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Exh. A. Brod
No. 82614

1 Comes now the State and offers the attached court ordered Points and
2 Authorities in support of the "Good Cause" showing required by NRS
3 177.015(2) to facilitate the position of the prosecution that the request to
4 suppress the statements of E.S. was improvidently granted necessitating
5 appellate review.

6 Although the prosecution will not terminate as a result, suppression of
7 the statements will "significantly impair" the prosecution from the standpoint
8 that any impeachment of the victim will be before the court without the
9 statements from the accused. Therefore, the suppressed statements are
10 "substantially important" to the prosecution as the synopsis below
11 demonstrates.

12 **POINTS AND AUTHORITIES**

13 **SYNOPSIS OF SUPPRESSED STATEMENTS**

14 That the following occurred is uncontested: A juvenile female and male,
15 E.S., had talked about having a sexual encounter with a specific day/time frame
16 in mind. AA (the interview transcript was admitted by stipulation between the
17 parties after a recording of the interview between E.S. and law enforcement was
18 admitted without objection at the suppression hearing. AA 72, 73, 91) 4, 18, 19,
19 31. E.S. was supposed to have brought a condom. AA 4, 7, 14. "That – that's
20 what you guys were planning about six months in. You're supposed to get

1 condoms right?" "Yeah". AA 18, 19. At about 2:00 a.m. on the day/night in
2 question E.S. "didn't want to have sex", he "didn't have a condom", and he was
3 "too scared to keep going". AA 4.

4 It is the position of E.S. that what transpired was completely consensual.
5 She took her pants off, AA 33, she wanted him "in her", AA 21, she never
6 "revoke[d] consent", AA 31, and she even performed oral sex on him, after the
7 penile/vaginal penetration, to ejaculation, AA 14. Law enforcement asked E.S.
8 about texting between he and the putative victim afterward, the victim texting "I
9 told you no", and E.S. responding, "Well I already had consent so that doesn't
10 matter", AA 25. E.S. did not remember that conversation "exactly", AA 26, his
11 phone got broken, was in his room, but he acknowledged that the victim would
12 "probably" have those text messages on her phone. AA 26.

13 Once in the bedroom E.S. locked the door. AA 35. According to law
14 enforcement during the interview a percipient witness heard "arguing" coming
15 from the room, AA 5, which E.S. refuted. AA 5, 20. The witness said the
16 victim sounded "mad and it sounded like you guys were arguing", AA 20, 28,
17 and the witness heard "loud thuds". AA 28. E.S. acknowledged the witness
18 telling him that she heard "thuds". AA 34.

19 The victim's position is that she was "raped". AA 5. He took her pants
20 off, AA 33, which E.S. refutes. AA 33. Law enforcement told E.S. that the victim

1 reported he had “grabbed her hands and put ‘em above her head”. AA 32. He
2 acknowledged her hands being above her head, but he never held “her hands”.
3 AA 32. E.S. admitted that the victim said “no”, but he thought she meant “you
4 can keep going just don’t go farther.” AA 9-13, 35. He acknowledged that
5 although she said “no”, he “already had consent”. AA 10.

6 STATEMENT OF THE FACTS

7 The court convened March 8, 2021 after the motion to suppress was filed
8 January 4, 2021, AA 75-81 and an opposition filed January 28, 2021. AA 83-88.

9 A.

10 **The defense position is that it is a *per se* violation of *Miranda* for law**
11 **enforcement to question a 15-year-old child outside the presence of a**
parent or guardian.

12 The defense position is, most specifically, that no fifteen-year-old child
13 has the capacity to waive a *Miranda* warning (“No 15-year-old can do that. No,
14 not one.” AA 68) and be questioned by law enforcement without the presence of
15 a parent/legal guardian. To do so is a *per se* violation of a proper *Miranda*
16 application. The defense elaborated, “It’s for THAT reason his rights were not
17 knowingly and intelligently waived. They cannot be knowingly and
18 intelligently waived without the presence of a guardian, without an adult to
19 help him out, to help him understand. THAT’S my position, Judge. And
20

1 **THAT'S** the reason why I'm asking the court to suppress his statements." AA
2 69 (Emphasis added).

3 The position of the prosecution is simply that the *Miranda* warning was
4 given, in its entirety, with the explicit addition of letting E.S. know that he did
5 not have to answer any questions without a parent or guardian being present. He
6 waived that option, agreeing to speak with law enforcement. The interview
7 reflects an environment by no means oppressive, it was an obviously voluntary
8 exchange. AA 2-56.

9 The court expressed the need to carefully weigh matters such as the one
10 before the court "on a case by case basis and not make a ruling today that sets
11 precedence for all cases. We have to look at the totality of the facts and
12 circumstances." AA 70. The court observed that the "parents" of E.S. made
13 "about six complaints or so" "about things that everybody did wrong", alleging
14 wrongdoing by the Sheriff's Office which was investigated internally. All of the
15 complaints was found to lack merit except one. "We have a policy,' the Sheriff's
16 Office says, 'That whenever you go to interview a child, you have to first notify
17 the principal so that the school can do their policy.' The Sheriff's Office failed
18 to do that. And the officer was found in violation of that policy." AA 71. The
19 court noted in its written order that "The report indicates that another officer
20 claimed to have told the principal about the interrogation, [thus fulfilling the

1 policy] but the principal claimed to have no memory of being notified.” AA 91.

2 The interview was conducted entirely on school campus. AA 64, 86. It is
3 incongruous to maintain the position that as a matter-of-fact school
4 administration was without notice that law enforcement was present on campus
5 to speak with a student.

6 **B.**

7 **Without an evidentiary hearing the court below suppressed the statements**
8 **of E.S. because law enforcement failed to notify the school principal, thus**
9 **failing to notify the parents, prior to questioning.**

9 The court below concluded that: “Therefore, we have to hold police to
10 proper policies and procedures, and they did not do so, **and based on that, I am**
11 **suppressing the statement.**” (Emphasis added.) AA 71. In the written order the
12 court said,

13 At the hearing, the Court did not reach a review of the
14 videotape or a finding on whether the Minor knowingly,
15 intelligently and voluntarily waived his Miranda rights based on the
16 totality of the circumstances. **Instead, the Court held that because**
the Sheriff’s Office found that a violation of NCSO policy and
procedures had occurred by the failure to notify the principal
of the interrogation, and thus notification to the parents, the
interview would be suppressed (emphasis added). AA 91.

17 Neither the position of the defense, nor the conclusion of the court find
18 support currently in Nevada law. Prior to the court ruling both the defense and
19 the prosecutor made it clear that if necessary, evidence could be presented at an
20 evidentiary hearing. Defense counsel said: “And if needed, Judge, if you need

1 more information, we can certainly set this matter for an evidentiary hearing”,
2 AA 62, 63, “So if you need more information, we can certainly set this matter
3 for an evidentiary hearing, and we can take it from there.” AA 63. The prosecutor
4 said, “However, if this Court was interested in listening to the interview,
5 listening to the officers testify in relation to it, that’s fine. We can have that
6 hearing”, AA 63, and “If the Court wants to hear evidence, that’s fine. AA 66.
7 The prosecution pointed out that the voluntary nature of the questioning would
8 be apparent at a hearing, “And a review of the questioning, the video, and what
9 would come out in testimony would bear that out.” AA 67.

