more information, I didn't realize that that was going
14 to be denied. I didn't want to spill my whole life.

15 Nope, she didn't. She just let it go. And that
16 was in June of 2014, and nothing -- she never reapplied for a
17 TPO. So do you really think that she was all that scared?
18 Do you really think all of those incidents of sexual abuse
19 were actually occurring, or was she doing what she needed to
20 do to stay with Deborah and Brandon at the Safe House?

21 She's an adult. Anita is an adult at that point.
22 She has to have her own grounds to be able to stay in the
23 Safe House. Brandon can stay with Deborah because he's her
24 child. Anita is not Deborah's child. Stepchild, but an
25 adult on her own. She needed her own grounds.

1 I mean, in the end, Anita is protecting Deborah,
2 and she's protecting Brandon. And there's very little doubt
3 that she did have a consensual sexual relationship with her
4 parents, with Terrie and Deborah and Chris at varying times.

5 She did not protect Brandon and Ryan and Tails.
6 She found out about it after the fact that there was stuff
7 going on in the house that she had no idea about. But now,
8 she's the old child, she's the oldest sibling. She feels
9 horrible that she did not protect her younger siblings, and
10 she's going to do what she thinks is necessary now to protect
11 them now. So she's telling this story.

12 But interestingly, while she did not mention the
13 sexual abuse in June, by September, almost three months
14 later, when she's beginning to learn bits and pieces of the
15 story from Brandon, a little bit from Deborah and things like
16 this, the story is beginning to formulate.

17 By the time she gets in touch with -- by the time
18 Metro gets involved, she's had time to think, and she's made
19 her choice, and she's choosing Deborah over Chris.

20 She's choosing the person that she thinks has
21 helped her, that she thinks is her caregiver.

22 The inconsistencies, the lack of corroboration, the
23 obvious bias from Anita's testimony shows you that she is not
24 credible. There's also a huge lack of detail on most of the
25 events.

1 And there's another jury instruction, and I'll talk
2 about it in a few minutes regarding one of the other
3 witnesses about particularity. You still have -- there has
4 to be some amount of particularity in the testimony of
5 witnesses in order for them to be considered credible. And
6 Anita has none, with the exception of those couple of
7 individual incidents that she speaks of. But without detail,
8 they -- her accusations lack credibility.

9 And for those reasons right there, the
10 inconsistencies, the corroboration, the obvious bias, it's
11 not guilty on all of the counts involving Anita, and that's
12 counts 2 through 53. As I said earlier, there were one or
13 two counts of incest in there that we are conceding contained
14 in those 2 through 53. But overall, the overall majority of
15 those counts, there's just no evidence other than Anita's
16 word, and her word is just simply not enough to get beyond a
17 reasonable doubt. Not even close.

18 Now, there were some other -- obviously, some other
19 witness that is testified. Ryan, he made two different types
20 of accusations. The crimes that were on the video with
21 Terrie. I mean, there's very little doubt that something
22 happened on those videos. But as I've already discussed,
23 those have to do with Terrie and it's the aiding and abetting
24 and the conspiracy, and I'm not going to go over that again.

25 What I am going to talk about are the three counts

1 of anal sex that Ryan accuses Chris of. The State
2 acknowledged that there were two other counts that they did
3 not -- that Ryan did not testify to, so those are -- we're
4 not even going to talk about those. But there are three that
5 Ryan did testify about.

6 Other than his word, again, and this is a
7 consistent theme, there's no corroboration. He had a medical
8 exam. Oops. He had a medical exam. There was no medical
9 evidence to support his accusation. He says that at some
10 point, that he was on three different occasions anally raped
11 by an adult male, and they found no evidence of that.

12 Now Detective -- I'm sorry, not detective.
13 Dr. Cetl will say, oh, well, you're not really going to find
14 evidence, people heal. Well, if that's truly the case, and
15 you know when the alleged crimes actually occurred in
16 comparison so when you have this person in front of you, why
17 are you making them go through a medical exam? If in your
18 mind as a doctor you don't think you're going to find
19 anything because it's been so long, you're going to make
20 that, at that point, 16-year-old boy go through an incredibly
21 invasive medical exam because you're probably not going to
22 find anything anyway?

23 No, that's simply -- you know, they're hoping to
24 find something, absolutely. That's why you put somebody
25 through that type of exam. But in this particular case, they

1 didn't find anything. So oh, well, we didn't really expect
2 to find anything anyway.

3 Again, though, I'm going to point you to Ryan's
4 demeanor and compare and contrast when he was talking about
5 the incident with his mom versus when he was talking about
6 the alleged incidents with Chris, where Chris was the only
7 person in the room with him.

8 Ryan never told anyone about these alleged
9 incidents with Chris. He says, of course, that's the
10 accusation that there was anal sex with him at the house.
11 This was prior to Ryan and Terrie moving out, and it gets a
12 little confusing, in May of 2013. This is not when they got
13 -- this is not right after Deborah and Anita and Brandon
14 left. This was the year prior, when Terrie and Ryan had
15 moved out for an extended period of time.

16 The alleged incidents happened before that. So
17 Ryan and Terrie move. It's Ryan's idea to move. Terrie said
18 that during her testimony. Her son came to her and said I
19 need to go. I want out. She said, okay.

20 And then months later they go back to the
21 Yellowstone address, sometime in January or February, they go
22 back. During that eight-month period of time, Ryan doesn't
23 ever tell her anything about this supposed sexual assault
24 that -- or sexual assaults that had occurred. Not even when
25 Terrie says, hey, guess what, Ryan, we're going back. We're

1 going back to Yellowstone. You get to sleep with Brandon
2 again in the bedroom, and, you know, if those incidents had
3 truly occurred, that's the time Ryan would have told her. He
4 did not -- he would not have wanted to go back in that house
5 where he potentially was going to be sexual assaulted by
6 Chris.

7 He didn't tell her, because they didn't happen.
8 Beyond that, then they get kicked out when Deborah leaves,
9 Ryan and Terrie. Lived together over the summer and the
10 fall. As I said earlier, at some point, he gets removed from
11 Terrie's care, and is living with his biological dad.

12 Chris gets arrested, though, during this piece of
13 time. He gets arrest in September of 2014. Ryan's testimony
14 is that up until that point in time he still had not told
15 Terrie anything about the alleged sexual abuse. They are out
16 of the house, they are away from Chris, they have been kicked
17 out. They aren't going back this time. He hasn't said
18 anything.

19 Then Chris gets arrested. According to Ryan,
20 that's when he tells Terrie that -- that's what he said he
21 felt that it was the right time to tell her. Sometime after
22 Chris was arrested, but before Terrie was arrested herself.
23 So sometime between September and December of 2014.

24 So Terrie now has this piece of information about
25 what happened to her child, Ryan. And what does she do with

1 this piece of information? She avoids the police. They're
2 trying to track her down. They're trying to get her to come
3 in for an interview. She has this piece of information about
4 what Chris did to her child, and she's like, oh, sorry,
5 can't. Nope, I got to go. I got a driving school, truck
6 driving school, whatever. She is not cooperating, until they
7 finally get her in in sometime in December.

8 If you have that piece of information about your
9 child, don't you get that to the police as soon as possible?
10 Chris is arrested now. He can't hurt you if that's what
11 you're worried about. He's in custody. That's not what
12 Terrie does. She goes the other direction. She's protecting
13 herself.

14 When she's finally interviewed in mid-December, she
15 talks to Samples. Excuse me, she talks to Detective Samples.
16 She knows she's in trouble. Miranda rights are read. This
17 is not an everyday conversation that you have with a
18 detective.

19 This is the perfect time to tell Detective Samples
20 what she knows, supposedly, about Ryan and about what Chris
21 has supposedly done to him. She's in deep trouble. She's
22 going to jail most likely. They are looking to arrest her.

23 Does she tell Detective Samples anything about
24 this? Nope. Only thing she says Ryan ever told her that was
25 going on in that house was some weird little, Chris told me

1 that he's going to leave the bedroom door open, and if you
2 want to come in and join the sex, you can join the sex.
3 That's what Terrie says. That's the only thing she told
4 Detective Samples, and that's what Detective Samples says is
5 the only thing that Terrie told her about interactions
6 between Chris and Ryan.

7 Terrie did not tell him -- didn't tell Detective
8 Samples about these supposed incidents of sexual abuse by
9 Chris on Ryan because Ryan didn't tell her. And Ryan didn't
10 tell her because they never happened. There's no other
11 explanation for this. Ryan says he told Terrie. Why in the
12 world would you not pass along that information, even if
13 you're in trouble up to your eyeballs? This is still
14 something that happened to your child. She does not tell
15 Detective Samples because she was never told it by Ryan
16 because Ryan -- because it never happened.

17 Those are the counts involving Ryan and Chris.
18 They're counts 87 through 94. The State acknowledge there
19 were some other ones that, I believe, it was 95 and 96, but
20 87 through 94 the ones regarding this specific incident. And
21 I think this particular fact is clear evidence that the
22 incidents with Ryan never happened.

23 But there's a few other details. The way he told
24 the story versus talking about the incident with his mom and
25 Chris. The incidents with Chris, they were, as I said

1 earlier, when he's talking about the Terrie counts, very
2 quickly, about three or four sentences, he made her do it, he
3 made me do this, he made me do -- I mean, very, very quickly,
4 didn't breathe in between the sentences. He just wanted to
5 get it all out.

6 Conversely, or compare and contrast, the demeanor
7 when he was talking about the Chris counts, it's -- they're
8 no way similar. He's kind of looking up in the air like
9 trying to, sort of, maybe remember what he's supposed to say.
10 Not speaking from a memory like he is when he's talking about
11 the incidents with his mom. He didn't seem nearly as
12 bothered to be talking about the alleged incidents with Chris
13 as he was talking about the ones that we know occurred
14 because there's a video of it.

15 The details that he spoke of, though, were very
16 upsetting. He said at one point, hand went over his mouth,
17 that he tried to scream. He said that the family was right
18 outside during one of them, an Brandon actually came inside
19 the house at one point when Chris was in -- I think it was
20 the master bedroom with him, and then Chris gets up and walks
21 out and kicks Brandon back out of the house.

22 No corroboration from Brandon of anything similar
23 to this. Brandon said he never knew anything was happening
24 to anybody else in the house. Never recalled any type of
25 incident where he came and Chris kicked him out of the house.

1 And then when Ryan had be interviewed for the -- at
2 the CAC, which we've called -- which we've mentioned a few
3 times. He goes in right around the same time that Terrie
4 gets interviewed by Detective Samples, and he goes in one
5 day, and he even talked about this a little bit during his
6 testimony, he went one day and he was very, very upset. So
7 upset that he could not actually be interviewed that day.

8 And he -- that's when he realized or he was told
9 that they didn't just want to talk about Chris. They wanted
10 to talk about his mom. And he did not want to do that. He
11 thought it was just going to be talking about Chris. It was
12 almost a week before he could come back in and actually give
13 his statement. That's how upset he was.

14 And -- but in that amount of time, that's when he
15 kind of realized what was going on, that his mom was in big
16 trouble. They want to talk about his mom and Chris, yeah,
17 that's not good. He knows Chris is already in jail. So he's
18 very protective of Terrie. He's very -- he's honest about
19 that, as he testifies, and he was mad she got arrested, and
20 that had already happened by that second interview.

21 He's mad she's taking a deal. He's going to do
22 what he can do protect his mom, and that's where this story
23 of these other incidents with Chris comes from.

24 This first time he tells anybody about it is after
25 his mom has been arrested, after Chris -- after he realizes

1 how much trouble she's in. And he's just trying to protect
2 her.

3 Tails was kind of straight forward in his
4 testimony. All of the alleged crimes with Tails were caught
5 on video. This is the same situation, every single of these
6 crimes with Chris are the ones with the aiding and abetting
7 or the conspiracy. We've talked about it, I've talked about
8 it at least a couple times already. I'm not going to go over
9 it again.

10 You just need to make your own determination in
11 Chris is responsible for the behaviors and the actions of
12 Deborah in having sex with Tails.

13 Tails, though, I mean, he was straight forward, and
14 he was pretty matter of fact. I think he's probably the most
15 straight forward of any of the witnesses we saw. But he's
16 still visiting Terrie. He's not coming to visit Chris. So
17 he, although, seemed straight forward, he does have his
18 biases as well.

19 The State has pled in the charges involving Tails,
20 involving Ryan, and involving Brandon, aiding and abetting
21 and conspiracy. That's their choice. They're the ones who
22 decide what they think they can prove and what they think
23 actually happened in the case.

24 They can't have both theories. They don't work.
25 They conflict. And if the State is unclear about what

1 happened here, that's reasonable doubt regarding any of the
2 counts involving the boys. I know I've said it a handful of
3 times, but it's incredibly important because the State is
4 putting out that video and saying, look, there's sex, there's
5 adults, there's children, he's to blame. But it's a lot more
6 complicated than that.

7 MR. SWEETIN: Judge, can we approach very quickly?

8 THE COURT: Yes.

9 (Off-record bench conference.)

10 MS. RADOSTA: Sorry, and just -- the counts
11 involving Tails are just the 54 through 68. So if you have
12 doubts or questions as to Chris's involvement in those
13 counts, then that's not -- that's reasonable doubt, and
14 that's a "not guilty" verdict on those particular counts.

15 Brandon is the next. Clearly, Brandon is
16 protective of his mom. There's no doubt. He doesn't want
17 her or Terrie in prison. Right up there Anita, he's probably
18 the most biased.

19 He admitted during his testimony that he views
20 Chris differently than Deborah and Terrie, despite everything
21 that happened in the house and everybody's involvement, he
22 acknowledges that he views Chris differently, and not in a
23 good way.

24 But Brandon was interesting because he was the one
25 up there most of the time saying, you know what, Chris had

1 these Metro friends, and they wouldn't have done anything to
2 help us. They saw Chris chewing us out, and they'd just walk
3 by and they didn't do anything.

4 If we reported, Metro would protect Chris. They
5 wouldn't protect us. We knew that. We could tell the way
6 his friends acted around the house.

7 But we presented, as the defense, we called Officer
8 Brinkley, who was the main friend that was around the house.
9 He is a patrol officer. He freely admitted that he would
10 come by the house for coalition events, but for social
11 events, just to come over and hang out every now and then.

12 But he also -- he's a Metro officer. Sure, he's
13 not a detective, he's not a sex assault detective, but if he
14 saw something happening in that house, he's going to step in.
15 He's going to perhaps call someone else and say, hey, I'm
16 getting a bad feeling at my friend's house, I'm too close to
17 it, though, and I want somebody to go over there and
18 investigate.