10 **ARGUMENT IN SUPPORT OF GOOD CAUSE**

11 **A.**

Propriety of the appeal

12 In *State v. Brown*, 134 Nev. Adv. Op. 102, 432 P.3d 195, 197 (2018) the
13 court explained that “Good Cause” mandates that “the State must make a
14 preliminary showing of the ‘propriety of the appeal’ and that a ‘miscarriage of
15 justice’ would result if the appeal is not entertained.” *Id.*, and further that “The
16 Legislature recognized that an interlocutory appeal from a suppression order was
17 the only opportunity the State had to seek appellate review of an erroneous
18 suppression ruling, but it also expressed concern that an appeal could be used as
19 a delaying tactic and interfere with the defendant's speedy trial rights.” The
20 ruling by the court below was “erroneous”, this is not merely “a delaying tactic”.

1 This matter has been set for evidentiary hearing on more than one occasion,
2 continued mutually by both sides, AA 108, 109, 116-118, and a motion to
3 suppress was not filed by the defense until January 4, 2021, AA 75-82. The
4 Petition was filed by the prosecution on December 12, 2019, AA 92, a little over
5 three months after the incident occurred, AA 93, and two days after E.S. was
6 interviewed by law enforcement. Originally E.S. had retained counsel. AA 95,
7 97-102. Current counsel was appointed June 8, 2020, AA 112, necessitating a
8 measure of time passage as a sampling of the filed pleadings reflect. AA 57-91,
9 112-118. This appeal is not brought for the purpose of delay.

10 **B.**
11 **Miscarriage of justice**

12 The court in *Brown* also defined what would be considered a “miscarriage
13 of justice”. Only two people know what happened behind the locked door that
14 night. The victim told E.S. “no” and reported being raped. E.S. told law
15 enforcement that although true, that the victim said, “no”, he thought she meant
16 something else. E.S. also made conflicting statements to law enforcement that
17 bear on his credibility. As an example, although E.S. does not remember
18 “exactly”, he admitted that the victim’s phone would have a text message from
19 the victim that said words to the effect “I told you no”, and he responded by text
20 that he already had consent so that “didn’t matter”. When the prosecution seeks

1 to admit that evidence through the victim at the evidentiary hearing, the defense
2 will object arguing there is no way to “know” who texted the response. For
3 example: “Were you standing next to him when that texted exchange took
4 place?” Answer: “No”. Question: “Well then how do you know it wasn’t
5 someone else?” Answer: “Well, I guess I don’t.” The statements by E.S. to law
6 enforcement will assist the trier of fact with the determinations the court will be
7 called upon to make. E.S. said his phone was “broken”, in his “room”, and
8 “useless”. AA 26.

9 *Brown* also said, at 198,

10 To make this showing, [a miscarriage of justice] the State
11 must do more than explain the importance of the evidence or assert
12 that the evidence proves certain elements of a charged offense.
13 Rather, the State must explain how it will be substantially impaired
14 in proving those elements without the suppressed evidence. This
15 requires an explanation of what other evidence is available to the
16 State and how that admissible evidence may be inadequate for
17 conviction.

18 As the synopsis of suppressed statements, *supra*, reflects, the
19 prosecution will call the victim to testify, as well as her friend¹, a
20 percipient witness who heard “arguing” and “thuds”, and text messages
ostensibly between E.S. and the victim. The statements from E.S. to law

¹ There are also other “friends” as potential witnesses to conversations, as well
as one adult high school coach.

1 enforcement with regard to the victim not “revoking” consent, the text
2 exchange that he doesn’t “exactly” remember with regard to his already
3 having consent, so that the victim saying “no”, “didn’t really matter”, and
4 the exchange with regard to not having a condom at their prearranged
5 agreed upon day to have sex are all critical when witness credibility is
6 weighed, again, as set forth *supra*, to juxtaposition the victim saying she
7 tried to stop E.S. from removing her pants, but he did it anyway, with E.S.
8 telling law enforcement that she took her own pants off.

9 “Miscarriage of justice” under NRS 177.015(2) means “that the
10 suppressed evidence is of substantial importance such that its suppression would
11 significantly impair or terminate the State’s ability to prosecute the case.” *Brown*
12 at 198. The prosecution has every intention of going forward should this court
13 decline to further entertain the appeal, or the decision suppressing the evidence
14 is affirmed. The prosecution will not terminate, but clearly “the suppressed
15 evidence is of substantial importance”. E.S. has a right not to testify. To best
16 make such a weighty factual determination, the court below should hear and
17 thereafter deliberate upon all admissible evidence that should include the
18 currently suppressed statements by E.S. to law enforcement. The point is that the
19 prosecution should not have to go forward without the statements from E.S. to

1 law enforcement after the reading of *Miranda* and the waiver of same, the issue
2 of voluntariness having never been litigated.

3 Should this court consider the State's showing regarding how the
4 prosecution "will be substantially impaired in proving [lack of consent] without
5 the suppressed evidence" to be lacking, that would militate contrary to what
6 *Brown* requires in order to meet the second prong of the test. However, in *Ford*
7 *v. State*, 122 Nev. 796 (2006) where the court found that parental notification
8 was merely a factor to consider, the court referenced *People v. Pogue*, 312
9 Ill.App.3d 719, 243 Ill. Dec. 926 724 N.E.2d 525, 531-32 (1999) which said,
10 *inter alia*:

11 A finding of voluntariness by the trial court will not be reversed on
12 review unless it is against the manifest weight of the evidence.
13 When considering a motion to suppress, it is for the trial court to
determine the credibility of the witnesses and to resolve conflicts in
the evidence (citations omitted).

14 "A finding of voluntariness" was neither deliberated nor decided.

15 Witness credibility was never weighed to resolve "conflicts", such as whether
16 the school principal had actual knowledge of E.S. being questioned by law
17 enforcement irrespective of any deficiencies regarding notice. The purpose of
18 notifying the principal is to notify the parents, but not notifying the parents is
19 only a factor to consider when weighing voluntariness.

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1 regarding matters in the record to be supported by a reference to the page and
2 volume number, if any, of the transcript or appendix where the matter relied on
3 is to be found.

4 I understand that I may be subject to sanctions in the event that the
5 accompanying brief is not in conformity with the requirements of the Nevada
6 Rules of Appellate Procedure.

7 **DATED:** April 8, 2021

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19
20

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

2
3 THE STATE OF NEVADA,

Supreme Court Case No. 82614

4 Appellant,

5 vs.

6 E.S., A CHILD,

7 Respondent.

8
9 **CERTIFICATE OF SERVICE**

10 I hereby certify and affirm that the Points and Authorities Supporting Good
11 Cause to Appeal, was electronically filed with the Nevada Supreme Court on April
12 8, 2021. Electronic Service of the foregoing document shall be made in accordance
13 with the Master Service List as follows:

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

2
3 **IN THE MATTER OF E.S., A CHILD**

Case No.: 82614

4 **THE STATE OF NEVADA,**
5 **Appellant,**

6 **vs.**

7 **E.S., A CHILD,**

8 **Respondent.**

9
10 **APPELLANT'S APPENDIX**

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APPELLANT'S APPENDIX INDEX

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July 14, 2020 Court Order	1	AA114-AA116
Stipulation to Continue Hearing	1	AA117-AA118



CERTIFICATE OF ACCURACY

Net Transcripts, Inc. certifies that the document produced from the audio file named Marshall11210191100491_cutamp74.mp3 submitted by Nye County Sheriff's Office - Detectives on the 10th day of March, 2021 is a true and accurate transcription. The transcript was produced by Net Transcripts' employees and contractors to the best of their abilities and no intentional changes or redactions have been made.

Dated: March 17, 2021

A handwritten signature in black ink, appearing to read "Shane Mirkovich", written over a horizontal line.

Shane Mirkovich, General Manager
For Net Transcripts, Inc.

INTERVIEW WITH EDDIE STEEVES

Q=Detective Marshall

Q1=Detective Fancher

A=Eddie Steeves

Woman: Recording.

Q: Go ahead and have a seat. Um, (Edward)?