19 He's not going to turn the other way, the way
20 Brandon painted that picture of the Metro officers. He is --
21 Brandon is conveniently making appear excuse for why he
22 didn't talk to anybody about the supposed abuse. But the
23 truth of the matter is, Officer Brinkley would have listened,
24 no doubt.

25 Ever Officer Brinkley even testified that there

1 were times when they -- when he and Brandon were alone
2 together. Not many, but some. And had Brandon stepped
3 forward and said something to him, Officer Brinkley would
4 have helped him. That's what -- no doubt, he testified to
5 that.

6 Interestingly, though, Brandon, while feeling
7 closer to Anita than any other sibling, he was not
8 forthcoming with Anita when the stories started coming out.
9 He only told Anita about the fact that he had had a sexual
10 encounter with Terrie. He didn't say anything about Deb.

11 So he's even protecting his mom within the family
12 to Anita, the one he feels the closest with, Anita feels
13 closest to Deborah, and he's still protecting Deborah, even
14 to the person he feels closest to after Deborah. It's
15 interesting.

16 He's going to protect Deborah before -- above and
17 beyond anybody else. And then there's this odd little story
18 about why you didn't call CPS, why you didn't call Metro, why
19 you didn't reach out for any type of help. What's the use?
20 Sister, Anita, she called years ago, and they didn't do
21 anything. Heard that story from Anita.

22 Why in the world would Anita be telling him a story
23 that there's no use in calling for help because nobody's
24 going to do anything? First of all, Anita was supposedly
25 nine or ten years old when that incident happened.

1 Supposedly, she told them it was an accident, this pole in
2 the back of the head, it was a miniscule little report from
3 CPS because there was no purposeful conduct reported.

4 But the way Anita remembers it is she tried, nobody
5 listened. And then she's telling the rest -- well, not the
6 rest of the family -- she's telling Brandon, don't even
7 bother, he -- then she's just talking mostly about the
8 physical abuse. Don't even try to do anything because
9 nobody's going to listen to us. It's just us against the
10 world.

11 It's, once again, a convenient reason why nobody
12 reached out, and nobody attempted to get help. Looking back,
13 hindsight's 20/20. I mean, they had ample opportunity.
14 Particularly, I should say Deborah and Terrie had ample
15 opportunity to get out of that house. The kids are now just
16 making excuses to protect their moms.

17 So the Brandon counts are counts 74 through 86. I
18 was -- for a second there, I was like is that right? 74
19 through 86. Some of them are -- or I'm sorry, all of them
20 are the conspiracy and aiding and abetting.

21 So while Brandon's credibility is questionable, in
22 the end, it's that same argument again; is Chris responsible
23 for Deb and Terrie's behaviors?

24 There was a lot of testimony about Melissa Clark,
25 which is Terrie's younger sister. The fact of the matter is

1 all of that testimony has to do with one count, which we're
2 conceding, count 120.

3 But for whatever reason, the prosecution put Ms.
4 Clark on the stand and testified to a lot more than what's in
5 that one count. She testified to stories about when she was
6 a teenager with Chris and Terrie. We learned that Terrie
7 encouraged Melissa to spend time with Chris. When Terrie
8 knew Chris was in a bad mood, she would send Melissa, who was
9 young, 13, 14, send Melissa in there to talk to Chris.

10 So the information that Melissa passed along was
11 actually more insightful about Terrie than it perhaps was
12 about Chris. But none of the incidents that Melissa spoke of
13 are any of the alleged crimes of sex assault or lewdness or
14 anything of that manner.

15 The State presented her as a potential witness to
16 give background. And there is a jury instruction that speaks
17 to Melissa's testimony and what it can be used for.

18 But what Melissa did say is that she didn't want to
19 have sex with Chris when she was a teenager. And the reason
20 this is interesting is because ultimately, her daughter ends
21 up at that house, Erin, her daughter. So Melissa's story now
22 is she didn't want to have sex with Chris when she was a
23 teenager. But in all of those years, she never reported it.
24 She didn't even tell Terrie about this supposed sexual abuse
25 that occurred at Chris' hand.

1 But she did -- after the supposed sexual abuse
2 that, I think, she said happened when she was 15 or 16, after
3 that, there's photographic evidence of a threesome between
4 Terrie and Chris and Melissa. Melissa, per Terrie's
5 testimony, is 19 or 20 years old, which puts at the year like
6 1999 or 2000. That's after Terrie and Chris have divorced.

7 He's married to Deborah at this point. And they're
8 having a threesome. Deborah even acknowledged that she was
9 there. She's the one who took the picture. She said she --
10 Chris made her videotape it, and that was a photograph from
11 the video.

12 So Deb -- or Melissa's story that she didn't want
13 to have sex with Chris as a teenager really doesn't hold hot
14 water when a year later she's having a threesome with him.
15 She's not believable. And this is relevant because, well,
16 she also said a few other things. She said that it -- she
17 didn't know that it wasn't normal behavior to have this type
18 of sexual interaction between family members until she got
19 older.

20 She said that these things were happening when she
21 was 14, 15, 16 years old, and that's the reason why they
22 didn't tell back then because she didn't know that this
23 wasn't normal.

24 But she allowed her daughter, Erin to visit this
25 household where she says she was sexually assaulted when she

1 was in her teenage years. She allowed Erin to visit every
2 other weekend, every weekend. There was a little back and
3 forth about how often Erin was there, but Erin definitely
4 visited.

5 She -- Melissa testified, I didn't think it was a
6 big deal because I never thought my sister, Terrie, would let
7 Erin get hurt. I never thought Erin would get hurt when
8 Terrie was around.

9 What in the world? This is so circular and so -- I
10 mean, if you were hurt when Terrie was around when you were a
11 teenager, why in the world would you think it wouldn't happen
12 to your daughter years later? Maybe because it never
13 happened to you in the first place. It's just it's circular
14 logic that does not make any sense in the end.

15 She also never asks Erin any of the times that she
16 comes back home, hey, are you okay? I mean, if these things
17 had truly happened to Melissa when she was a little bit older
18 than Erin, wouldn't you check in with your kid just to make
19 sure? I know you don't ever want to think that your sister
20 could be allowing something to happen to your child, but
21 isn't your child the most important thing in all of this?

22 And over and over and over again, all of the adults
23 in these situations seemed to forget and seems to be willing
24 to just go, well, I just didn't think to ask, I just didn't
25 think to inquire, I just didn't think to double check.

1 I mean, Anita -- or Deborah and Terrie, my
2 goodness, they never checked in with any of the kids when
3 they knew things were happening because they were
4 participating in them. But in this one, Melissa never once
5 asked Erin after a visit, are you okay, anything happen,
6 anything you need to talk about? Not even like pushing her,
7 just saying, you know you can come to me and talk. Never.

8 And the reason she never asks Erin is because
9 nothing happened to Melissa, that Melissa didn't want to
10 happen. She was a full participant. She wanted to have sex
11 when she was a teenager. She wanted to have sex when she was
12 19 or 20. And that's why she wasn't worried about Erin
13 because nothing negative happened to her. Nothing negative
14 happened to Melissa.

15 Which then brings us to Erin. Again, no
16 corroboration. Nobody -- Erin didn't tell anybody about this
17 until after Chris was arrested, and she was brought down to
18 the CAC to be interviewed. They didn't tell Terrie, she
19 didn't tell Melissa, she didn't tell Anita. All three women
20 who are in her life, and she says were people she could have
21 told if she wanted.

22 She didn't tell any friends. Even after Chris is
23 arrested, she doesn't tell Melissa or Terrie, her mom, her
24 aunt. Once people are beginning to realize and talk within
25 the family why Chris has been arrested, she still doesn't say

1 anything.

2 The truth of the matter is if there wasn't a shower
3 video, Erin would have never been interviewed, and she never
4 would have said anything. She only said something because
5 she called down there to talk about the shower incident.

6 This is the particularity of the accusation. It's
7 jury instruction number 29. It requires an alleged victim to
8 testify, quote, "with some particularity regarding each
9 incident". And Erin is a prime example of lack of
10 particularity. Recall her testimony. I know it was a long
11 time ago. I know we had a lot of people testify. But she
12 was vague, at best, about her accusations.

13 Beyond that, there has to be reliable indicia that
14 the number of acts charged actually occurred. I believe the
15 State has charged, I want to say, somewhere between six and
16 eight counts involving Erin. There has to be a reliable
17 indicia that the number of acts charged actually occurred.

18 Her testimony was, as I've said, vague at best.
19 She wasn't sure of the age she was when these incidents
20 supposedly happened. Maybe in fifth grade, maybe in sixth
21 grade, maybe seventh grade. Oh, I was over there a lot. I
22 mean, maybe -- yeah, maybe when I was that age, maybe.

23 She was not firm in her age at all. That is part
24 of the particularity that is required when we're talking
25 about these types of cases and these types of accusations.

1 Beyond that, she actually said during
2 cross-examination when Mr. Negrete was trying to pin her down
3 on some of the details, she finally just got a little
4 frustrated or maybe it was the end of a long day, she was
5 just like I just don't really remember, I just don't
6 remember.

7 That was where she's at. At this point in time,
8 she didn't remember the alleged incidents. And that is very
9 important. She's the only one that says these things
10 happened. She didn't tell anybody about it. There's no
11 physical evidence to confirm her accusations.

12 So when she turns around and says, I just don't
13 really remember, maybe that's what we should be listening to.

14 Was it over -- was the touching over or under the
15 clothes? Not sure. How many times did it happen? Not sure.
16 How the touching occurred, she's not sure. Sometimes it was
17 between the lips of the vagina. Sometimes it was outside of
18 the vagina. Sometimes it was over the clothes. Sometimes it
19 was under the clothes.

20 This is all from her testimony during trial and
21 also prior statements and testimonies that she's given.

22 She can't even recall if there was a conversation
23 between her and Chris about not telling anybody because she
24 didn't tell anybody, so you would think maybe he said don't
25 tell anybody, she can't even recall if that happened or not.

1 The bottom line is the State has failed to prove
2 these charges with Erin Clark beyond a reasonable doubt.

3 Her accusation, no corroboration or details. While
4 the jury instruction says that a alleged victim of sexual
5 abuse or sexual assault does not need to be corroborated.
6 There's literally one of the jury instructions says that.

7 That doesn't mean you throw out your common sense
8 and you just go, well, she said it, guess going to convict.
9 You actually still do need to do the work and the analysis of
10 is she credible, is she believable? She does not have to be
11 corroborated, but you still need to thoroughly look at her
12 testimony.

13 The fact of the matter is you need to ask yourself
14 are you convinced beyond a reasonable doubt that anything at
15 all happened to Erin, based on her testimony, and based on
16 her demeanor during both direct and cross-examination.

17 Think of her without the rest of the noise of the
18 case around it. If she were the only witness testifying,
19 would you feel convinced beyond a reasonable doubt? It's
20 something worth asking yourself. She really didn't like be
21 questioned by the defense because her story's always simply
22 been accepted.

23 Her mother believes it happened but doesn't really
24 want to talk about it because maybe she messed up by not
25 protecting her kid. Nobody is really questioning her until

1 Mr. Negrete was challenging her on some of her details, and
2 that's when she got frustrated, and that's when she finally
3 admitted, I just don't really remember.

4 Please take a closer look at all the counts
5 involving Erin.

6 Don't disregard Chris's statement the way Metro
7 did. The fact of the matter is he spoke with Detective
8 Samples. He was one the first people interviewed. Deborah,
9 Brandon, and Anita were before him, and then Chris, and then
10 everybody else.

11 And he was very forthcoming with Detective Samples.
12 He admitted that there were guns in the house more than what
13 Metro expected, and that is a safety issue for Metro.

14 He was -- he told them where they could find them,
15 and how many of them there were. He admitted to sex with
16 Anita as an adult. It may not have been the first thing out
17 of his mouth during the interview, but the interview only
18 lasted about 45 minutes, and he did admit to having sex with
19 Anita as an adult.

20 He admitted to the threesome with Anita and Deb and
21 to a threesome with Anita and Terrie. But he specifically
22 denied sex with Brandon. It became an issue during the
23 interview. Detective Samples actually said, oh, you know
24 what, I misspoke. I didn't mean to say that you actually had
25 sex with Brandon because I know that that didn't happen.

1 And it was -- that was a point of contention.
2 That's a strong word. That was a point of disagreement, I
3 should say, between Chris and Detective Samples at first, and
4 Detective Samples clarified, no, you know what, I misspoke.

5 So Chris denied having sex with Brandon, and that's
6 the truth. We've seen the videos. There's no accusation
7 that Chris ever had any sexual contact with Brandon.

8 Oops, sometimes it doesn't respond. He
9 acknowledged the parts of his involvement that happened,
10 which are sex with Anita, as an -- sex with Anita as an adult
11 and threesomes, but denied what did not happen.

12 They didn't have him about anybody else. They
13 didn't ask him about Ryan, they didn't ask him about Tails in
14 that interview.

15 Now, compare Chris' statement to Deborah's initial
16 statement to Detective Kurau and Detective Samples. They
17 both testified that in their opinion when Deborah was in
18 front of them talking back in, I think, it was -- I think she
19 was interviewed in early September, a few days before Chris,
20 that she was withholding.

21 Now, she did ultimately plead guilty. But she came
22 in here and repeatedly said, he made me do it. All his idea.
23 The videos are the truth of the matter as far as Deborah's
24 role and Deborah's actions.

25 It's interesting, though, because while she says, I

1 didn't want to do it, and everything on there was his idea,
2 and it was all what he wanted to do, the video clip even that
3 the State showed earlier, one with Deborah talking about not
4 wanting to have two penises in her mouth because she didn't
5 have enough room, she didn't want to do it, so they didn't do
6 it.

7 She's calling the shots. She's the one saying what
8 happens in that room and what doesn't happen in that room.
9 It was a suggestion from Chris. She said nope, it didn't
10 happen.

11 Terrie, same situation. Terrie gave multiple
12 statements to the police, multiple trial -- there was a
13 preliminary hearing testimony and a trial testimony. She
14 pled guilty, and then immediately turned around and says,
15 yeah, but Chris made her give oral sex to Ryan when he was
16 five years old. How do you make somebody do that? How do
17 you force somebody to perform oral sex on their toddler?

18 And then she also says she made her give oral sex
19 to both Ryan and Chris, it's a bunch of stills that we have.
20 He made her do that. You can go through all of the stills, I
21 think, as Detective Samples said there's something like 47 or
22 4800, something like that. It's crazy.

23 But you can see individual stills where she's
24 smiling, where she's taking off her shirt, where she's
25 holding one penis as she's -- as her mouth is on the other

1 penis. Where is the force? Where is the "made to" part of
2 all that?

3 And the fact of the matter is Terrie, she said
4 this. She said it to Detective Samples, she was attracted to
5 Brian and -- to Brian -- to Brandon and Ryan as they got
6 older. She admitted that in her statement.

7 She also admitted to enjoying sex with Anita, her
8 biological daughter during the threesome. She admitted to
9 liking sex with her sister, Melissa, when it was happening.
10 And she said sex got to be more fun with Brandon and Ryan as
11 they began to get older, as Brandon began to resemble Chris,
12 reminded her of a young Chris. These are all of the things
13 that Terrie said.

14 And yet, Terrie then turns around and says, but I
15 didn't want to do any of these things, and she is being put
16 forth as a believable, credible witness by the State.

17 She said it over and over again during her
18 testimony, Chris made her have sex, not my fault. I went
19 through countless examples with her, and she, it's not my
20 fault, not my fault.

21 In this scenario of the three people that were
22 interviewed and the three people that were charged with
23 crimes, Chris is the most believable of them all. Terrie and
24 Deborah, based on what you see on those videos and how they
25 testified here and in previous testimonies, they are not

1 credible.

2 The kids, Anita, Brandon, Tails, and Ryan, their
3 words are the only evidence on a lot of the charges. So
4 their credibility is also worth looking at. There is the
5 video, and the State wants you to think that it proves their
6 case. But it really doesn't. It helps the defense much,
7 much more than it helps the State.

8 At best, for the State, the video shows Chris in
9 the room while Deborah and Terrie are sexually abusing their
10 own children. And this is not -- I mean, I think when we
11 were first starting off on this case, a lot of people were
12 probably thinking, why are we even go to trial if there's a
13 video? I mean, jeepers, you know, why, why would you do
14 that? But the truth of the matter is it's a very complicated
15 case because of the argument and the theory that the State is
16 trying to put forth regarding Chris's responsibility or lack
17 of responsibility when it comes to Deborah and Terrie.

18 There's a lot of counts and a lot of evidence. If
19 you feel the need to watch the video again, I know it's not
20 the most pleasant thing in the world to watch, but please
21 don't hesitate. If anybody in the jury deliberation room is
22 saying, no, way, I don't want to watch that again, it's
23 necessary to review all of the evidence in the case. So
24 please be mindful of that. This is incredibly serious. This
25 is a criminal trial. This is -- as you know the potential

1 penalties that Deborah and Terrie were facing, this is an
2 incredibly important decision for all of you to take
3 seriously.

4 The videos certainly are important. They show
5 Chris is not a monster. If Deborah and Terrie would have had
6 their way, these videos never would have been shown in court
7 because they destroy the painting that they were -- or the
8 picture that they were painting of Chris.

9 The videos actually show that he's not guilty of
10 the crimes that Deborah and Terrie committed. It does show,
11 no doubt, though, that the kids are victims. We can't get
12 around that, and we don't want to get around that.

13 But it shows that they're biased. The fact of the
14 matter is we conceded a small percentage of the counts, and
15 those are the appropriate guilty verdicts in this case.
16 Those, I think, it was 15 or 16 maybe counts that we
17 conceded. Other than that, the State is overreaching. Anita
18 is not a credible witness, and the videos show that Chris was
19 not responsible for the behaviors of the moms.

20 We are confident that once you review all of the
21 evidence, and when you really examine the testimonies in this
22 case and compare them with the videos, that you're going to
23 agree that the only appropriate guilty verdicts are the ones
24 that we have conceded. And we ask you once again, to check
25 the tape. Thank you.

1 THE COURT: All right. Thank you, Ms. Radosta.
2 I'm going to give them another break. All right? You've
3 been sitting now for two hours and 15 minutes, roughly. So
4 once again, I'm going to give you 15 minutes.

5 During this recess, you're admonished not to talk
6 or converse amongst yourself with anyone else on any subject
7 connected with the trial, read, watch, or listen to any
8 report or commentary on the trial or any person connected
9 with this trial or any medium of information, including
10 without limitation, newspapers, television, the Internet, or
11 radio, or form or express any opinion on any subject
12 connected with this trial until the case is finally submitted
13 to you.

14 Be ready to get started by 10 after. Okay? We're
15 off the record.

16 (Court recessed at 3:55 p.m. until 4:10 p.m.)

17 (In the presence of the jury.)

18 THE COURT: All right. Everybody go ahead and have
19 a seat.

20 We're back on the record in the case of State of
21 Nevada versus Christopher Sena in C-311453. The record will
22 reflect the presence of the defendant, his counsel, as well
23 as the State and their counsel, all members of the jury.

24 Will the parties stipulate to the presence of the
25 jury?

1 MR. SWEETIN: Yes, Your Honor.

2 MS. RADOSTA: Yes, Your Honor.

3 THE COURT: All right. Did the State have any
4 rebuttal?

5 MR. SWEETIN: It does, Judge.

6 THE COURT: All right. Mr. Sweetin?

7 STATE'S REBUTTAL CLOSING ARGUMENT

8 MR. SWEETIN: Thank you. May it please the Court,
9 counsel, co-counsel, ladies and gentlemen of the jury, we
10 appreciate your patience and attentiveness through this whole
11 process. It has been a long process.

12 I'll be the last attorney that you hear from in
13 this case, which probably will make some of you happy.

14 I wanted to start off by, sort of, recapping what
15 defense counsel did as they argued to you here. They made
16 one statement, check the tape. I put an exclamation point on
17 that check the tape, but we'll get to that a little bit
18 later.

19 Essentially, what they said was that the defendant
20 is guilty of a few things that he admitted to in his
21 statement, that maybe a few things having to do with the
22 video, but most of that is all somebody else's thing, it's
23 not his. And that he really, he's not guilty of anything
24 that's not on tape or that he didn't admit to.

25 Ladies and gentlemen, that's a fair summary of the

1 defendant's closing. Now, I want to start by talking to you
2 about something that's been mentioned a little bit here, and
3 that's reasonable doubt. Reasonable doubt, it's not
4 something mythical. The reasonable doubt standard is the
5 same standard that has been in any every courtroom here in
6 the United States for a couple hundred years now, the same
7 burden that the government happily bears.

8 So what is reasonable doubt? You know, it's not
9 beyond any doubt. It's not mere possible doubt. But it's
10 beyond a reasonable doubt. Now, I'd submit to you it's
11 possible that some extraterrestrial alien came down here and
12 assumed the form of the defendant committed these crimes.

13 MS. RADOSTA: Your Honor, I'm going to object that
14 he's redefining reasonable doubt.

15 MR. SWEETIN: I'm not redefining.

16 THE COURT: I don't think -- he's going to read the
17 definition there. So overruled.

18 MR. SWEETIN: Might that cause some doubt? Well,
19 maybe. But would that be a reasonable doubt? The State
20 submits no.

21 Reasonable doubt is the doubt that would govern you
22 and control you in the more weighty affairs of your own
23 lives. It's not mythical, ladies and gentlemen. After you
24 consider all of the evidence, you put it together as a whole,
25 the instruction is clear that if you have an abiding

1 conviction of the truth of the charges, then there is no
2 reasonable doubt.

3 Now, let's talk about the evidence in this case.
4 And ladies and gentlemen, State submits to you that there is
5 a lot of evidence in this case. We've sat here for the last
6 few weeks, and we've taken it in. You've heard and seen
7 testimony and evidence which supports at least 22, 22
8 separate occasions on which the defendant committed sexual
9 acts upon his own biological children as well as children who
10 were living or visiting that residence, both boys and girls.

11 We now know that many of those individual occasions
12 resulted in multiple sexual acts with which the defendant
13 stands accused.

14 So what evidence do we have in this case? That the
15 defendant is criminally liable for those sexual acts and
16 other acts for which he stands charged.

17 Now, I would note that the defendant at this point
18 has not contest that all the elements of the crimes have been
19 testified to by the witnesses. The defendant just contest as
20 to whether or not you should believe those witnesses. So
21 let's talk about that a little bit.

22 The evidence really all starts with the testimony
23 of eyewitnesses of the actual crimes alleged here. And how
24 many witnesses do we have, ladies and gentlemen? Count them.
25 Almost takes two full hands. Nine. We have nine witnesses

1 that have testified to you. Seven of those witnesses are
2 actual victims of the defendant's crimes, remember, Anita,
3 Tails, Ryan, Brandon, Melissa, Erin, Tamara. And the other
4 two witnesses are co-offenders of the defendant, his ex-wife
5 and his wife, Deborah and Terrie.

6 Now, in support of the eyewitness testimony, the
7 State would submit that we also have some other evidence,
8 don't we? I mean, we have the e-mails that you've heard
9 about, we'll talk about a little bit more here, that the
10 defendant sent to Deborah and those who left his residence,
11 just after they left the residence. We have the defendant's
12 own words from the statement that you heard played in this
13 courtroom.

14 And ladies and gentlemen, yes, we have video
15 evidence of some of the sexual acts the defendant perpetrated
16 upon these victims. So this really comes down to really two
17 questions here, and these are the questions that we're going
18 to be discussing throughout this.

19 First, based upon all the evidence, do you believe
20 the eyewitnesses that we've talked about here? And then
21 secondly, if you believe them, does that make the defendant's
22 criminally liable for the crimes that are alleged here?

23 So let's talk about this a little bit, and let's
24 start with that first question. Do you believe the witnesses
25 as they told you, sort of, step by step what's happened in

1 the course of this case?

2 So let's start with defendant's, sort of,
3 contention that was made in closing arguments here that the
4 testimony's really is all driven by Deborah and Deborah's
5 disclosure, and the fact that the kids are trying to protect
6 their mother. That maybe Deborah is manipulating Brandon and
7 Anita, that Terrie is manipulating Ryan. And we all know how
8 Deborah and Terrie get along together, right? That they
9 might get together so that they might coordinate this
10 manipulation.

11 Ladies and gentlemen, we have testimony here from,
12 remember, Anita, who disclosed initially -- remember, all of
13 these witnesses disclosed independently; Anita. We have
14 Tails who initially, he said that nothing happened. We know
15 that he was on video. Initially, when he talked to the
16 police he said nothing happened at all. And subsequently,
17 when he was brought to court, and he was shown the video,
18 that's when he discloses of Ryan, Brandon, Tamara, Erin, and
19 Melissa.

20 So all of these individuals essentially are, sort
21 of, all on the same page, making up things about the
22 defendant because whatever reason, they're trying to protect
23 their mother. And many of these don't have a mother that's
24 in the fight. We have Tamara, Erin, and Melissa. So they're
25 trying to protect them or they're being manipulated in some

1 way.

2 What an incredible, incredible coordinated effort
3 there must be. Does that even make sense, ladies and
4 gentlemen? Think about this, you heard the testimony here.

5 So let's talk about it a little bit more. Why
6 should you believe these witnesses? Let's sort of break it
7 down a little bit. First, let's start with all the victims.
8 Now, there are a lot victims here, as we talked about, who
9 all described their own independent incidents of abuse which
10 involved the defendant.

11 Now, the State submits, first of all, that the
12 likelihood that one is not telling the truth and just kind of
13 going out there and saying, hey, this stuff happens,
14 decreases with each additional victim who comes up here and
15 describes similar or sometimes different conduct, but conduct
16 relating to defendant of a sexual nature.

17 Anita, who began being abused when they was about
18 11 or 12 years old. She is sexually touched and sexually
19 penetrated directly by the defendant, both vaginally and
20 anally on multiple occasions, caused to have sexual contact
21 with both Deborah and Terrie, as we know, under the guidance
22 of the defendant, and we'll get to that in a minute.

23 She's threatened not to say anything. Tails, who
24 when he was 15 or 16, was caused to have sexual contact with
25 Deborah at least two occasions under the guidance of the

1 defendant. Ryan, who when he was 12 or 13 was anally
2 penetrated by the defendant and later caused to have sexual
3 contact with Terrie under the guidance and direction of the
4 defendant, as well as the defendant showing him this video.
5 Remember, we heard about this video of his mother performing
6 fellatio on the defendant. He was also threatened not to say
7 anything.

8 Brandon, who was caused to have sexual contact with
9 Deborah, Terrie under the guidance and direction of the
10 defendant and he was told not to say anything. Tamara, who
11 was shown a video of her Aunt Terrie performing fellatio on
12 the defendant and was actually videoed when she was about 11
13 or 12 when she's in the shower.

14 Erin, who was sexually touched on the breasts and
15 vaginal area by the defendant from about middle school and
16 was videoed while she was in the shower. Melissa, who was
17 found in possession of nude photos when she was younger,
18 younger than 16.

19 Evidence was also presented in regards to Melissa,
20 remember, that the defendant began to sexually touch her at
21 about the age of 11 and continued to take nude photos, and
22 anally and vaginally penetrate her over that extended period
23 of time.

24 While I'm talking about Melissa, defense counsel
25 brought up something. They brought up, well, wait a second,

1 why did the State even present this evidence? Well, ladies
2 and gentlemen, you have an instruction on that, and it's
3 instruction number 50.

4 And instruction 50 tells you that this particular
5 evidence essentially down about mid page on line 16, the
6 above-referenced sexual acts were received as evidence of the
7 defendant's character or sexual propensity as well as it
8 shows the defendant's intent, knowledge, motive and lack of
9 mistake or accident in the commission of such crimes.

10 Now, remember when we were talking before that the
11 fact that you have multiple victims who are disclosing
12 similar conduct by this defendant, the likelihood that any
13 one of them is not telling the truth goes down significantly?
14 Think about the situation with Melissa. Think about the
15 similarities between that situation and the situations within
16 the defendant's own house with the sole female that was
17 living in the house.

18 How is his relationship with Melissa began? How is
19 it began with Anita? All of this is evidence, State submits,
20 that certainly you can consider.

21 Now, each of these victims disclosed sometimes
22 different, sometimes similar conduct, but consider this as
23 well. The initial disclosure of each of these victims was
24 made independently. Sort of, as we already alluded to,
25 they're independent of one thorough. They're done through an

1 interview process in this case.

2 They all disclosed down at the CAC that we've heard
3 so much about with the exception, as we've indicated, of
4 Tails. Anita and Brandon had gave their statement on
5 September 17, 2014. Erin and Melissa and Tamara on December
6 1st of 2014. Ryan on December 17th of 2014, and then Tails,
7 as we indicated, gave a first statement saying nothing
8 happened in September 2014, and then in February, on February
9 17, 2015, when he testified, he disclosed.

10 This is not a situation, the State submits, where
11 you would expect to see a lot of coordination. They're all
12 disclosing independently. We all know when they go down to
13 the police station, they're separated, they're talked to
14 separately, yet, they disclose this very specific conduct
15 that we've talked about.

16 The State submits it's this independent disclosure
17 of these acts described as additional credibility to all the
18 victims' testimony.

19 I'd note, that the State -- that sometimes similar
20 and sometimes different conduct between the various victims
21 make the testimony of all the victims, the State would
22 submit, each much more believable. Now, think about this for
23 a minute. Would you expect the defendant to be able to get
24 away, essentially, with the same thing with each of these
25 children, each of these victims?