A: Yeah.

Q: Hi I'm Detective Marshall this is Detective Fancher we're with the Nye County Sheriff's Office.

A: Uh-huh.

Q: Um, real quick, uh, you are a student you are in school so, uh, you do have the right to remain silent. You - you don't even have to talk to us today.

A: Right.

Q: Um, anything...

Man: (Unintelligible).

Q: ...you say can be used in a court of law. Uh, you have the right to an attorney. If one cannot be affor- if you cannot afford to hire one one can be appointed to represent at no cost to you. You can have an attorney present during any questions if you wish. Which you don't have to answer any of our questions. You can say I don't wanna - I don't wanna talk anymore. And, uh, you also because you are a juvenile you have the right to have your, um, a - a parent or guardian, um, I don't know if you live at home with mom and dad or you're...

A: Right.

Q: ...(unintelligible), um, you have them present. We can call them they can be part of this conversation if you want, um, it's entirely up to you.

46
47 A: Mm-hm.
48
49 Q: Okay so, um, do you wanna talk to us?
50
51 A: About the, uh, whole situation between ()?
52
53 Q: That's what we're here for yeah.
54
55 A: Um, yeah it's complicated 'cause i- after we had had our differences and we
56 set it aside like apart from each other everything had seemed normal and I was
57 starting to, you know, lose feelings for her and by that time everything like
58 just we drifted away from each other and then that was the time where
59 everyone started saying that I raped her and I - I was just so shocked because
60 even after like 'cause I had thought that, you know, we were okay and then to
61 her to break up with me and then after the whole thing she called me a rapist
62 and...
63
64 Q: So what happened on that day? What - what day was it that she's saying that
65 you raped her?
66
67 A: Well, uh, she never told me anything but it was we were in P.E. at like I don't
68 know what day but we were just in P.E. and I remember my best friend was
69 like, "Dude I've been hearing some things." And, "I heard () said that you
70 raped her." And I was like, "That doesn't make sense." And what's really
71 dumb is that like everyone knows that, you know, I wouldn't have done
72 something like that and so her friends tried to tell her like maybe this is
73 something that you shouldn't lie about because she has lied about something
74 big before and that would be...
75
76 Q: What has she lied about before?
77
78 A: She lied about having cancer before.
79
80 Q: Okay.
81
82 A: And...
83
84 Q: So the night that I'm talking about were you at her house during her birthday
85 weekend?
86
87 A: Yeah.
88
89 Q: What happened?
90

INTERVIEW WITH EDDIE STEEVES

Interviewer: Det Marshall

Case # 19Y-3371

Page 4

91 A: Well, um, I was over at her house and [REDACTED] was there and, uh, I was
92 spending the night and, um, like just through the night everything was, you
93 know, just like normal and we'd like do little stuff here and there but I never
94 like pushed her to do...
95
96 Q: What do you mean a little stuff here and there?
97
98 A: Like making out.
99
100 Q: Okay.
101
102 A: And, um, and, um, it was at like 2:00 in the morning and, uh, I was getting
103 really tired and so I didn't have a condom so I was - I didn't want to have sex.
104
105 Q: Okay.
106
107 A: And, uh, we'd - we had like even talked about it before like having sex and,
108 uh, you know, I only want would want to if it was protected and I tried telling
109 her that and so she still told [REDACTED] that like she tried telling me that she
110 thought it was fine and like she didn't have a problem with it but I did have a
111 problem with it and she told [REDACTED] to leave and so [REDACTED] did leave
112 and I was just like okay and during the time that we did, uh, have sex I - it
113 was very little and I was too scared to keep going. So.
114
115 Q: Okay so what happened leading up to that? 'Cause I know there was a
116 conversation with you guys at school earlier that day about having sex right?
117
118 A: Um, no.
119
120 Q: Oh I know that you guys were planning on it for about six months.
121
122 A: Right. Right.
123
124 Q: Right? I know that you guys had a conversation earlier in the day...
125
126 A: Right.
127
128 Q: ...that she wasn't ready to.
129
130 A: Mm.
131
132 Q: So tell me about that.
133
134 A: She never said anything about not being ready it's just like she never really
135 talked to me about not being ready. She's just like we just talked about like

AA004

INTERVIEW WITH EDDIE STEEVES

Interviewer: Det Marshall

Case # 19Y-3371

Page 5

136 how, you know, it's a big commitment and, you know, stuff like that but we
137 wasn't really like she never disagreed and I never forced anything onto her.
138 And I - I repeatedly told her that like I - I would wait for her, you know,
139 whatever she would be ready for.
140
141 Q: Okay so wh- what were you guys arguing about in the room then? (b)(7)(C)
142 says that she could hear you guys arguing in the room.
143
144 A: Right we, uh, we weren't arguing about anything really. I wasn't...
145
146 Q: So you were arguing about nothing?
147
148 A: No we weren't like we was just - we actually weren't arguing about anything.
149
150 Q: Okay.
151
152 Q1: So she's accusing you of rape right?
153
154 A: Yeah.
155
156 Q1: You know this. You know what day sh- what night she's accusing of rape.
157 Obviously you know what incident she's talking about.
158
159 A: Right.
160
161 Q1: You don't misunderstand what exactly happened that night. Why would
162 someone...
163
164 A: I don't know.
165
166 Q1: ...(unintelligible) we went there?
167
168 A: I - I don't know why. That's why...
169
170 Q1: (Unintelligible) what happened?
171
172 A: What happened?
173
174 Q1: Yeah.
175
176 A: Like during the incident when (b)(7)(C) left?
177
178 Q: Your incident that you're being accused of that's rape.
179

AA005

180 A: Right. Um, well when () left, um, I guess we were both kinda like
181 scared or something like that so I mean I don't know it's like more arguing
182 about anything really.
183
184 Q1: But there was some type of sexual con-...
185
186 A: Yeah.
187
188 Q1: ...contact.
189
190 A: We did have...
191
192 Q1: That's what I'm asking you to tell us. I know it's uncomfortable but we
193 (unintelligible)...
194
195 A: Right.
196
197 Q1: ...we weren't there.
198
199 A: Well, um, after () left () took off the blankets and set them on the
200 floor and so I, um, we took off our clothes and, um, we just did everything
201 that led to that moment.
202
203 Man: (Unintelligible).
204
205 Man: (Unintelligible).
206
207 A: We did everything that led to that moment such as making out, you know,
208 biting.
209
210 Q1: Biting?
211
212 A: Yeah. And, uh...
213
214 Q1: So you started making out you said?
215
216 A: Yeah and then...
217
218 Q1: (Unintelligible) started making out and there was biting going on?
219
220 A: Yeah just a little bit.
221
222 Q1: See no we get it we're - you can be comfortable telling us even stuff you're
223 not (unintelligible).
224

225 A: Yeah and, uh, yeah then she laid down in, you know, the position and then it
226 went from there for not even longer than three minutes and she had her legs
227 up on my shoulders.
228
229 Q1: Over your shoulders. So she was on her back?
230
231 A: Yes.
232
233 Q1: Okay so what happened next?
234
235 A: Um, well then we had sex for at least like three four minutes and, uh, I just
236 remember like getting really worried and so...
237
238 Q1: What was worrying -- what were you worried about?
239
240 A: I was just worried about getting her pregnant.
241
242 Q1: Did you have protection?
243
244 A: No.
245
246 Q1: You didn't have protection?
247
248 A: And, um...
249
250 Q: Who's...
251
252 A: ...that why I had stopped.
253
254 Q: Now you were supposed to get protection right?
255
256 A: Yeah.
257
258 Q: And so why didn't you?
259
260 A: Uh, I didn't think we were gonna do it that night.
261
262 Q: But you guys were planning on it.
263
264 A: I know but I still didn't think we were gonna...
265
266 Q: So you guys...
267
268 A: ...rush into things.
269

INTERVIEW WITH EDDIE STEEVES

Interviewer: Det Marshall

Case # 19Y-3371

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270 Q: ...so what would makes you think you guys were planning on it and then the
271 night's coming and you guys been talking about it and then...
272
273 A: 'Cause...
274
275 Q: ...according to you...
276
277 A: ...it was...
278
279 Q: ...it was fine...
280
281 A: ...so soon.
282
283 Q: ...and then the day that it's happening you were supposed to get protection
284 and why wouldn't you after you guys had already talked and planned on it?
285
286 A: Well two things. I didn't know like it was gonna be specifically that night and
287 I - I didn't tell my parents about it.
288
289 Q: Okay. So...
290
291 Q1: What do you mean you didn't tell your parents about?
292
293 A: Having sex.
294
295 Q: Okay so...
296
297 A: Like I didn't think we were gonna do it.
298
299 Q: ...so, um, now you guys are split up, you're at the school and you are aware,
300 um, mm, of mutual friend of yours right? And you go and you confront her
301 about this at the - at lunch. Tell me about that.
302
303 A: Yeah so what she had been told - like what I have been hearing is that
304 everything had just been like forced onto her and that she was like completely
305 innocent and how, you know, she didn't want to at all before and that's what
306 everyone told me and then at lunch when I talked to her about it she told me
307 that it was during the part where we were having sex where she like she
308 changed her story from what everyone was telling me to she stopped wanting
309 to do it and that wasn't the case at all like both stories.
310
311 Q: So both the girls that were there say that you acknowledged that she was
312 saying no and you said that, "Well it was hurting." That's why you didn't stop.
313
314 A: Yeah.

315
316 Q: Okay.
317
318 A: We-...
319
320 Q: So she's saying no and you acknowledge that.
321
322 A: Yeah.
323
324 Q: So why did you continue?
325
326 A: I didn't continue. She said - she said that it hurt and so I like pulled back and
327 what I thought she meant by hurt was like that it was just like it hurt up here.
328
329 Q: Right but she said no.
330
331 A: She didn't say no.
332
333 Q: That's not according to both of the girls when I talked to them you're...
334
335 A: () and ()?
336
337 Q: ...you're my last person. No no not (). () wasn't there for
338 the conversation.
339
340 A: Was...
341
342 Q: It was () and, um...
343
344 A: ()?
345
346 Q: Yes. Okay both of them were with you when you went to...
347
348 A: Talk to her.
349
350 Q: ...talk to her right? I think () was with () and () was with
351 you.
352
353 A: Yeah.
354
355 Q: Right? So you go and talk to them. Both of them separately say that you
356 acknowledged that she said no. You said, "Yeah you said no but I thought that
357 was only because it was hurting."
358
359 Q1: Which if that's the case we get it.

360
361 A: Yeah.
362
363 Q1: (Unintelligible).
364
365 A: That that that's what I was trying to say.
366
367 Q: Okay.
368
369 Q1: Okay.
370
371 Q: Okay they both also say that you acknowledge that she said no but you had
372 already had consent.
373
374 A: Yeah.
375
376 Q: Okay so if she says no even if you have consent it can revoke consent.
377
378 A: Well at that -- like I said I didn't know she meant like to stop going I just
379 thought she meant like don't go farther.
380
381 Q: Okay so leading up to that though 'cause she told you...
382
383 A: Yeah.
384
385 Q: ...no earlier in the day.
386
387 A: No she didn't.
388
389 Q: Well.
390
391 A: That's what lead everything to it is 'cause like I didn't want to and then sh- we
392 started making out and then we like she told () to leave and then once
393 () left things went from there.
394
395 Q: Okay.
396
397 A: And sh- during that time she didn't tell anyone or she didn't tell me no.
398
399 Q1: So then you guys are having sex, starts hurting her, she says no you think that
400 that, uh, your perception is that don't go any further.
401
402 A: Well she - she said like, um, that hurts and I was like, "Okay do you want me
403 to keep going?" And she's like, "Yeah." And then I just didn't go farther.
404

405 Q1: Well I mean earlier it sounded – you said that, uh, she did say no but y- you
406 were perceiving it – and I – this is...
407
408 A: Right.
409
410 Q1: ...that you had perceived it as don't go any further as far as in deeper...
411
412 A: Right.
413
414 Q1: ...is that correct?
415
416 A: Yeah.
417
418 Q1: Okay. Okay so then we are – so she didn't – at one (unintelligible) point says
419 no but you thought that it was mean...
420
421 A: To like...
422
423 Q1: ...to not go deeper.
424
425 A: Deeper yeah.
426
427 Q1: And then in hindsight 20/20 looked back and actually it was maybe a
428 miscommunication from her to you or what?
429
430 A: Yeah because yeah she seemed that she like liked it and wanted to keep going
431 so I thought that was what no meant. But it wasn't no it was like it's
432 confusing.
433
434 Q1: You mighta been caught up in the moment 'cause no has one meaning, um, I
435 think you mighta been caught up in the moment and just weren't thinking
436 clearly.
437
438 A: Right.
439
440 Q1: You got all the hormones going on what are you 13?
441
442 A: I'm 15.
443
444 Q1: Fift- you're 15?
445
446 A: Yeah.
447
448 Q1: So yeah all those hormones and I think maybe you were a little clouded on
449 your judgment there 'cause no, uh, looking back do you think no maybe

450 looking back now you were like no obviously you shoulda meant
451 something...
452
453 A: No.
454
455 Q1: ...(unintelligible) at the time.
456
457 A: I sti- I still think that she wanted to keep going 'cause...
458
459 Q: Why would she say no?
460
461 A: To just stop going deeper.
462
463 Q: If you're doing something -- somebody's doing something to you that you don't
464 want them to do and you tell them no does that mean hey no keep doing it but
465 do it lighter?
466
467 A: I mean I don't know I was confu- it was confusing. It wasn't like a - like - it
468 was confusing.
469
470 Q1: Mm?
471
472 A: It's - it's hard to explain.
473
474 Q1: That's all right take you time and help - help us understand. That's what we're
475 trying to do is trying to understand it.
476
477 A: Uh, I can't find any other words to explain it. But it wasn't like...
478
479 Q1: You understand where we're at right? So if you're com-...
480
481 A: Like and so...
482
483 Q1: ...(unintelligible) say no you stop in your tracks.
484
485 A: Yeah there's also like body communication 'cause like she had like grabbed
486 onto me and like there's just so many things that like lead to me thinking that
487 way like.
488
489 Q1: So she sa- you're saying that she's grabbed a hold of you everything was
490 normal but...
491
492 A: Yeah.
493
494 Q1: ...but then the word no comes out of her mouth.