1 You saw the kids. You know, the State would submit
2 that they're all very unique and very different. The
3 defendant had to, the State submits, tailor essentially what
4 he did and what he could get away with, essentially, with
5 each of these children.

6 Would you expect the exact same acts to be
7 performed on each of these? Well, the State submits the fact
8 that each victim suffered a different degree of sexual
9 conduct adds credibility, the State would submit, to the
10 testimony as a whole.

11 But what about this, if these witnesses were not
12 telling the truth but just saying things that they thought
13 would make the defendant look bad, wouldn't they have said
14 that he did more? They didn't. Think about this for a
15 minute. Tamara told you that the defendant didn't touch her
16 sexually at all. Erin told you that the defendant touched
17 her over the underwear, sometimes under the underwear.

18 Anita told you that after she had been subject to
19 sex by the defendant so many times, that she ultimately
20 submitted herself to help reduce the risk of violence to
21 herself and others within the household. As we mentioned,
22 Tails would not even say anything happened during this first
23 interview with the police. Only admitted that he was caused
24 to have sex with Deborah by defendant after seeing a portion
25 of that video just before he testified.

1 And even now, as he testified here in court,
2 remember, he says that he remembers in that shower scene,
3 Deborah performing fellatio on him, but he wasn't sure that
4 the defendant told her directly to do that. Although, he
5 does remember just after that, the defendant telling Deborah
6 to turn around in the shower and bend over telling Tails to
7 put his penis in her vagina.

8 Although, Ryan detailed that the defendant
9 penetrated his anus with his penis at a very young age,
10 Brandon indicated that defendant never sexually penetrated
11 him directly, but only caused him to engage this sexual
12 conduct with the defendant, Deborah, and Terrie.

13 The failure to disclose, the State would submit, is
14 another issue defense counsel made mention of, and I want to
15 make mention of. What does that do for us? Does that
16 actually add, sort of, an additional level of indicia of
17 belief to this? Think about this.

18 In this case, why didn't the children disclose?
19 You know, think about this for a minute. We've spent a
20 couple of weeks listening to this evidence. This was their
21 lives, the State would submit. This is how they grew up. Do
22 you think it seemed normal to a certain extent? This is what
23 they knew. You heard what was going on in that house. This
24 is what they saw every day. They lived with this every day,
25 all of them. This was their life, the State would submit.

1 Do you think that they felt comfortable telling
2 others about this? No way. As we've indicated, and you've
3 heard testimony, the defendant was violent in the house. You
4 know, he would strike them across the face. He would
5 demeanor them. He would threaten them with the many things
6 that we've heard about, that he's going to break their legs,
7 that he brought them in this life, he could take them out,
8 that he knew where to bury people, all those things.

9 Again, this is how these kids grew up. He
10 specifically told Anita, Ryan, and Brandon that he would kill
11 them if they ever said anything about the sexual abuse. You
12 know, was this any different than the other threats that he
13 made about other things? Probably not. But did they take it
14 serious? Oh, you bet they did.

15 Do you think the controls put upon the kids, sort
16 of, isolated them to this Yellowstone house somewhat and
17 stopped them from connecting to life outside of the
18 Yellowstone residence to the extent that the kids really
19 never got a clear view of normal life? They knew the
20 defendant's rules, and they knew that they had to keep them,
21 and this was life for them.

22 It was almost as if the defendant was, sort of,
23 like God to them. He controlled everything, including the
24 police. They weren't reporting anything. And the State
25 would submit that clearly there's evidence in regards to the

1 fact that the defendant used everything in his control as a
2 method of control in this case, including the police.

3 Defendant talks about the witness they brought in.
4 Remember Officer Brinkley? Officer Brinkley's over at the
5 house, and by the defendant's own admission, or I'm sorry, by
6 Officer Brinkley's testimony, the defendant's talking to him
7 about sexual stuff in the house. The defendant felt like he
8 had free rein, essentially. And he felt as if he had
9 complete control over those children.

10 But let me ask you this, what reason do the kids
11 have to lie? First, as to the victims, Anita, Tails, Ryan,
12 Brandon, Tamara, Erin, Melissa, this investigation started
13 about four years ago. You've heard from all the victims that
14 they have not had contact with the defendant since that time.

15 They have gone on with their lives. With the
16 exception of Erin, they're all adults now. Some have jobs.
17 Some have children. Their lives are not going to change no
18 matter what happens here. Now we know that Deborah is the
19 mother of Brandon. Terrie's the mother of Anita, Tails, and
20 Ryan. But ladies and gentlemen, Deborah and Terrie's case is
21 done. We know that. No matter what happens, no matter what
22 these kids say or don't say, their mothers are going to have
23 the same deal. They're going to be in prison for the same
24 amount of time, potentially, the rest of their lives.

25 Terrie is Melissa's sister, and Tamara is Erin's

1 aunt. The State submits that the evidence shows that they
2 have virtually no ties to Deborah, very tenuous ties to
3 Terrie. But similar to the other victims, there's nothing
4 that their testimony is going to do here in regards to Terrie
5 and Deborah.

6 Does anyone think that it was easy for these kids
7 to come in here and testify in the course of this proceeding,
8 all of these victims? You know, think about this. We talked
9 about this a little bit in jury selection. Remember, we
10 talked about the question that was posed, who would feel
11 comfortable coming in and talking about their last sexual
12 experience with -- in front of a room full of strangers; it
13 was not very appealing to most.

14 You know, ladies and gentlemen, these victims were
15 asked to do a lot more than that. You know, they were asked
16 to describe sexual abuse suffered at the hands of the
17 defendant, sometimes the biological mother, the stepmother
18 that they, sort of, knew as a mother. It's embarrassing,
19 painful, things the State submits they would really rather
20 just forget about, not really talk about in this particular
21 forum.

22 This wasn't easy on Tamara, Erin, and Melissa
23 either. Testifying to nude photos -- testifying to nude
24 photos of themselves here in open court, Tamara described how
25 the defendant showed her a photo of her aunt Melissa while

1 she was performing fellatio. Erin also identified a nude
2 photo of herself right here in the courtroom, defendant
3 sexually -- detailed how the defendant sexually touched her.

4 Melissa described how she was sexually touched and
5 photographed by the defendant from a young age of about 11.
6 They did this all in a room full of strangers. Why would
7 they come here and put themselves through this if they were
8 not telling you truth?

9 And what about the remaining victims that we talked
10 about, Anita, Tails, Ryan, and Brandon? They came in here to
11 tell you about the sexual contact that they suffered, as I
12 indicated, with their way biological mothers with defendant,
13 the sexual contact that you saw them as they testified here
14 in this case. What were they feeling as they described these
15 horrible things perpetrated upon their bodies?

16 You know, think about this. You saw Anita as she
17 struggled to get out what happened to her over a period of
18 abuse that lasted about 13 years. That's about -- that's
19 about almost half of her young life. Did you see Brandon as
20 he -- as his head, State would submit, just sort of jerked
21 involuntary back as he described that he was caused to have
22 sex with his biological mother? Why? Well, he described it
23 to you. Remember, he said it's hard to describe sexual
24 contact with Terrie, but his mother was different. It was
25 his mother.

1 He had to describe that to you, a room full of
2 strangers. What about Ryan? My goodness. I would submit
3 Ryan was trying to hold it together up on that witness stand.
4 He told you about a man, the only real man that knew as
5 father for his entire life, who put his penis in his anus.
6 Do you think that that's something that's easy to come in
7 here and say to a room full of strangers?

8 This is not easy for them. Why would they put
9 themselves through this if it wasn't true?

10 Let's talk a little bit about the testimony of
11 Deborah and Terrie for a minute. Now, defense counsel talks
12 in great lengths, well, wait a second they came in here and
13 at the testified and they said they were scared of the
14 defendant. Who cares whether they said they were scared or
15 weren't scared of the defendant? You have what happened on
16 tape.

17 They testified to you here that they were very
18 wrong. They are eyewitnesses to some of the acts in this
19 case. They are accomplices, and you're instructed that you
20 need to take this into account as you consider this evidence
21 for a couple reasons. First, there has to be some indicia of
22 truthfulness shown through corroboration.

23 You're told that everything that they say doesn't
24 have to be corroborated, but there has to be enough
25 corroboration so that you know that they're not just talking

1 off the top of their heads.

2 Ladies and gentlemen, this is not even close in
3 regards to whether or not this testimony is corroborated. In
4 this case, for the most part, everything that they testified
5 to is corroborated through the testimony of other child
6 victims who were there at the same time.

7 It's difficult to get better corroboration than
8 that. But you know what, ladies and gentlemen, we have it in
9 this case because we have video. We have video of them --
10 the testimony that they gave as to what happened with the
11 defendant and various children and themselves as it was
12 videotaped.

13 The State submits that there's clear indicia of
14 truthfulness shown by this corroboration. There's
15 corroboration galore here.

16 Next, you are to consider the fact that Terrie and
17 Deborah received a benefit from a negotiation when weighing
18 their testimony. So let's talk about that for a minute.
19 What is their benefit? Well, in this case, you have received
20 documents, Guilty Plea Agreements, Agreements to Testify.
21 What did they get out of this? They got a life sentence.

22 Ladies and gentlemen, life is life. You heard that
23 they can receive parole as soon as ten years down the road.
24 Does that mean that they're going to receive parole? They
25 were clear as they testified up here, and says, no. They

1 have a life sentence that they're looking at.

2 They can be held in prison for life. You saw them
3 come in here. They're in prison garb, they're handcuffed.
4 Both of them, State would submit, is fairly advanced years.
5 I think the testimony came out in regards to dates of birth.
6 Terrie is just short of 50, and Deborah's a little over 50,
7 with years to a lifetime left in prison.

8 And if they do obtain parole at some point in their
9 life, remember, they're going to be convicted sex offenders.
10 That means they're going to be subject to registration as a
11 sex offender and subject to lifetime supervision for the rest
12 of their lives to be supervised as a sex offender.

13 My goodness, what is an incredible deal that these
14 women got. Why do you think that they're here testifying?
15 Well, there's an Agreement to Testify. You know, there is a
16 Guilty Plea Agreement. But ladies and gentlemen, you heard
17 them testify. You heard them accept responsibility for the
18 choices that they made.

19 Now, they're claiming -- they're not claiming that
20 they're not horrible people for what they did to these kids.
21 Do you think that essentially as they sit in prison now for
22 years to come, potentially for the rest of their life, that
23 they want a relationship with their kids? Well, maybe so.

24 You heard that they're visited. Do you think that
25 they want to do the right thing at some level? Do you think

1 that there comes a point in life when you're looking at
2 potentially being in prison the rest of your life when you
3 decide maybe I need to start doing the right things maybe to
4 make up for something that I didn't do for my children back
5 in the day that now I can do?

6 Well, ladies and gentlemen, they do blame the
7 defendant. There's no question about that. I think they
8 both were consistent on that. They accepted responsibility.
9 They know what they did was horrible, but they're blaming the
10 defendant. So how do we understand that?

11 Think about this. Is what they're really saying is
12 that they're culpable in this, but you know what, the
13 defendant's kind of the idea man here. You know, he was sort
14 of the coordinating guy who put this thing together, who ran
15 it. Maybe they wouldn't have done it if it wasn't for the
16 defendant. Maybe, who knows. Is that reasonable?

17 Watch the videos. We're going to talk about the
18 videos in a little bit, but when you watch those videos,
19 who's doing all the talking? Well, State submits you hear
20 the defendant, you hear Terrie, you hear Deborah, sometimes
21 you hear one of the children, but who do you hear the most?
22 There's no doubt, it's the defendant. Who is panting with
23 pleasure in these videos? Do you ever hear, you know, the
24 mom's panting can pleasure? Well, that's not in the videos.
25 Do you hear the kids? Oh, my goodness. Did you see the

1 video with Ryan.

2 Is Ryan in any way pleased? You know, what a
3 dramatic, horrible thing happening. Who is panting can
4 pleasure, though? It's the defendant. He's breathing hard,
5 yeah, saying other sexually oriented things.

6 Who's directing what's happening in all these
7 videos? In all the videos, the State would submit, there's
8 no question that it is the defendant. He's positioning
9 bodies on beds. He's telling people what to do. He's
10 commenting on sexually oriented things, sit up, sit on him,
11 mama.

12 These -- this is all the defendant. Who do
13 Deborah, Terrie, and the children look to before any of this
14 stuff starts happening in the rooms, essentially, or in the
15 course of things happening in the room, and this is true, you
16 can see this on all the videos. It's the defendant. You see
17 him like wandering around the rooms. Sometimes you see him
18 jump on the bed, do some sexual acts. Their eyes go to him.

19 They start to move somewhere. Before they start to
20 move, they look to him. He is controlling everything. Who
21 can be seen most clearly enjoying the sexual conduct? The
22 State submits, there's no question, it's the defendant.

23 Deborah and Terrie's testimony is corroborated, the
24 State would submit. It's corroborated by the statements of
25 the children, the testimony of the children, as well as the

1 video, and it paints them in a bad light. State submits it
2 paints the defendant in a pretty bad light as well.

3 But the thing that you need to remember here, as
4 we've listened to closing argument, we've heard so much about
5 Deborah and Terrie and not a whole lot about the defendant,
6 is Jury Instruction No. 5: You are here to determine the
7 guilt or innocence of the defendant from the evidence in this
8 case. You are not called upon to return a verdict as to the
9 guilt or innocence of any other person, not Deborah or
10 Terrie. That's already been decided. There's a deal done,
11 and they're in prison, maybe for the rest of their life.

12 So if the evidence in this case convinces you
13 beyond a reasonable doubt the guilt of the defendant, you
14 should so find, even though you may believe one or more other
15 persons are also guilty.

16 Now, jury instruction number 23 tells us that as
17 far as sexual assault and lewdness are concerned, that if you
18 believe the victims in this case beyond a reasonable doubt,
19 that's it. There is no reasonable doubt the defendant's
20 guilty, essentially.

21 But, ladies and gentlemen, we've heard here that we
22 do have substantial corroborating evidence that adds
23 additional credence to the things that happened as described
24 by these eyewitnesses.

25 What -- first of all, what was the level of sexual

1 conduct in this house as exhibited by defendant? Think about
2 this. How relevant is this to this case? The defendant's
3 sexual appetite, we have evidence to indicate to us exactly
4 what that is. Just after moving into that house there at
5 Yellowstone in 1998, and during the entire time that he's in
6 the house until 2014, the defendant is having sex with all
7 kinds of different people; his wife, Deborah, Terrie. We've
8 talked about Melissa. Sometimes girlfriends, according to
9 the statement that he gave to the police. We know that he
10 would have Terrie watch him and Deborah, and according to
11 Terrie, vice versa, as they had sexual conduct. He was
12 having sex with Terrie and Deborah together. He was having
13 sex with Terrie and Melissa together.

14 And Deborah testified, too, you hear in the course
15 of this proceeding that she actually videotaped those -- some
16 of those things on some occasions. This is what's going on
17 sexually in this house. And as I indicated before,
18 defendant, he each bragged to the police officer who came
19 over, Officer Brinkley, you know, saying to him, hey, you
20 know, I've got a good thing going here. I got kind of the
21 best of both worlds, the my wife and my ex-wife, ha, ha.

22 This is the defendant's life, essentially. Terrie
23 testified here in the course of her testimony, she talked
24 about the defendant's sexual appetite. Remember what she
25 said? She says this guy -- she told you he would have sex

1 multiple times every day. Is that surprising given the
2 factual scenario that they know about this?

3 His interest in sex was evident when you look in
4 that office. And you've seen pictures of the office. Some
5 of them were blown up for you on the screen. Right there
6 next to his desk where his computer is, same place that he
7 has various people coming back, children coming back to talk
8 to him and discuss whatever that might be. Remember, Erin
9 and Tamara as they're brought back there by Brandon and Ryan
10 as Brandon and Ryan are shooed off.

11 Right at that particular desk, he's got right there
12 a picture of a female performing fellatio on a guy. He's
13 also got various unclad women all around there. If you look
14 at pictures of that office the woman common scheme is sexual
15 orientation. I mean, it's very sexually obvious in that
16 particular room.

17 Remember the defendant stated that it was back in
18 that room that he did download and save various sexual things
19 as well. Remember, hairy girls, he said, boobs, he/shes,
20 standard stuff like that.

21 What about Deborah and Terrie flashing the breasts
22 in the house? Because we also had -- heard testimony of
23 that. It was only done when the defendant was around. Well,
24 what about him talking about sexual things in front of the
25 other children?

1 Remember the discussions about the swimming pool?
2 He says, yeah, we're going out to swim, but we go out and we
3 don't wear any clothes. You can come along, but you come
4 along naked. He's saying this to like 11, 12-year-old kids.

5 Remember the defendant asking Tamara, you know, as
6 she's about 15 years old, if she's having a sexual experience
7 with a boyfriend. Hey, how was it, right down to what
8 positions were you involved with.

9 Well, what about the sexual discussions with or
10 about school-age friends of Tamara and Anita about sexual
11 matters? How nudity was no big deal. How he enjoyed looking
12 at one of Anita's friends because he could see her pubic hair
13 through a bathing suit.

14 What about the sleeping in the nude? What about
15 that, ladies and gentlemen? He sleeps in the nude. He wakes
16 up in the morning or in the afternoon, whenever he wakes up,
17 and then he calls the kids in to see him. He's laying in bed
18 nude. Hey, come wish me a happy morning or afternoon. Hey
19 jump in bed with me so I can give you a hug.

20 This is what happened in that house. And not only
21 with his own kids, Anita, Tails, Ryan, and Brandon, but
22 Tamara and Erin as well. The State submits the evidence is
23 clear that the defendant was very focused on sexual activity
24 in his own household. We have an abundance of evidence, the
25 State would submit, that shows that.

1 The State further submits that much of the sexual
2 activity was unusual, to say the least. Sex with multiple,
3 with his wife, ex-wife, niece, others interchangeably and
4 together, anyone in the house that came over, essentially,
5 was exposed to this discussion of sexual topics, sexual
6 situations.

7 The State submits that this further shows that when
8 it came to sexual matters that the one thing absent from this
9 house was any barriers or filters to defendant's sexual
10 activity.

11 What about control? What was the level of control
12 the defendant had over the children in this household? Did
13 the kids feel like the defendant knew what they were doing at
14 any moment of the day or night? State submits, yeah. How do
15 we know that? Remember, they said that they had to be home
16 right after school. That if they didn't get home when they
17 were supposed to get home, that they got in trouble.

18 That even when they were home, that there was
19 cameras around the house, which the kids believed the
20 defendant was watching them. And they believed that because,
21 in fact, they knew that if they many times did things wrong
22 around the house, the defendant wasn't around, he came and
23 disciplined them for them [sic] indicating that he had seen
24 that on the camera.

25 Remember, Anita telling you that as she was in her

1 20s and working at Albertsons that she called the police and
2 reported this bomb threat? She made a mistake and her boss
3 was talking about a bum. She gets home from work, and the
4 defendant immediately challenged her about this bomb threat.

5 How did he know? She thought that he knew
6 everything about what she was doing at any point of the day
7 or night. And that's what the atmosphere that the defendant
8 wanted to create. This is a common theme.

9 They thought the defendant was -- kids thought the
10 defendant was tracking them with a cell phone. Why did they
11 think that? Because when Terrie left the residence,
12 defendant was saying, yeah, I know where she's at, I'm
13 tracking her.

14 Do you think these kids believed the defendant knew
15 whatever they were doing at any point during the day? Well,
16 the State submits absolutely. Couple that with the violence
17 in the house. What would happen if the kids didn't follow
18 the instructions? You know, you heard the testimony. They'd
19 get in trouble. They'd get hit across the face. They'd get
20 pushed. Each of the kids, Anita, Tails, Ryan, and Brandon
21 said that this is what happened.

22 The defendant would make threats as to what might
23 happen if they didn't listen to him. That he'd again, break
24 their legs. You know, he brought them in this life, could
25 take them out. He knew how to get rid of bodies.

1 The defendant himself says in a statement to the
2 police, his own words, quote, "People say I'm a little -- a
3 little rough, but that's about it, you know, like -- like a
4 drill sergeant. Like we got to get this done, right, or get
5 this done right or -- but that's about it, end quote.

6 And he goes on to say, "I've always had people
7 always compliment on my -- how my family's always so nice and
8 how obedient they are."

9 This is what the defendant did. He made sure that
10 they would listen to him no matter what. Recall him asking
11 Ryan if the house, and maybe most -- one of the most telling
12 stories, things that happened around that house is a
13 situation with Ryan. Remember, Ryan was in the house,
14 there's others around, and the defendant comes up to him and
15 basically says to him, do you feel loved in the house?

16 Remember how Ryan responds? He says, no. What
17 happens to him? He gets hit to the ground. He gets up.
18 What happens and he asks him again? The defendant asked him
19 again, Ryan do you feel loved? He says, no. He gets hit
20 again. He gets up again. Ryan, do you feel loved? What
21 does Ryan do? He says, well, yeah. He doesn't want to get
22 hit again. This is what the defendant did over and over.

23 He told Ryan that he was stupid and useless. He
24 told Ryan to call him dad. He said that his father didn't
25 love him, and would never be around. And Ryan did what he

1 was told.

2 So he used essentially threats, he used demeaning
3 remarks, he used violence in order to gain control over his
4 children. He told Anita and Brandon that they were stupid,
5 worthless.

6 Remember one of those last incidents in 2014, just
7 before Deborah, Brandon, and Anita left the house? And
8 that's the incident with a sandwich is being made nor Anita.
9 Remember, Anita's getting ready to go to work, as sort of a
10 24-year-old woman here? She's fixing her bicycle. She rides
11 a bicycle. She's outside trying to fix her bicycle and she's
12 getting ready to go to work. She hasn't had time for dinner,
13 so Brandon's making her a sandwich.

14 The defendant's out doing something at the pool,
15 and so now defendant is getting upset because Brandon's not
16 there. He comes in, he finds out that he's making a sandwich
17 for his sister. Well, that's it, he's backed up against the
18 wall, you know, violence. No, that's not going to happen.
19 That is how he controlled everybody.

20 Ladies and gentlemen, you heard that during the
21 testimony in this case, if the defendant would say do
22 something, they would do it. But besides the testimony of
23 the witnesses, we have other evidence that shows the extent
24 of the defendant's control, don't we, in this case? We have
25 the video.

1 Now, one of the most significant pieces of evidence
2 we have to show that the defendant had complete control over
3 these kids, the State would submit, is this video.

4 We have video of Tails with the defendant and
5 Deborah, and Brandon with the defendant and Deborah, and Ryan
6 with the defendant and Terrie.

7 Now, as we've indicated, in these videos, you know,
8 we hear the defendant's voice. We see what's happening. The
9 defendant is the one who's directing everybody that -- in the
10 course of these videos. But what is even maybe more
11 probative of what's really going on here is what they are
12 doing.

13 There is never a question asked. The kids are --
14 they're this bad. He's telling them to put his penis into
15 somebody, and there is not even a skip in the beat. They're
16 right there.

17 This is what he expects, and this is what he gets.
18 Think about this. I mean, many of us have children. All of
19 us have been children. You ask your child to go take out the
20 trash. What do you get? You get many times rolling eyes or
21 oh, I'll do it later or oh, can I just maybe do it tomorrow
22 or all this. My goodness in these videos, he is demanding
23 much more than take out the trash, we know that. But there
24 is not even skipping a beat. These kids are doing exactly
25 what he wants them to do.

1 And he's not making these videos. Look at the
2 videos. Remember the video of the shower that involved
3 Tails? Remember that? You know, he's setting up the video
4 camera, and he's filming, he goes back to the shower, and he
5 arranges the bodies, the State would submit, in a way that he
6 can capture the bodies on his -- on the camera he's got
7 outside.

8 He comes outside, and he gets a little frustrated
9 with him, and he says, just clean. Is that the Chris Sena
10 that these children knew? Defense counsel says no, he's very
11 meek. He's just standing around not doing anything on these
12 videos.

13 My goodness, ladies and gentlemen, is that the
14 Chris Sena that these children knew? You heard them. You
15 heard four children who lived in that household who all
16 described to you that Chris Sena.

17 The State submits that he's very aggressive. And
18 whenever you see him and hear him, it's him in control.

19 Now, I want to talk just a little bit about the
20 defendant's control over these children to do even things
21 that they obviously are just appalled by. And the State
22 would submit, one of the best videos that you see that on is
23 the Ryan video. Remember Ryan's video when he's in the room
24 with Terrie?

25 You saw Ryan on the witness stand. And I mentioned

1 to you before, the State submits Ryan was just trying to hold
2 it together. He's different than the rest of these kids.
3 He's a little bit more tender. He's even more tender than
4 the other kids, I guess I should say, the State would submit.
5 He is laying on that bed, he is scared to death,
6 the State would submit. He is so rigid his hands, it's
7 almost like he's holding on to a ledge ready to fall off of a
8 building. What's going on? When he's doing this, when he's
9 laying there, his hands holding onto that bed ready to fall
10 off this building, what does the defendant do? He puts his
11 mother in front of him and tells him to suck his -- her to
12 suck his dick, and then he goes behind his mother, and he
13 begins performing some sort of penile sex with her. That's
14 what happens.
15 He's laying there, he's like holding on, oh, my
16 goodness, oh, my goodness, he doesn't know what to do. What
17 does the defendant do? "Look at your mother." That is
18 defendant. And then what happens? After you see this, after
19 you see what this kid is going through, right, at the end,
20 the defendant asks, how did you like that? And what does
21 Ryan do? You've seen him there. He is scared to death
22 hanging on the ledge. He goes (indecipherable).
23 Is that the control that the defendant had over
24 these kids?
25 Now, defendant's own statement sort of gives us

1 another glimpse of the control that he had. He just couldn't
2 help himself, the State would submit. Remember in his
3 statement he's talking about Brandon. Remember, you know,
4 there's a whole litany that goes through his statement.
5 We're going to get through it here in a minute.

6 And in that statement he makes reference to the
7 fact that Brandon was having sex with Deborah, remember, like
8 a year-and-a-half before, whatnot? And the question is asked
9 him of this, it says, Oh, so you were just waiting there? He
10 admits that he had sex with Deborah after she had sex with
11 Brandon, he admits to that.

12 The question's asked of him, "So you were just
13 waiting until he's done to have sex with her, right?" How
14 does he respond to that? Did you hear it? You need to hear
15 it more than even read it on the thing. He says, "No, I
16 wouldn't wait for anybody." That is Chris Sena, because he's
17 in control. He's not waiting for someone to carry out
18 whatever they want to do. He is doing what he wants to do.

19 The Defendant was in complete control in that
20 house. Like was said by the witnesses, and this, the State
21 would submit, most succinctly sums this up, if he said it,
22 you did it.

23 Now, besides the testimony of the witnesses and the
24 video, we have other evidence that shows the extent of the
25 defendant's control, don't we? We have these e-mails that

1 are made, right? And I'm going to run through them very
2 quickly. You've heard them a few times, but the State
3 submits they are so probative of what's going through this
4 dude's mind.

5 Think about it. Now, we all know that these are
6 his e-mails. Defense counsel doesn't even contest that. So
7 let's talk about them a little bit. In that August 14, 2014
8 e-mail, the defendant starts off by saying, "Thank goodness I
9 have friends in the law." Right off the bat. We've been
10 talking about this, defense counsel is, (indiscernible), you
11 know, well, there was policemen all around and whatnot.

12 Well, this is one of the defendant's points of
13 control, his police friends. First thing that comes out of
14 the block in this August 14th e-mail. Is this a sort of
15 recurring theme with the defendant? You know, he's like
16 completely connected with everybody. He even has friends in
17 law enforcement.

18 We heard this from the kids. That's what they
19 thought. That's what, the State submits, the defendant
20 wanted them to think. That's what he wants Deborah to think.
21 The defendant says, "I reached to all my law friends for the
22 first time in years. A lot of them are happy to see and hear
23 from me, and they gave me so much information that I do not
24 know what to do with it all."

25 The defendant indicates that he knows that there's

1 a TPO against him, and that it's no longer current. And he
2 says that he knows they were in a Safe House. That he each
3 discusses his knowledge that Deborah was speaking with her
4 sister, Barbara, while at work.

5 Similar to knowing about this bomb threat called in
6 by Anita at the Albertsons, the defendant, the State submits,
7 wants everyone to know that he is all knowing. I know what
8 Barbara is saying, someone in the family. Certainly, not
9 someone to whom you don't listen to because he's smarter than
10 everybody else, he knows everything, so there's just no
11 winning if you ever go contrary to Chris Sena.

12 Do you think that the defendant's tools of control
13 in this respect are, sort of, consistent, similar to the
14 kids? Well, ladies and gentlemen, this put it back on the
15 testimony of the kids. Isn't that what we're hearing from
16 the kids?

17 To make his point, he goes further to establish how
18 superior he is to Deborah. He says that Deborah's family,
19 Aunt Barbara and Uncle Al, he says this, that this is what
20 they said, that Deborah has led a sheltered life, that they
21 had to come in and once before and clean up her mess, and now
22 they have to do it again because -- and Uncle Al stated that
23 Deborah was slow, if you know what I mean.