495
496 A: And yeah.
497
498 Q1: That is why you got confused.
499
500 A: Yeah.
501
502 Q1: Were you confused in that moment.
503
504 A: I mean no 'cause like I immediately saw it as keep s- keep going but just like
505 don't go deeper 'cause to me it just seemed that like everything was like her
506 wanting to.
507
508 Q1: Uh-huh.
509
510 A: So I just – I went with it.
511
512 Q: Um, when you guys first started did she grab you and put you in her or did
513 you put you in her?
514
515 A: I put me in her.
516
517 Q: Okay where were her hands when you did that?
518
519 A: Just like - like this. Just like on her head or like on my legs.
520
521 Q: So they were above her – well they're either at her head or they're on your
522 legs. I mean that's...
523
524 A: Well it's...
525
526 Q: ...that's two...
527
528 A: ...kept like...
529
530 Q: ...very different things...
531
532 A: ...ke-...
533
534 Q: ...you know what I mean like...
535
536 A: Yeah.
537
538 Q: ...like...
539

540 Q1: We're (unintelligible).
541
542 Q: ...like from here to here are two very different things.
543
544 A: Well I don't know where...
545
546 Q: Okay.
547
548 A: ...I wasn't really paying attention to her hands.
549
550 Q: Okay.
551
552 A: 'Cause I was just holding onto her legs.
553
554 Q: Okay.
555
556 Q1: Um, you said this incident lasted what three or four minutes?
557
558 A: Yeah.
559
560 Q1: Um, so she said no she said no, um, no, no you perceive it as don't go in any
561 further, you continue, um, then what happened after that?
562
563 A: Well I li- I like stopped immediately 'cause I was so worried about getting her
564 pregnant so I just I pulled back immediately.
565
566 Q1: Immediately a- wh- what - you said immediately so that's - that comes after
567 something. What was - what caused you to immediately...
568
569 A: Well there's just something in me that like it felt really good down there and I
570 just like I wanted to pull back just in case I did like - like ejaculate.
571
572 Q1: Uh-huh.
573
574 A: So I just I pulled back immediately said, "I can't I can't." But - and then after
575 like she, um, like we kept going like a little bit with like a like blow job and...
576
577 Q1: Oh.
578
579 A: ...that.
580
581 Q1: So eventually you did ejaculate but it was a blow job?
582
583 A: Yeah.
584

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585 Q1: Okay.
586
587 Q: Um, what - what happened after that?
588
589 A: Well, um, we got up and put on our clothes and I was sitting there
590 contemplating because I had just did something that, you know, is looking to
591 last me forever and so I didn't really do much for the rest of the night. And
592 she told (b) to come back in the room and - and I was - that was pretty
593 much it. I just - I left the room and I went to the other room and went to
594 sleep.
595
596 Q: When you...
597
598 Q1: You guys slept in different rooms?
599
600 A: Yeah.
601
602 Q1: Was things - obviously there was some...
603
604 A: Well I feel like for me...
605
606 Q1: ...(unintelligible).
607
608 A: ...and more because like I said I wasn't really prepared or mentally prepared
609 or like ready and, uh, yeah.
610
611 Q1: What do you mean for you more? Just (unintelligible) between you two?
612
613 A: Like for me - like I felt more like a...
614
615 Q1: Dirty or what?
616
617 A: Yeah.
618
619 Q1: Okay that's - I think you're being honest with me. That's what we want. We
620 just wanna hear...
621
622 A: I know.
623
624 Q1: ...(unintelligible).
625
626 A: It's hard to explain too.
627
628 Q1: That's all right. I know that. So there's some dissention between
629 (unintelligible) obviously after that incident things weren't right?

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630
631 A: Yeah.
632
633 Q1: (Unintelligible) weird between the two of you?
634
635 A: Yeah.
636
637 Q1: Okay. Was sh- I mean pissed off at ya? I'm assuming if she said – if I was a
638 girl and I said no and you took it as the other way I'd probably...
639
640 A: No she wasn't - she wasn't mad i- i- like at all like she was like – like I texted
641 her the next day I was like, um, "You know I had a good time." And she was
642 like, "I had a great time too." And...
643
644 Q1: This was a text message.
645
646 A: Yeah. Yeah and, uh...
647
648 Q1: Do you have that on ya?
649
650 A: No.
651
652 Q1: Okay.
653
654 A: I – and that phone broke too so. She might have messages or she might've
655 deleted the conversation but.
656
657 Q1: It wouldn't make sense if she did (unintelligible).
658
659 A: (Unintelligible) but I don't know it was just really – it was hard to take in too
660 'cause () at the time wasn't a virgin and she lost her virginity early on so
661 that's why I felt like I felt more...
662
663 Q: To who?
664
665 A: Uh, some kid in Vegas. I don't know his name.
666
667 Q: Okay. Oh yeah, yeah. I know. I know who that is.
668
669 Q1: So what – looking back now what is your thoughts on everything? Should
670 you have done something different do you think? If you can go back now
671 would you've stopped at no?
672
673 A: No. 'Cause I still feel like in the moment it was just like everything that had
674 happened...

AA016

675
676 Q: W- w- we ne-...
677
678 A: ...led to me...
679
680 Q: ...we need to have a conversation because if someone says no it's no.
681
682 A: I know. I know.
683
684 Q: No but you're saying that no means something else than no.
685
686 A: No 'cause like...
687
688 Q: You're saying that based on what's going on - I ge- I - I hear what you're
689 saying. You're saying that everything going on her grabbing you all of these
690 different things that you feel that no means something other than no in your
691 head.
692
693 A: Right.
694
695 Q: But no means no.
696
697 A: It means no yeah.
698
699 Q: That's the bottom line.
700
701 A: Right.
702
703 Q: If I say no to something it means no.
704
705 A: Right.
706
707 Q: If you say no to something that means no.
708
709 A: Right.
710
711 Q: That doesn't mean well you know we're all going anywhere let's just go along
712 to get along...
713
714 A: Right.
715
716 Q: ...and even though you said no everyone's going majority rule...
717
718 A: Right.
719

720 Q: ...because that's kind of what's going on right?
721
722 A: Right.
723
724 Q: No means no.
725
726 A: Means no right.
727
728 Q: It doesn't mean hey I'm saying no but really I'm just playing and I mean yes.
729 Ke- keep doing what you're doing.
730
731 A: Well. Right. Right.
732
733 Q: And then you guys were planning on this and you were supposed to get
734 protection and you didn't protection which leads me to believe the reason you
735 didn't get protection was because there was a conversation that happened
736 about her not being ready and that's why you didn't come prepared. Because
737 you were supposed to get it and now you don't have it.
738
739 A: Right well...
740
741 Man: Good job.
742
743 A: ...no.
744
745 Woman: (Unintelligible).
746
747 A: 'Cause nothing had really - like...
748
749 Q: Okay.
750
751 A: ...maybe we like joked about it...
752
753 Q: You're...
754
755 A: ...or talked about it.
756
757 Q: ...you're - you're tasked with getting something right?
758
759 A: Yeah.
760
761 Q: Because you guys are planning on doing something okay. I've seen the
762 messages. I - I know you guys were planning on this day. S- or six months in
763 right? That - that's what you guys were planning about six months in. You're
764 supposed to get condoms right?

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765
766 A: Yeah.
767
768 Q: So that way you're ready. So now you haven't got them right?
769
770 A: Yeah.
771
772 Q: You haven't got them. Which tells me that you weren't ready. Which tells me
773 that it was a conversation that happened otherwise you would've already had
774 the condoms.
775
776 A: Yeah.
777
778 Q: Right? If you guys were both ready to do something...
779
780 A: Right.
781
782 Q: ...you would've got the protection. But you didn't.
783
784 A: Yeah.
785
786 Q: Which leads me to believe that a conversation happened where she wasn't
787 ready. Now you're - you - you un- you understand (unintelligible).
788
789 Q1: Yeah I understand. Yeah I understand where you're at I mean that - yeah there
790 was I'm - she wasn't - I - (unintelligible) kind of in the moment?
791
792 A: No 'cause I - I wasn't - I was probably less prepared than she was. She had
793 told [REDACTED] to leave and that well like she was like - I was like, "Are you
794 sure you really want to do this?" And she was like - like I mean she like
795 sighed and said, "Yeah."
796
797 Q1: Uh-huh.
798
799 A: But I woulda known like if she wasn't ready I even told her like, "Hey."
800
801 Q: Hold on so she sighed and said yeah.
802
803 A: Well I mean...
804
805 Q: What does that mean?
806
807 A: 'Cause I feel like she wanted to but she just didn't wanna get pregnant.
808
809 Q: So she...