24 Is this -- the State submits it's a clearly
25 demeaning comment. Is this sort of similar to the defendant

1 calling Ryan stupid and useless? Calling Brandon stupid, and
2 saying that -- telling Ryan that his father doesn't love him
3 and will never be in his life.

4 Again, the State submits these techniques, they
5 kind of cross over, don't they? The defendant indicates that
6 he heard Anita attempting to talk with her friend, but then
7 heard something in the background saying, no, don't tell.
8 Again, he's all-knowing, right? He knows even who everyone's
9 talking to. He comments on the time when he and Terrie went
10 through a separation. He says, hey, I won the children
11 because I was not an abuser, that the courts saw me fit to
12 take care of my kids. And then he goes on to say, "I can
13 honestly say that in the eyes of the law, I am not an
14 abuser."

15 In the eyes of the law. So he's not an abuser in
16 the eyes of the law, so does that mean he is an abuser but
17 just not in the eyes of the law? And he goes on, and I can
18 also say to you that you will not find any bad pictures about
19 me.

20 Not -- is what he's saying here is that bad
21 pictures don't exist or she just can't find them? "Not even
22 bad pictures or bad videos to hold against me because it all
23 requires proof. All I have is rumors, and you can't prove
24 rumors. Rumors are only cheap talk by people when they're
25 upset."

1 What he's really saying here is he has the porn and
2 Deborah doesn't. Isn't that what he's saying? On 9/11/2014,
3 the defendant sent these two e-mails.

4 Now, think about this. This has never been said.
5 9/11/2014. Whenever we talk about 9/11, something pops into
6 my head. 9/11/2001; is that right? Is this a message?

7 On 9/11 he sends these pictures of bestiality to
8 Deborah's workplace and it ties right in with his next
9 e-mail. On 9/14, 2014, just a few days later, the defendant
10 is not trying to -- the defendant is not trying to drive home
11 his superiority and complete control here, you think?

12 He says, I just wanted to see how all this is
13 working out for you. Is it how you envisioned it to be? The
14 defendant says that now he sees why his sister, Aunt Sandy
15 and Uncle Al all said that you were very slow and you can't
16 solve your problems, and they have to come and clean up your
17 messes. It's all kind of the same thing, isn't it?

18 You know, when you start looking at this, and you
19 lip to the testimony of the kids and what they're saying, it
20 kind of all comes together, doesn't it? He says, For the
21 last 93 days things are not going right for anyone, is it?
22 And we have -- we've not even started yet. Can you imagine
23 how ugly things will get if we keep going at this route?

24 He is all powerful. She can do nothing. The State
25 submits, the defendant is very consistent with this method of

1 control. This is how he controls. He says, I already know
2 that things are not going good for you, but that is just the
3 beginning. I don't mean to be a party pooper, but I am
4 cancelling the truck license plates Monday. The defendant
5 said that Deborah was making it hard for me to get in or even
6 pay the rent. The defendant says that I will make things
7 hard and difficult for you if you want to act like a child.
8 I will treat you like a child.

9 He is Mister-in-control. He is Mr. Adult. He is
10 Mr. All-knowing. He goes on to say, I feel very stupid now.
11 I've been telling everyone ever since we got married that you
12 were the brightest, smartest woman I ever met and that you
13 would never pull a Terrie move. Everybody except Anita --
14 Anita -- or everybody expected Anita to do this, but not you.

15 Think about this for a minute. Okay? Why is he
16 bringing up Anita? Because he's saying, he's making this
17 reference to Anita, why? Because he's conveying that she is
18 his perception of her that she's stupid, she's hopeless,
19 there's nothing that comes good out of Anita.

20 Do you think he ever utilized this technique with
21 Anita? The defendant says, quote, "Well, instead of spending
22 all that money for a divorce, all we had to do was send a
23 small video clip to -- of you and Brandon, and you would
24 never be seeing me again, and it would be for free. You
25 would have free room and board and medical, but I don't know

1 about your roommate, though. And if you thought I was bad,
2 that place makes me look like a walk in the park."

3 And then he goes on to discuss the statute of
4 limitations for sexual abuse. Oh, I think it's like 20
5 years, you know. What are you going to do? Not so thinly
6 veiled threat, is it?

7 The defendant then says -- talks about this poker
8 run. It all ties in, right? Obviously, he sent the video of
9 the bestiality, and now he says, Hey, when I'm at the poker
10 run, I'm talking to some people, and you know what, they're
11 talk being this woman who had some bad pictures sent to them.

12 Again, he has all the power, the power to do
13 whatever he wants because he's got the porn. If you really
14 think about it, I do not have much to lose, but you have a
15 lot to lose. Why? Because he's got the porn. That's what's
16 going on here. "I can prove everything," quote, end quote.

17 Just because I have -- and then wait for it,
18 because this is his rational, right -- just because I have to
19 do all of this does not mean that I don't love you. I do. I
20 just think it is sad that I have to do this.

21 This, the State would submit, because he has all
22 the knowledge, he has all the cards, he is in complete
23 control. The State submits, that is Chris Sena. The
24 defendant sought complete and uncompromising control in
25 everything he did with the children and with Deborah. That's

1 what's going on here.

2 The last e-mail that was sent was 9/17/2014, and in
3 that he goes through a litany of his kind of summary of
4 what's going on here. Mom knows that dad can destroy
5 everything. Mom is afraid dad will talk about her and
6 Brandon from the age of three to present date. That would
7 take mom far away.

8 Think about this, this video that we're talking
9 about of Brandon and Deborah at three years old, is kind of a
10 common theme. He's mentioned it a couple times. We see it
11 actually mentioned in his first statement to the police. We
12 see it mentioned here in this e-mail.

13 The State submits this is kind of a important thing
14 to him. But think about this. Where is it? We didn't get
15 it, right? He obviously knows about it. He knows it's
16 somewhere. Do you think that there are videos -- other
17 videos that might exist, even videos at that detail some of
18 the other acts, we just don't know where they're at? You
19 think that's possibility?

20 Mom also knows that animal sex pictures can make it
21 look like she is an unfit parent and take Brandon away. Dad
22 is keeping things to a small roar, mom knows that dad had not
23 even begun yet, and they most likely have her convinced that
24 she cannot lose, but he did not tell them about the other
25 stuff, and she knows she will lose.

1 And then goes on to essentially tell her that hey,
2 you're not responding to my letters, and that's not cool.
3 That's demoralizing and demeaning to me. He says, hey, you
4 know what, you keep doing this, I will protect myself,
5 another thinly veiled threat, the State would submit.

6 So what do we see here? We see the defendant's
7 true demeanor, the State would submit. Statements indicating
8 his belief that he's in complete control. How hopeless it is
9 to object to anything that he wants. We have testimony, we
10 have video, but ladies and gentlemen, I don't -- the State
11 would submit, I'm not sure we can see really, what's going on
12 in his mind as clearly as we can when we look at these
13 e-mails.

14 Now, I just want to be clear as we go through this
15 that first of all, that as far as the acts that are committed
16 on video, clearly, those are not consensual with any of the
17 victims in this case. There's not been any indication by
18 defense counsel that defendant's even saying that. Clearly,
19 each and every one of these children didn't want this to
20 happen. And we know that because they said it here in the
21 course of this proceeding they didn't want it to happen.

22 You also have a jury instruction that a person who
23 subjects another person to sexual penetration against the
24 victim's will or under conditions in which the perpetrator
25 knows or should know that the victim is mentally or

1 physically incapable of resisting or understanding the nature
2 of his or her conduct is guilty of sexual assault.

3 State submits it's equally clear here that the
4 conditions that existed were such that defendant knew or
5 should have known that these victims were mentally or
6 physically incapable of resisting or understanding the nature
7 of the conduct.

8 We have a situation here where these kids
9 essentially are told to do something and they do it. We know
10 that. That's the way it is in that household. We have
11 testimony that, I think, the only testimony we really have of
12 someone pushing back on this was when Ryan screamed when the
13 defendant put his penis in his anus. But he submitted
14 himself, essentially, to him. He didn't have a choice,
15 right? And it continued to happen an at least two other
16 occasions.

17 Defendant's the biological father of these
18 children. He had the role of father in all of their lives.
19 Been their father their whole lives. He told them what to
20 do, and as we saw in this case, when he said it, they did it.
21 And if they didn't, bad things would happen to them. They
22 would be punched, hit, pushed. The kids thought potentially
23 much worse things would happen because he made threats to
24 them in that regard. He even told the police, as we
25 indicated before, hey, I'm like a drill sergeant, and you

1 know what, as a result my kids are very obedient.

2 The State would submit that as the instructions --
3 as you've been instructed here, jury instruction 15 also
4 states a person's not required to do more than his age -- his
5 or her age, strengths, surrounding circumstances or pending
6 circumstances make it reasonable for him or her to do to
7 manifest opposition.

8 Was it reasonable for these kids, that they would
9 say "no" under these circumstances? State submits clearly
10 they didn't have a choice.

11 Jury instruction 14 says there's no consent where a
12 person is induced to submit to sexual acts through fear of
13 death or serious bodily injury. That's the situation here,
14 the State submits. There's no issue with that. These kids
15 did not consent. Defense counsel's not contending that.
16 Clearly, the facts of this situation is they clearly didn't.

17 I wanted to talk a little bit about Anita because
18 there was some talk in regards to Anita and the fact that she
19 submitted to some of the sexual conduct. So I just want to
20 make clear here that Anita was sexually abused, the State
21 would submit, for about 13 years. That's the testimony that
22 we have, basically, a huge span of her life. She told us
23 that.

24 The defendant was having sex with her regularly.
25 She recognized that if she gave herself to him, that he would

1 not be violent with her and her siblings. And she'd
2 sometimes give herself to him.

3 Now, are the acts, those particular acts, are those
4 acts of sexual abuse? Now, as she testified to you here,
5 there's been some comment about it, but she testified to you
6 about sexual acts that were committed upon her, and she said
7 that initially they were multiple times a week. This went on
8 for years.

9 So she had a lot of sexual acts that she -- that
10 had been committed upon her. And she was testifying to those
11 particular acts. Jury instruction 16 tells us that
12 submission is not the equivalent of consent. While consent
13 inevitably involves submission, submission does not
14 inevitably involve consent. Lack of protest by a victim is
15 simply one, among a totality of circumstances, to be
16 considered by the jury.

17 And what is the totality of the circumstances here?
18 The defendant's the only father that Anita has ever known.
19 When Anita was approximately 11, that's when she was taught
20 to have sex by the defendant, as he put his penis in his
21 anus, as he made some statements to her, if you love me,
22 you'll do this.

23 He said that this is how people show their love to
24 each other. This is how she was introduced to sex, and
25 sexual conduct continued on a somewhat regular basis after

1 that. She grows up in the same household with her siblings.
2 When defendant says to do something, you do it. That's what
3 she's taught. You know, some parents, they teach their
4 children things like, you know, how to keep a budget, balance
5 a checkbook, to find your passions in life, clubs or sports,
6 things like that, how you might relate to friends.

7 That didn't happen in this household. What
8 happened in this household was the kids went to school, and
9 they came home. If they went somewhere else, he had to know
10 about it, and he had to approve it. And that was their life.
11 And for Anita that meant that she had sex with the defendant
12 on a regular basis.

13 What do we know about Anita? I mean, she lived a
14 sheltered life. She had strict rules. When the -- when she
15 was around the house, when she was supposed to be at the
16 house, he knew where she was at any point in time, the State
17 would submit. Certainly, that's what she believed. She
18 graduated high school when she was 18, but she didn't get a
19 job. Her first job she got when she was 21.

20 So from the time she was 18 to 21, she's living in
21 this house under the defendant's thumb. She didn't go to
22 school. Once she does get a job, it's a part-time job. Most
23 recently she was working as a grocery store courtesy Clerk,
24 and of that pay from being a grocery courtesy Clerk making
25 close to minimum wage, working part-time, she paid about \$400

1 a month, State would submit, probably a big portion, if not
2 all of her paycheck to the defendant for rent.

3 So at the age of 24, when she fled this house, this
4 is her, she's got a part-time job as a courtesy Clerk, she
5 rode a bicycle. Essentially that's her life. She didn't
6 have anything else. She didn't have anywhere to go.

7 Remember that she was so scared of the defendant
8 that when Anita, Deborah, and Brandon left that house, that
9 she made it a point of going to the grocery store where she
10 worked and handing in her uniform and quitting because she
11 was so convinced that the defendant would track her down if
12 she kept that job.

13 This was Anita at age 24. The State submits that
14 Anita had a maturity level of someone who was much younger
15 than 24. And this is what the defendant created. You know,
16 he had complete control over her. And he knew it. He
17 perpetuated it.

18 Remember in his e-mail to Deborah when he talks
19 about our daughter's always been afraid to move away from
20 home and has not had life experiences. That's what he knew.

21 Even after she found out that Brandon was sexually
22 abused within the house, she still doesn't leave immediately.
23 She didn't have anywhere to go. It takes her going to
24 Deborah to try to get something together before she can ever
25 get out of there.

1 Anita was subject to the same discipline and
2 control as anyone else in that house, and the State submits
3 her essentially age of 24 had nothing to do with her maturity
4 at that time.

5 Jury instruction 15 states that a person is not
6 required to do more than his or her age, strengths,
7 surrounding facts, and attending circumstances make it
8 reasonable for him or her to do, to manifest opposition to a
9 sexual assault.

10 Was it reasonable for Anita to learn that she and
11 her siblings would not be hit, pushed, or worse if the -- by
12 the defendant if she had sex with him? Well, this is her
13 life, ladies and gentlemen. This is her life. Submission is
14 not consent. The defendant created this situation, he
15 perpetuated it, and he benefitted from it.

16 Jury instruction 14 again tells you that there's no
17 consent where a person is induced to submit the sexual acts
18 through fear of death or serious bodily harm. That is the
19 situation here. The defendant knew it.

20 Now, this talk about the videos. The defense --
21 defendant in his argument makes reference to these videos and
22 saying, hey, the videos don't show anything. As a matter of
23 fact, you know what, we love these videos because they
24 benefit us more than they benefit the State. Think about
25 that, ladies and gentlemen.

1 What do you think about that? What do those videos
2 show in regards to the defendant? Now, you have an
3 instruction in regards to mere presence. And that
4 instruction, essentially, tells you that mere presence at the
5 scene of a crime or knowledge that a crime is being committed
6 is not sufficient to establish that a defendant is guilty of
7 an offense unless you find beyond a reasonable doubt that
8 defendant was a participant and not merely a knowing
9 spectator.

10 And then goes on to kind of talk a little bit about
11 how you make that determination. However, the presence of a
12 person at the scene of a crime and companionship with another
13 person engaged in the commission of the crime and a course of
14 conduct before and after the offenses are circumstances which
15 may be considered in determining whether such person directly
16 committed or aided and abetted in a crime.

17 We also have this concept of conspiracy and aiding
18 and abetting. Remember talking about those? And they're not
19 real, you know, difficult concepts to grab onto. I think
20 most of us all kind of understand what a conspiracy is,
21 right?

22 You know, conspiracy is nothing more than just an
23 agreement between two or more persons for an unlawful
24 purpose. That's all it is.

25 Now, in a -- and the idea of a criminal conspiracy,

1 that normally doesn't happen by a bunch of criminals sitting
2 down and making a written agreement. Normally, it doesn't
3 happen with everyone -- all the criminals kind of getting
4 together and talking to each other saying this will be your
5 job, and this will be your job, and this will be your job.
6 It normally doesn't happen that way.

7 You're told in the instruction that you normally
8 can tell conspiracy exists by inferring it from all the
9 circumstances which show a common intent. Okay?

10 Jury instruction 43 tells you that you are
11 instructed that present companionship and conduct before,
12 during, and after the offense are circumstances for which
13 one's participation in the criminal -- and the criminal
14 intent can be inferred.

15 And once you have a conspiracy, as we talked about
16 in regards to general intent crimes, all the foreseeable
17 consequences follow right from there. And in regards to
18 specific intent crimes, which is just the lewdness offenses
19 as well as of minor in production of pornography so long as
20 there's specific intent to do those things, they follow right
21 along, too.

22 So the conspiracy really is formed at the very
23 beginning. And when you see conduct that's consistent with
24 that conspiracy, you have a conspiracy. Well, what do we
25 have in this case? In every one of those videos you see a

1 situation where the defendant is essentially instructing or
2 pointing out exactly what to do.

3 We have conversations in the course of those videos
4 between Terrie, between Deborah, and the defendant where
5 they're talking about sexual topics and what they're going to
6 do to the kids that are going to be brought into the room.

7 We have, remember, that first video that we have in
8 regards to Tails. We have -- before Tails is brought in, we
9 have the defendant having sexual contact can Deborah.
10 Remember that? And we have Deborah performing fellatio on
11 him.

12 Now, we've talked about a lot of very graphic
13 things. As she performs fellatio on him, we hear this, sort
14 of, gagging noise, fairly distinctive. If you go to
15 Brandon's video, you hear the same thing before Brandon is
16 brought in. Remember the video's dark, you hear the same
17 sound that we discussed, and then Brandon's brought in.

18 We talk about acts before, during, and after.
19 What's happening here is, the State would submit, that the
20 defendant is sexually gratifying himself and getting ready
21 for these kids to be brought in. That's exactly what's going
22 on here. And how is he doing that with? He's doing that
23 with these women, with his wife and ex-wife.

24 And the purpose of that, the State would submit,
25 would be to get to that next step, and that is the actual

1 sexual conduct with the child. And, you know, after that
2 sexual conduct, what happens? The defendant's there.

3 It's kind of a common theme, isn't it? Because
4 after it's done, what does he do? He gets essentially
5 behind, and he puts the child in a situation so that the wife
6 or ex-wife is performing fellatio on him, and he performs sex
7 on them. This is, sort of, a common theme. Is this a
8 conspiracy? Well, the State submits, absolutely.

9 The State submits, how much clearer can you get to
10 a conspiracy than we have just described? This is the
11 definition of conspiracy. This is what's happening. What
12 about aiding and abetting? Remember, jury instruction 44
13 states that a person doesn't have to actually physically
14 commit a crime to be guilty of it if the person aids or
15 encourages the commission of the crime by another, that
16 person is just as guilty of the crime as the person
17 physically committing the crime. Okay?

18 So, and we're given a little bit of guidance in
19 regards to, essentially, you know, what other things that we
20 might look for in regards to aiding and abetting.

21 In jury instruction 44, it talks about a person
22 aids and abets the commission of a crime if he knowingly and
23 with criminal intent aids, promotes, encourages or instigates
24 by act or advice or by act and advice the commission of such
25 crime with the intention that the crime be committed.

1 My goodness, ladies and gentlemen, think about
2 what's going on in these videos that we have here. What do
3 we have the defendant doing? We've got him bringing in the
4 children. We've got him talking to the mothers, the wife and
5 the ex-wife, Deborah and Terrie, about what's going to happen
6 when the kids come in.

7 We've got him describing specifically to the kids,
8 hey, put your chest on her tits. Hey, put your dick in her.
9 Sit on it, mama. This is what he's doing. He's directing
10 this. Is this aiding, promoting, encouraging, instigating?

11 Ladies and gentlemen, this is the instruction we
12 have. This is what's happening in each of these videos. Is
13 he conspiring? Is he aiding and abetting?

14 Defense counsel made reference to, wait a second,
15 the defendant's not touching them. He never touches them.
16 It's just Deborah or Terrie that touches him. Ladies and
17 gentlemen, that doesn't matter. In regards to conspiracy,
18 once there's a conspiracy formed, we know there's a
19 conspiracy here, every act that happens after it, certainly
20 the acts that we're talking about, a sexual assault, opening
21 and gross lewdness, so on and so forth, just follows as a
22 natural consequence.

23 Is that an actual consequence of exactly what
24 they're intending to happen? That's the whole reason for
25 what they're doing.

1 And in regards to specific intent crimes of
2 lewdness, so long as the defendant has a specific intent that
3 that particular act be performed in the course of this
4 continuing sequence, that also is covered by aiding and
5 abetting and conspiracy.

6 Is that what he's intending to happen? Yes. We've
7 got him on video talking about feel her tits. Have him feel
8 your tits. That is what he's doing here.

9 The State submits, sort of, the easiest way you can
10 kind of understand this, is to like talk about a situation
11 where -- an analogous situation where you have an orchestra
12 or a band, and you have individuals. The band might be
13 performing or the orchestra might be performing in the park.
14 You have people walking by, and they might decide, hey, I
15 want to stop here and watch this for a while. They're
16 spectators.

17 And then you have the band themselves, and they get
18 together and they probably practice the music about ever they
19 come, and they get together, and they all decide which song
20 they're going to play and they play a song. And then you
21 have the conductor, who basically kind of coordinates
22 everything, conducts them, gets them all on the same page,
23 tells them exactly hey, this is the next song we're going to
24 play.

25 So what do we have here? What is defendant? Is he

1 one of the individuals who's just watching this, being merely
2 present possibly? Or is he one of the people who is
3 participating in this orchestra, playing the music, so to
4 speak?

5 Or is he the conductor? The conductor and the band
6 members are clearly conspirators in aiding and abetting each
7 other. That is the defendant.

8 Now, we've talked at great lengths in regards to
9 the actual incidents on tape. I've talked in generalities
10 here as we've discussed the things that you see on those
11 tapes, but the State would submit that they are consistent
12 with the description of the typical conduct that we have for
13 aiding and abetting and for conspiracy.

14 One thing that the defense counsel said that I want
15 to touch on is, they said something to the effect the State
16 has to pick their theory. They're talking about actually --
17 it actually happening, they're talking about conspiracy,
18 they're talking about aiding and abetting. Well, as it turns
19 out, the State doesn't have to pick its theory, the State
20 would submit. And you don't have to pick -- all agree on the
21 same theory either.

22 As a matter of fact, you're instructed in the jury
23 instructions that while a guilty verdict must be unanimous,
24 this is jury instruction 46, you need not be unanimous on the
25 means or theory of liability in arriving in your verdict.

1 In other words, you do not need to be unanimous in
2 deciding whether the defendant is responsible by directly
3 committing the offense or by aiding and abetting or by
4 conspiring.

5 Any one of those gets it, and you don't have to
6 agree which one it is. It can't be all of them. Who knows.
7 But the State submits that in this class clearly we have
8 conspiracy and we have aiding and abetting in each of those
9 videos. Each of those videos we've got the defendant
10 identified. Each of those videos we have them doing the same
11 thing, essentially from start to finish. Some of them are
12 more clear than others. We know that there's no consent of
13 the children.

14 We've already talked about Deborah and Terrie.
15 Deborah and Terrie are doing life in prison because of what
16 they did. They certainly have culpability in this. But what
17 we're focused on is the defendant's culpability.

18 Now, I wanted to talk real quick about some of the
19 incidents that are not on tape. We've made mention of the
20 incident involving -- well, I guess, maybe I should take a
21 step back.

22 I just wanted to talk real quickly just in regards
23 to the incidents that are on tape, those incidents involving
24 both Erin and Tamara in the shower, right? We've heard a lot
25 of testimony about them. I think that we all thoroughly

1 understand them, thoroughly understand defendant was being
2 sexually gratified in the course of these. We even have him
3 panning down to what the State would submit is Terrie's head
4 during one of these incidents.

5 The defendant concedes in regards to Tamara. But
6 I'm not sure if they did or did not concede in regards to
7 Erin. The State would submit clearly that the situation with
8 Tamara is exactly the situation with Erin.

9 So the State would submit that if we're conceding
10 in regards to Tamara, there's no reason to differentiate that
11 Erin is not -- that the situation with Erin is not equally as
12 liable to the defendant.

13 Now, I wanted to talk real quick just in regards to
14 some of the incidents that were detailed out. Erin -- and
15 it's not on video -- Erin detailed that when she went over to
16 that house, that the defendant called her back to that office
17 and that he sexually touched her.

18 Now, we've already talked about all the reasons why
19 -- why would she come in here and say that if it's not true.
20 But think about this because we have a lot of other evidence
21 here now, right? We have evidence of him doing sexual acts
22 with a lot of different people, and we've talked about an
23 instruction that tells us that you can use that evidence.
24 You can use that evidence in deciding is this particular
25 incident more or less likely to have happened?

1 First of all, why would Erin say this if it wasn't
2 true? No one's really -- that has not been addressed. And
3 secondly, she's very specific in regards to a specific act
4 that's happening. And this is different than what's been
5 described by others. This act is a touching on the body,
6 touching over and under the underwear; is that right?

7 We don't have that with other folks. But if we
8 consider the things that happened previously, is it all the
9 more likely? We talked about Melissa. Let's go back to
10 Melissa. How does it start with Melissa? Come back here,
11 why don't you look at my penis, why don't you touch it. Oh,
12 now I showed you something, now you have to show me
13 something.

14 We have a separation of years between these two
15 incidents, but isn't it odd how they're different, maybe to
16 fit the victim, but they're oddly sort of similar, too.

17 What about Ryan? Ryan talks about the fact that he
18 was anally penetrated by the defendant. Now, first of all,
19 let's just talk about in the overall spectrum of things is
20 this really surprising to us? You know, we've heard
21 testimony that the defendant had anal intercourse with
22 Terrie, Deborah, and Anita.

23 We know that the defendant has already indicated or
24 we have already seen that, in fact, that the defendant has
25 talked about that he has a sexual or the State would submit

1 that the evidence clearly shows that the defendant had a
2 sexual interest in boys to somewhat because he has gone out
3 of his way to basically be -- to both orchestrate, direct,
4 and be part of sexual conduct between all three of his sons
5 and their mothers or stepmothers.

6 It's not beneath him, the State would submit. I
7 mean, my goodness, you know what do we have in this case? We
8 have him actually taking Ryan out into the office in back and
9 having Ryan's own mother basically go back and forth
10 performing fellatio on him and Ryan.

11 This isn't something that's way out there. It's
12 something, the State would submit, that there's really no
13 reason for Ryan to say this happened if it didn't happen.
14 It's very distinctive.

15 You know, why would defendant do this to Ryan and
16 not do it to Brandon? Well, ladies and gentlemen, you saw
17 them on the witness stand, didn't you? I mean, they're
18 different boys. The defendant within this realm that he is
19 operating in, the State would submit, he knows what he can
20 and can't do. He knew he could do this to Ryan, and he did
21 it.

22 Ryan talks about three distinctive places where it
23 happened, remember? Talks about his bedroom, the master
24 bedroom, and also out in the living room. Remember, he talks
25 about the fact that on one occasion or two occasions he's

1 basically forced down laying down and he's penetrated. And
2 then on the other occasion, the defendant has him come over
3 and sit on him.

4 Does that add extra indicia? I mean, why would he
5 say that if he was just saying things to be basically trying
6 to lump things up? Why wouldn't he just say yeah, he
7 basically put me over something and he had sex with me every
8 time? Why would he bring that thing he sat him on him?

9 We know that the defendant had Ryan view
10 pornography in his office, and is this out of line? Well,
11 ladies and gentlemen, I mean, we've got -- you got him doing
12 that with Tamara as well; is that right? Is it so crazy to
13 believe that he would be doing this with Ryan?

14 And we no that Ryan was actually -- that the
15 defendant had, the State would submit, some sexual ideas of
16 where Ryan was going to go because he shows him this video
17 and then he starts talking about his cousin, Erin, and having
18 sex with her.

19 Does that, sort of -- is that something that is,
20 sort of, unbelievable that he would maybe want to transition
21 to maybe having this -- his young son have sex with another
22 young girl that we know that he had a sexual attraction to?

23 Let's talk about Anita for a minute. My goodness.
24 So defense counsel said a couple things about Anita that I
25 want to address.

1 He says, Anita is inconsistent. Oh, my goodness,
2 my goodness, ladies and gentlemen. Anita, who was sexually
3 abused for 13 years, 13 years, not just a few times. I mean,
4 this happened all the time. When she was 11 years old, she
5 said it happened like every week, multiple times every week.
6 This is what's happening to her.

7 But you know what, this is what defense counsel
8 comes up with in this case. The State submits, this is the
9 defense -- defense counsel's argument. Defense counsel's
10 argument is, oh, my goodness, you know what, she said that it
11 happened in the bedroom first instead of the living room
12 once.

13 Similar things to that, the State would submit,
14 that -- for that reason, oh, my goodness you can't believe
15 anything that she has to say. Defense counsel says that she
16 went and got sex toys so that she could have a pleasurable
17 experience. Was that her testimony? That Anita wanted to
18 have a pleasurable experience with her father so she went and
19 got some sex toys before she came and had sex him and her
20 mother?

21 Says Tails didn't believe her. You heard Tails.
22 My goodness, we're talking about the first statement from
23 Tails. The first statement from Tails. The statement where
24 he said he would never believe the defendant would ever do
25 any sexual acts on any of the kids. He didn't disclose that

1 he was a victim.

2 One thing that I want to bring up, defense counsel
3 made mention of, of course, the defendant says that he didn't
4 have sex until Anita was 22, but, of course, defense counsel
5 in their argument said that it was consensual sex at 13.

6 I'm not sure what that means, but the State does
7 submit that, in fact, the defendant was having sex with her
8 before even 13.