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810
811 A: I - I - I wasn't ready so I was like, "We can either wait." I told her we could
812 wait.
813
814 Q: And who's around for that conversation?
815
816 A: Me and () and - and () but she was on the phone with her
817 boyfriend.
818
819 Q: So () doesn't have any knowledge. She has no idea anything about
820 that. She knows that she was asked to leave the room and then she heard
821 arguing when she went to the bathroom in the other room. She said that
822 () sounded mad and it sounded like you guys were arguing.
823
824 Q1: What was () upset - wh- what was going on there? W- w- we know you
825 arguing but what were you arguing about?
826
827 A: We weren't arguing about like anything at all and like...
828
829 Q1: You weren't arguing or you weren't...
830
831 A: No.
832
833 Q1: ...about anything what do you mean?
834
835 A: Like we were...
836
837 Q1: What was going on? There's obviously some dissention between you two.
838
839 A: There wasn't like any - nothing. There was no argument like once ()
840 left we immediately started taking off our clothes.
841
842 Q1: Okay.
843
844 A: If I'm - like we weren't talking or anything that like created like conflict or
845 anything.
846
847 Man: Well maybe that's...
848
849 Q1: There's some conflict that happened immediately afterwards. Was it related to
850 what you guys did or was it not related to what you guys did?
851
852 A: It mighta not been.
853
854 Q1: It mighta not been.

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855
856 A: 'Cause – yeah.
857
858 Q1: So can you tell us what the conflict was – and you don't remember
859 (unintelligible).
860
861 A: No I don't remember.
862
863 Q1: But there was conflict?
864
865 A: I don't...
866
867 Q1: That's what re- that was - that's what we- we're - we're certain that there was
868 some conflict between you two.
869
870 A: I don't...
871
872 Q1: Okay.
873
874 A: ...remember. You just...
875
876 Q1: Do you remember what you talked about at all...
877
878 A: No.
879
880 Q1: ...afterward? Okay.
881
882 Q: Did she tell you to put you inside of her?
883
884 A: Yes.
885
886 Q: Okay right there. So you guys get naked and she says, "I want you in me."
887
888 A: Yeah.
889
890 Q: Okay and then – so how – and her hands were above her head?
891
892 A: Right.
893
894 Q: Okay, um...
895
896 Q1: Where were your hands at?
897
898 A: Just on her legs.
899

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900 Q1: Okay that's good how long did they stay there?
901
902 A: Forever. During the whole time.
903
904 Q1: The whole time.
905
906 Q: How did her legs get above onto your shoulders?
907
908 A: She put 'em there.
909
910 Q: Okay.
911
912 Q1: Did you guys ever m- like m- rounded first and second before or was this first
913 time you - have you ever done anything like this...
914
915 A: Uh...
916
917 Q1: ...started making out like...
918
919 A: ...well I mean yeah like we did...
920
921 Q1: You had fooled around before right?
922
923 A: Yeah.
924
925 Q1: Okay but nothing close to this?
926
927 A: Nothing.
928
929 Q: So then next day you say everything's fine what happened the day after that?
930 So this is on Friday right?
931
932 A: Yeah.
933
934 Q: Okay so Saturday comes around you're over there, you wake up and
935 everything's fine what happened Sunday?
936
937 A: Um, Sunday was just a normal day and, uh, just a normal day.
938
939 Q: What about Monday?
940
941 A: A normal day.
942

AA022

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943 Q: So this happens, you say that you, um, you were worried. You feel that you
944 were a little bit more off guard and the next three days happened – this thing
945 happens, you're worried she's gonna get pregnant.
946
947 A: Right.
948
949 Q: Um, no condom was used that's why you - you pulled out and everything
950 stopped and for the next three days you guys don't talk about what happened,
951 you guys don't talk about that you had some sex, you guys don't talk
952 about anything, you don't talk about the fact that you didn't have a condom
953 you don't talk about anything at all related to this?
954
955 A: No. Other than the night that I texted her that I had a good time with her and
956 maybe like...
957
958 Q: Look...
959
960 A: ...text her...
961
962 Q: ...look man when - when - when I lost my virginity when I was in high
963 school...
964
965 A: Yeah.
966
967 Q: ...w- we talked about it. We didn't even have phones man like we talked
968 about it the next day. Like there was a conversation...
969
970 A: Right.
971
972 Q: ...that happened. (Fanch)?
973
974 Q1: Yeah.
975
976 Q: (Tol)?
977
978 Man: (Unintelligible).
979
980 Q: You're telling me...
981
982 A: Well...
983
984 Q: ...you lose your virginity and the only thing you say is, "Thanks I had a great
985 time."
986
987 A: No.

AA023

988
989 Q: Nothing else is talked about...
990
991 A: Maybe...
992
993 Q: ...nothing else is said, nothing about hey next time we need to make sure we
994 have condoms, hey go get condoms and stuff. Nothing...
995
996 A: Well yeah.
997
998 Q: ...else is talked about.
999
1000 A: Well no it was...
1001
1002 Q: C- come on.
1003
1004 A: There was other times where like we were just like maybe we coulda been
1005 longer and I was like, "That's why I." I probably texted her saying that like
1006 we could've waited and that way - that way it woulda been better 'cause then I
1007 would've had a condom but I don't know what the days were when I texted her
1008 that 'cause it was so long ago. We definitely did have conversations about it
1009 but...
1010
1011 Q1: How long ago...
1012
1013 A: ...other than n- nothing other than good like it was just like oh yeah
1014 (unintelligible) it was good. It coulda been better. Nothing else like was bad
1015 about it.
1016
1017 Q: Did you guys have sex again?
1018
1019 A: No.
1020
1021 Q: Why?
1022
1023 A: I don't know.
1024
1025 Q1: When did you guys break up?
1026
1027 A: Uh, I think somewhere in like (unintelligible) December like...
1028
1029 Q1: H- h- how far - how long after the incident?
1030
1031 A: Like a month after the incident.
1032

1033 Q1: Okay and things were right from then on right?
1034
1035 A: Yeah.
1036
1037 Q1: 'Cause things weren't hunky dory obviously when (unintelligible).
1038
1039 A: Yeah 'cause it had seemed that like she like stopped wanting to text me.
1040
1041 Q1: Okay.
1042
1043 Q: The day after that happened?
1044
1045 A: No like continuously like after like a week it got worse and then after another
1046 week it got worse.
1047
1048 Q1: I mean and so looking back do - do you see where she's coming from?
1049
1050 A: A little bit.
1051
1052 Q1: Okay.
1053
1054 Q: So why would you - why would you - when - when - when you confronted
1055 her why would - why would you say that it doesn't matter if she said no you
1056 already had consent?
1057
1058 A: I don't know 'cause like what - what do you mean by that?
1059
1060 Q1: What he's - what he means is like you said s- basically it was fine at first but
1061 why would you like I think what he - he's saying that at one point why did you
1062 s- did you not stop because she - what she told you it was okay obviously she
1063 consented to having sex at first.
1064
1065 A: Yeah.
1066
1067 Q1: Um, is that what you mean (Joe)?
1068
1069 Q: Um, no so - so both of 'em say that when you went and talked to [REDACTED], um,
1070 she told you that, "I told you no." And you made a comment about, "Well I
1071 already had consent so that doesn't matter." So why - why would you say
1072 that?
1073
1074 A: I don't remember saying that.
1075
1076 Q: You don't remember saying it?
1077

1078 A: I don't remember the conversation exactly.
1079
1080 Q: Okay.
1081
1082 Q1: Y-, um, you s- you explained some text messages that, uh, I feel are probably
1083 important. What happened to your phone?
1084
1085 A: I dropped it on the rocks and it got really bad s- and the screen got all purple.
1086
1087 Q1: Okay you had to get a completely new phone?
1088
1089 A: I don't have a phone yet.
1090
1091 Q1: Okay.
1092
1093 Q: So what happened to that phone?
1094
1095 A: It's broken.
1096
1097 Q: No where is...
1098
1099 Q1: Where is it?
1100
1101 Q: ...where - where - where is it?
1102
1103 A: It's in my room.
1104
1105 Q: In your room.
1106
1107 Q1: It's completely...
1108
1109 A: Yeah.
1110
1111 Q1: ...useless as a...
1112
1113 A: Yeah.
1114
1115 Q1: If we look on her phone is she gonna have those text messages you think?
1116
1117 A: Yeah probably.
1118
1119 Q1: Okay. All right.
1120
1121 Q: (Unintelligible).
1122

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1123 Q1: Yeah.
1124
1125 Q: Mm?
1126
1127 Q1: I mean yeah JPO.
1128
1129 Q: Okay.
1130
1131 Q1: Do you know what the legal age of consent is?
1132
1133 A: No.
1134
1135 Q1: You don't know what the legal age of consent is?
1136
1137 A: No it's...
1138
1139 Q1: Well you're under it.
1140
1141 A: Right.
1142
1143 Q1: Sixteen is the legal age of consent right? So nobody can consent basically if -
1144 if (unintelligible) 15 even, you know, you can't - you don't have the ability or
1145 the authority if kids say they give consent you can't consent to things like, uh,
1146 so does that make sense?
1147
1148 A: Yes.
1149
1150 Q1: Consent to sexual con- conduct you're...
1151
1152 A: Yeah.
1153
1154 Q1: ...(unintelligible).
1155
1156 A: Right.
1157
1158 Q: And...
1159
1160 Q1: That's something you guys should know.
1161
1162 Q: ...and...
1163
1164 A: I know that that's also...
1165
1166 Q: ...and well...
1167

1168 A: ...another thing.
1169
1170 Q: ...well it's - it's not though I mean I - I - I understand you seem like a nice kid
1171 and you're - you're telling me something and...
1172
1173 A: Yeah.
1174
1175 Q: ...you do you seem very articulate and you seem very sincere in what you're
1176 saying but I don't - I don't believe everything that you're saying. You don't
1177 have a conversation...
1178
1179 A: Well it's hard to - it's hard to explain.
1180
1181 Q: No but the problem is you don't - I - I know it's - it's like hard to tell the story
1182 when you're talking to detectives. It's hard to tell a story when, um, you know,
1183 that you're probably in trouble. It's hard to tell a story when you probably
1184 shouldn't have done something that you did. It's hard to tell a story when you
1185 are conveniently forgetting very specific things that you say. It's hard to tell
1186 stories when - when all of those things are stacked against you. The problem
1187 is is I have two people who do remember that conversation right?
1188
1189 A: Yeah.
1190
1191 Q: They do remember it.
1192
1193 A: Right.
1194
1195 Q: I have a victim saying that, "Yeah I told him no. I had a conversation with
1196 him." You were supposed to get condoms and weird you didn't get 'em. I
1197 have another person who's in the other room that could hear arguing that said
1198 that, "Yeah sounded like they were arguing. I heard loud thuds." Whether
1199 that was the walls or something moving I don't know. But she could hear
1200 arguing through the walls right?
1201
1202 A: Right.
1203
1204 Q: I have, um, the conversation I mean I - I - I have st- and you're not necessarily
1205 helping because all the things that you have are things that are well we didn't
1206 have that conversation or we did but it was just me and her or - or the-...
1207
1208 A: Yeah.
1209
1210 Q: ...these things that aren't lining up right?
1211
1212 A: Right.

1213
1214 Q: Whereas everything else is a pretty consecutive story. Yours falls into it but
1215 the things that you're saying aren't matching what everyone else is saying.
1216
1217 A: Yeah.
1218
1219 Q: Which tends to lead me to believe that...
1220
1221 A: Or yeah.
1222
1223 Q: ...you're keeping things out of it. Now whether that's true or not I wasn't there
1224 I can't - I can't prove 100%.
1225
1226 Man: (Unintelligible).
1227
1228 Q: Because I wasn't there. Right? But based on the totality of everything I think
1229 that...
1230
1231 Man: Here we are (unintelligible).
1232
1233 Q: ...I think that you - you knew that you shouldn't have had sex with her. I
1234 think that you reasonably should've known. You reasonably should not have
1235 continued going and you reasonably should've known that no means no.
1236
1237 A: Well yeah i- but like it's hard 'cause, you know, you guys weren't there but...
1238
1239 Man: (Carol Elasko).
1240
1241 A: ...when it did happen there was just so many things like - like I keep saying.
1242
1243 Man: (Unintelligible).
1244
1245 A: Like there are just so many things there's so many things but i- it's true like
1246 when she said the things that she said and like pulling me in it just like led to
1247 me believing that.
1248
1249 Q1: Okay so (Edward) what when did this happen? When did this incident
1250 happen?
1251
1252 A: Uh, I don't - I'm not sure.
1253
1254 Q1: Like roughly.
1255
1256 A: Roughly.
1257

1258 Q1: We talking about months, years, weeks. Only weeks ago, months ago? What
1259 are we loo- what are we looking.
1260
1261 A: Like, um, like when did it happen?
1262
1263 Q1: Yes.
1264
1265 A: It happened in like, uh, I - I don't remember. I don't remember the month...
1266
1267 Q1: So when did...
1268
1269 A: ...when it happened.
1270
1271 Q1: ...how many months ago roughly?
1272
1273 A: Probably like five months ago.
1274
1275 Q1: Five months ago.
1276
1277 A: Yeah.
1278
1279 Q1: Okay this is a big obviously this is a big day but obviously it's something
1280 significant that you went through.
1281
1282 A: Right.
1283
1284 Q1: Um, do I think that you remember what you guys' conversation was
1285 afterwards? I - I do think so. I think you're scared.
1286
1287 A: Yeah.
1288
1289 Q1: And I don't - I - and I put myself in your shoes and don't blame you for being
1290 scared. It's a - it's okay. That kinda stuff is why we're - we're talking to you
1291 'cause we know that you remember things but you're - you're scared. All right.
1292 I just want you to let you know it's all right. It's okay to (unintelligible).
1293
1294 A: Yeah.
1295
1296 Q1: Yeah.
1297
1298 A: Yeah.
1299
1300 Q1: So with all that said things don't look right.
1301
1302 A: I know. I know.

1303
1304 Q1: And you can't blame us (unintelligible).
1305
1306 A: I but yeah no I know.
1307
1308 Q1: Okay.
1309
1310 A: It's hard it's really hard to explain. It's really like I know I didn't do anything
1311 to her to like make it think that I raped her but...
1312
1313 Q: Well stop. Stop. You did though. She said no. You acknowledged earlier
1314 she said no.
1315
1316 A: No but it was like - it was like a - like it's hard to explain. It's...
1317
1318 Q1: Well that's all right. Well take your time and help us understand this.
1319
1320 A: Like it w- it was like definitely consensual and - and she didn't revoke consent
1321 either like.
1322
1323 Q1: It started out as consensual.
1324
1325 A: Yeah but it wasn't like - it didn't go like - like there wasn't a time where I
1326 didn't feel like I was doing something wrong and I feel like I know I woulda
1327 done something wrong if I had known. If I had known that she did revoke
1328 consent I would've immediately pulled back but like she did want to have sex.
1329
1330 Q1: Okay I - we're not - just so you know we're - we're on the same page. We all
1331 are. Yeah well at first she d- obviously - right am I co- am I ri- am I right she
1332 did have - consent to it first and then at one point she's like no. Or this from
1333 that she claimed that from the beginning she was never on board?
1334
1335 Q: She's claiming that they were going to have sex after six months and then they
1336 had a conversation earlier in the day she wasn't ready for it.
1337
1338 Q1: Okay.
1339
1340 Q: And then, um, they were in the room she asked () to go into the other
1341 room and then they were starting to get, um, a little hot and heavy, uh, but she
1342 told him no before he was inside of her.
1343
1344 Q1: Okay. Is that correct?
1345
1346 A: No she told me to like do everything with her. Like she told me to like have
1347 sex with her.