9 Now, defense counsel makes mention that this may
10 seem harsh to challenge her motives. Ladies and gentlemen, I
11 would say this to you, you saw her up on the witness stand.
12 What reason does she have to lie? And isn't it amazing that
13 she decides to lie about these things that happened when
14 she's not on video, when we have the defendant who's
15 identified to have a sexual interest on video in the very
16 things she's talking about?

17 What a coincidence. Now, the first acts committed
18 upon her, 11 and 12. She lost her virginity at 14. We all
19 know that.

20 I want to go back and I know -- I want to end this
21 quickly, but I have to go back to the defendant's statement
22 because some of the things the defendant says in his
23 statement are maybe most telling in regards to his knowledge
24 or his ideas in regards to Anita.

25 Initially, as we've said, he says, hey, my wife's

1 the only one that I have sex, and then -- then he says, well,
2 my ex-wife a couple times, but that's it. Otherwise, I've
3 never had sex with anybody. And then he says, well, you
4 think, like, that I -- I have sex with my family? No, I've
5 never had sex with my family besides my wife and my ex-wife
6 or maybe, you know, a girlfriend or something like that.

7 So now we've got wife, ex-wife, girlfriend. Then
8 he says, well, I've had no sexual contact with my children,
9 period. Then he's confronted with the allegations that the
10 defendant had forced sexual intercourse, anal and vaginal
11 with Anita and Deborah. How does he respond to that?

12 Well, he says, yeah, that he did have sex with
13 Anita, but she was like 22 years old. He said it was anal
14 sex. He remembers Deborah putting his penis in her anus.
15 Why did defendant say this? Okay. First of all, let's think
16 about this for a minute.

17 First of all, when he does indicate that he had sex
18 with Anita, what's the first thing that he says? He
19 basically throws Deborah under the bus. He it was Deborah
20 who put my penis in her anus. I don't know how that worked.
21 You know, I guess he didn't want to put her -- his penis in
22 her anus. His penis must be -- must have been somewhere in
23 the vicinity of her anus, and then Deborah just kind of
24 pulled it and just put it in there. Is that what he's trying
25 to convey?

1 Think about this a little bit further. Why did he
2 tell the police about this at all? Well, he says it -- in
3 the statement he makes reference, says, hey, she's over 18.
4 You know, why does it even matter? Because he didn't think
5 it was illegal.

6 So he knew he was kind of on the hook. He's
7 thinking he can throw Deborah under bus and save himself, the
8 State submits, because she's over 18. That's how we get that
9 out of him, the State would submit.

10 Defendant told police that he remembered having
11 sex, ultimately, with Anita and himself. He talks about the
12 fact that she just crawled into bed with him one morning when
13 he was waking when Anita was 22 or 23 years old. Had sex
14 with Anita three or four times. Told police about two other
15 incidents with Anita.

16 He like bounces around. It's like a couple, three
17 times, and then it's more times, and then it's less times and
18 then it's nine months ago, and then it's a year-and-a-half
19 ago. He's sort of all over the place with Anita.

20 First of all, think about the story. What's the
21 likelihood of it? We've got some -- I think it's been
22 mentioned before in argument, we got this 22-year-old girl
23 who all of a sudden one day decides, you know what, I think
24 I'm going to jump in bed with my biological father and have
25 sex. I think that's a great idea. You know, because

1 according to defendant, at least in this version, he never
2 had any sexual contact with her before. It's just something
3 that she kind of thought up, just said, hey, I'm 22 years
4 old, what the heck, I think I'm going to have sex with my
5 father.

6 Does that even -- on any level does that make any
7 sense? Makes far more sense when at 11 years old she was
8 sexually assaulted by the defendant. She was caused to
9 submit herself to him over and over and over again in sex to
10 the extent that she realized, hey, I'm going to get raped
11 anyway, so you know what, I'm going to at least try to save
12 my brothers and me from a little bit of misery around this
13 house, and she goes and she has sex with him.

14 But it gets worse, the State submits. The
15 defendant says that he wanted to stop having sex with Anita.
16 And he gives these reasons for it. He says that he didn't
17 want the boys to find out. Does that make any sense? You
18 saw the video, ladies and gentlemen, of him and the boys and
19 their mothers doing all kinds of sexual things. But the
20 defendant in this case, he didn't want to have sex with Anita
21 anymore because he's afraid the boys are going to find out?
22 That's his line?

23 You know what, I'll have sex with him -- you know,
24 basically, have the boys do all kinds of crazy things to
25 their mother and position them on the bed and do all kinds of

1 things that sexually gratify me, but you know what, I don't
2 want them to find out that I'm having sex with Anita because
3 she's coming into my bedroom. I don't want that to happen.

4 Does that make any sense whatsoever? So why didn't
5 he want to have sex with Anita? He said that it happened a
6 number of times, she's over 18. He must have liked it,
7 right, or he wouldn't have continued to do it. There is no
8 reasonable explanation why the defendant would want to stop
9 having sex with Anita because he never did. He continued to
10 have sex with her until she got out of that residence.

11 Remember that there was also questions asked in
12 regards to defendant as to whether or not he had sex with
13 Anita and Terrie. And how does he respond? At first he
14 says, no. Right? And then he's asked if he's sure, and then
15 he says, well, he thought so. And then ultimately, he says,
16 oh, yeah, I did have sex with her and he kind details out the
17 vaginal sex and actual ejaculation in Terrie's vagina and so
18 on and so forth.

19 This is the defendant walking this line, walking
20 this line where he knows he has to give some things up, but
21 he doesn't want to give up anything that's going to get him
22 in trouble. That's his statement, ladies and gentlemen. And
23 the State submits that it shows the defendant's guilty mind
24 in all this, and specifically in regards to Anita.

25 As we're talking in this statement, remember, we

1 only know about Anita and Brandon. We find out about the
2 other kids later. So there's no questions asked in regards
3 to that kid -- those kids.

4 Bottom line is what reasons does Anita have of
5 saying any of this happened if it wasn't true? The defendant
6 said in his statement to the police that he believed that
7 there were not any bad feelings between him and Anita because
8 the last time that they were together, that essentially she
9 was nice to him, and that they gave each other a hug and a
10 kiss and so on and so forth.

11 Now the defendant, it appears to indicate that, in
12 fact, Anita had all these horrible bad feelings, all this
13 bias against him, wanted to do bad, bad things to him. Well,
14 that's not what he was saying to the police.

15 State submits that the testimony of Anita was
16 credible testimony. The State submits the defendant is
17 guilty of those acts committed upon Anita.

18 Now, the video evidence that we have, I just want
19 to touch on defendant's comments in regards to whether or not
20 the items that we have are, in fact, child pornography.

21 You've heard all of the instructions, but I want to
22 try to make it as simple as we can because I think that we
23 can make it very simple in this case. Jury instruction 34
24 and 39 tell you that you cannot film or maintain photos or
25 videos of a sexual portrayal of a child, sexual portrayal of

1 a child.

2 And I want to focus on that sexual portrayal right
3 now. Sexual portrayal means the depiction of a person, jury
4 instruction 37 tells you, in a manner which appeals to the
5 prurient interest in sex and which does not have serious
6 literally, artistic, political, or scientific value.

7 Jury instruction 38 tells you that a prurient
8 interest in sex is a shameful or morbid interest in nudity,
9 sex, or excretion or involving sexual responses over and
10 beyond those that would be characterized as normal.

11 So what do we have in this case, ladies and
12 gentlemen? Defense counsel is contesting clearly they've
13 indicated, Erin and Tails in the shower. Essentially,
14 they're not contesting the other counts.

15 In those particular shower videos, we have the
16 defendant essentially, well, kind of narrowing in on -- I
17 believe he's saying he's contesting Tails. I don't think
18 he's made a statement on Erin, but I'm going to address them
19 both.

20 Both of them in regards to Tails and Erin, we see
21 clearly on the video the defendant essentially coming down
22 and zeroing in on various body parts. What's the purpose of
23 this? We know that, in fact, in both cases, he's doing the
24 same thing, in both cases we have him actually getting with
25 other witnesses in the case, the wife or ex-wife, and

1 essentially using that video as a part to get himself
2 sexually -- to sexually gratify himself as he has sex with
3 one of them.

4 Clearly, this is sexual intent. Standing -- or
5 this is a sexual portrayal. Ask ourselves what is the
6 serious literary, artistic, political, or scientific value of
7 these shower videos? There is none. It's clearly a sexual
8 portrayal. It's clearly child porn.

9 Now, ladies and gentlemen, we've heard a lot of
10 testimony in this case. We've heard testimony about a lot of
11 folks, a lot of witnesses. We've heard testimony in regards
12 to Tamara Grisham. We've heard testimony in regards to Erin
13 Clark. We've heard testimony in regards to Melissa Clark.

14 We've also heard testimony in regards to the Sena
15 children growing up in the family. And we see them here. We
16 see Anita, she's about 11 at the left side. We see Tails, as
17 he's about seven on the right side. And in the middle we see
18 Brandon and Ryan when they're about three years old.

19 This is a picture taken of them maybe before
20 potentially the sexual abuse even started. This is how they
21 were then. We've seen a lot of videos in this case, a lot of
22 pictures. We've talked about them in detail. And the State
23 submits that much of what we saw was difficult to view and
24 watch at times, but we had to in order to understand this
25 case so that we can understand the relevance of this video to

1 this case.

2 But as you view this video, as we viewed it in this
3 courtroom, and as you might view it as you deliberate in this
4 case, don't forget the young victims.

5 This is them then. And the photos we have seen,
6 they're nothing more than -- in this photo we see here,
7 they're nothing more than normal children. They've got, sort
8 of, dreams of their own of maybe a new toy, playing with
9 friends, a ribbon for their hair, maybe the love of their
10 parents.

11 The State submits that the dreams of certainly the
12 children who are growing up in the Yellowstone residence were
13 not realized, that things happened. The State submits that
14 they were broken because of it. And the State further
15 submits that you saw that as they testified here in court.

16 But don't forget them as the children that they
17 were. Now they're much older, as adults or close to adults,
18 and they testified to you here. Unlike, when they were
19 growing up, now they have the choice, the ability to take
20 steps to lead a thoughtful, fulfilling life. They're
21 empowered now, unlike when they were growing up in that
22 household or associated with the defendant as children,
23 subject to defendant's will. Now it's their choice.

24 Ladies and gentlemen, you also have a choice to
25 make. You've heard a lot of evidence in this case. You've

1 been instructed on the law. It's now your decision to
2 determine the defendant's -- whether the defendant's guilty
3 or not guilty.

4 The State asks you to return a verdict of guilty on
5 those charges previously outlined. Thank you.

6 THE COURT: All right. Thank you, Mr. Sweetin. At
7 this time, ladies and gentlemen, I'm going to have the Clerk
8 swear any officers in to take charge of the jurors and the
9 alternate jurors.

10 (CLERK SWEARS OFFICERS OF THE COURT)

11 THE COURT: Okay. Ladies and gentlemen, what I'm
12 going to do at this point in time, it's getting to be a
13 little late. I'm going to ask that you retire to -- I'm
14 going to have you -- take you to the jury deliberation room.
15 I'm going to ask, if you can, to go ahead and see if you can
16 select a juror foreman tonight.

17 You don't need to, if you don't like to. What I'd
18 like to do, though, is at least give you an understanding of
19 where you're going to be deliberating. I'm not going to ask
20 you to stay tonight. If you want to, you're more than
21 welcome to. And I'll give you that option when you go into
22 the deliberation room to let me know. Okay?

23 Now, here's -- don't get mad at me -- two of you
24 are alternates here. We had four alternates, and we lost two
25 jurors. Fortunately, I had, you know, four alternates. Some

1 cases I'll have more alternates. I anticipated because the
2 length of this trial we may lose a couple of jurors and we
3 did.

4 So Mr. Fragale and Mr. Kittredge, you're my two
5 alternates. You're not being excused. You're just not going
6 to be starting deliberation. The jury will deliberate. If
7 there's something happens, I will need you to fill in for
8 possibly if I have to release another juror, I will need you
9 to fill in for them.

10 So you're going to be allowed to go home tonight
11 and stay away from the court, until you hear from the court.
12 But I need information from you to be able to reach you
13 immediately. I don't want something and I get an answering
14 machine or I get your sister's phone number or your --
15 somebody else's phone number. I need an ability to get ahold
16 of you immediately.

17 You are going to be admonished that you are not to
18 discuss this case with anyone or anyone that has anything to
19 do with this case or anyone else that's connected with this
20 case. You're not to read, watch, or listen to any report or
21 commentary on the trial or any person connected with this
22 trial by any medium of information, including without
23 limitation to newspapers, television, Internet, or radio, or
24 form or express any opinion on any subject connected with
25 this trial unless it's submitted to you.

1 Do you understand? It's the same admonition. You
2 can't discuss this until I release you or you're asked to
3 deliberate. All right? You'll need to leave your books here
4 and your jury instructions here. My Marshals will collect
5 them.

6 The rest of the jurors, I'm going to ask that you
7 go ahead and go with my Marshal and the two alternates go
8 with my Marshal. Give the information to my staff, and go
9 ahead, and we'll put you in the deliberation room. If you
10 want to stay tonight, go ahead and decide that, and I'll ask
11 shortly. Okay? All right.

12 (Jury retires to deliberate at 5:54 P.M.)

13 THE COURT: Okay. We're outside the presence of
14 the jury. I'm going to go ahead and let you take him back.
15 I really don't anticipate that they would be deliberating
16 tonight or even be able to reach a verdict tonight.

17 So what I'm going to do is I'm going to go -- go
18 ahead and give me your information, counsel, to where we can
19 get ahold of you. I'm going to let them for probably five or
20 ten minutes, and then I'm going to ask them if they want to
21 stay. If not, I'm going to have them come back tomorrow by
22 8:30 to start deliberating. Okay?

23 We will let you know either way if they're staying
24 or if they went home.

25 MS. RADOSTA: Thank you.

1 THE COURT: Okay? All right. Does anything need
2 to be put on the record before we take our evening -- okay.
3 I do need copies of your Power Points.
4 THE CLERK: I have the State's. I need the
5 defense.
6 THE COURT: Okay.
7 MS. RADOSTA: You know what, I'll -- I'll take care
8 of that right now before I forget.
9 THE COURT: All right. Okay. Thanks, everybody.
10 MR. SWEETIN: Thank you, Judge.
11 MS. SUDANO: Thanks, Judge.
12 (Court recessed at 5:55 P.M., until Wednesday,
13 February 20, 2019, at 12:50 P.M.)
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ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.

Julie Lord

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CHRISTOPHER SENA,) No. 79036
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 Appellant,)
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 v.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)
)

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I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 20 day of May, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD
ALEXANDER CHEN

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

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BY /s/ Carrie Connolly
Employee, Clark County Public Defender's Office