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1348
1349 Q1: Like she told you to have sex?
1350
1351 A: She never told me she just like there wasn't a time where she said no or we
1352 started out 'cause we did start out like making out with clothes on.
1353
1354 Q: All right she said that you grabbed her hands and put 'em above her head
1355 which would...
1356
1357 A: Yeah.
1358
1359 Q: ...make sense why that...
1360
1361 A: That's what I - that's what I was told too but I didn't go there. Like I didn't
1362 force anything t- on her.
1363
1364 Woman: (Unintelligible) road at (Varney). (Owl) Road at (Varney).
1365
1366 Q1: But you were at one point holding her hands not that that's - this sounds bad
1367 okay but when he was just saying that you acknowledged that that is what
1368 happened but it wasn't forceful is that what you're saying?
1369
1370 A: Yeah.
1371
1372 Q1: Okay there was some - so you held?
1373
1374 A: No. I didn't even hold her hands.
1375
1376 Q1: Okay. All right.
1377
1378 Q: And so but her hands were above her head?
1379
1380 A: Yeah.
1381
1382 Q1: Okay.
1383
1384 Q: Okay and your hands were on her legs the entire time?
1385
1386 A: The entire time.
1387
1388 Q: Didn't go anywhere?
1389
1390 A: I didn't - no.
1391
1392 Q: Didn't touch anything else?

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1393
1394 A: Well...
1395
1396 Q: Touch a face?
1397
1398 A: ...I probably put like on the bed or...
1399
1400 Q: Touch her lips?
1401
1402 A: ...like lean forward.
1403
1404 Q: I mean touch...
1405
1406 A: I didn't like force her. I didn't force her. I didn't have my hands on her. It was
1407 just like me going in...
1408
1409 Q: Who took her pants off?
1410
1411 A: ...on her legs. Who took her pants off? She did.
1412
1413 Q: She took her own pants off?
1414
1415 A: Yeah.
1416
1417 Q: She says you took her pants off.
1418
1419 A: No she did.
1420
1421 Q: Okay.
1422
1423 Q1: So can we – can you take us b- the conversation afterwards then what - what -
1424 what did you guys talk about after this? Right afterwards. You guys were
1425 arguing or something was going on. What was it? What was - what was it
1426 you guys were talking about?
1427
1428 Man: No actually I'm in the gym.
1429
1430 Woman: Thank you.
1431
1432 A: I don't know.
1433
1434 Woman: Take care.
1435

AA033

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1436 A: We - we weren't arguing at all. And () even came up to me and told
1437 me that there was h- like thuds and I was like, "There wasn't any thuds." Like
1438 - like there wasn't like actual like arguments or like conflict.
1439
1440 Q: (Unintelligible).
1441
1442 A: Like from what I remember there wasn't any, you know, conflict or like thuds.
1443
1444 Q1: So (unintelligible) you don't remember anything...
1445
1446 A: Like about talking about? No.
1447
1448 Q1: But things - so you don't remember - you don't remember or wh- what are you
1449 saying? You don't remember what - what happened afterwards?
1450
1451 A: No.
1452
1453 Q1: Is that what you're saying? Y- y-...
1454
1455 A: No. Yeah...
1456
1457 Q1: ...you don't...
1458
1459 A: ...I don't remember.
1460
1461 Woman: 099 please.
1462
1463 Q1: Um, so you understand where we at 'cause you remember everything leading
1464 up to it.
1465
1466 A: Yeah.
1467
1468 Q1: And then the incident. You even remember the incident but afterwards you
1469 don't remember anything.
1470
1471 A: Well...
1472
1473 Q: That's perception...
1474
1475 A: ...yeah we put our...
1476
1477 Q: ...(unintelligible).
1478
1479 A: ...we put our clothes back on and, uh, we put our clothes back on and we just
1480 started like making out and then that's when we unlocked the door and then let

AA034

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1481 () back in. But we never like we only talked about it like on day like
1482 some days.
1483
1484 Q1: Who locked the door?
1485
1486 A: She did. Actually no I did. I remember locking the door now.
1487
1488 Q1: Okay.
1489
1490 Q: And you don't remember the conversation when you confronted her at school?
1491
1492 A: Like at lunch?
1493
1494 Q: Yeah.
1495
1496 A: Well I just remember like telling her like this is something, you know, serious
1497 and like you can't just like lie like that. Like I just 'cause I just remember like
1498 telling myself like - like 'cause like I just remember being so innocent and I
1499 'cause it still seems that like everything that did I- lead up to that moment was
1500 just entirely consensual.
1501
1502 Q: Well do you think you read signs wrong?
1503
1504 A: No.
1505
1506 Q: But you said earlier that when she said no you thought it meant one thing.
1507
1508 A: Yeah 'cause I thought it did mean like you can keep going just don't go farther.
1509
1510 Q1: Do you understand how warped that is? I know you mean u- I know - I know
1511 I'm kinda figuring out where you were at but you know how warped that is the
1512 perception of that idea is right?
1513
1514 A: Right.
1515
1516 Q1: I mean I- I-...
1517
1518 A: But like...
1519
1520 Q1: ...like you gotta look at yourself and be like that no means - you're having sex
1521 with a girl maybe it's inexperience I don't know. It's not. It's really no me-
1522 me- when someone says no...
1523
1524 A: Right.
1525

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1526 Q1: ...you know what I mean? Like that's...
1527
1528 A: Right.
1529
1530 Q1: ...there's no other way you can...
1531
1532 A: I know. Yeah.
1533
1534 Q1: Don't think you're -- we don't, you know, you're not a monster. You're not --
1535 we're not even gonna call you rapist or anything like that. I think you kind've
1536 -- I think you messed up and made a bad decision or maybe it was just
1537 (unintelligible) moment I don't know but, you know...
1538
1539 A: Right.
1540
1541 Q1: ...I think you fucked up to be honest with you.
1542
1543 A: Right.
1544
1545 Q1: So we're not painting you as a criminal or rapist...
1546
1547 A: I know. I know. I know.
1548
1549 Q1: (Unintelligible) step outside?
1550
1551 Q: Yeah.
1552
1553 Q1: Hang on real quick.
1554
1555 Woman: (Unintelligible). Okay (unintelligible). I haven't looked on the...
1556
1557 Woman: (Unintelligible).
1558
1559 Woman: ...(unintelligible).
1560
1561 Man: (Unintelligible).
1562
1563 Woman: So that was not necessary (unintelligible).
1564
1565 Man: (Unintelligible).
1566
1567 Woman: Yes sir.
1568
1569 Man: (Unintelligible).
1570

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1571 Woman: (Unintelligible). Okay bye.
1572
1573 Q1: (Unintelligible) long. (Unintelligible) we'll be back.
1574
1575 Man: (Unintelligible).
1576
1577 Woman: (Unintelligible). No I (unintelligible).
1578
1579 Man: (Unintelligible).
1580
1581 Woman: 39-87.
1582
1583 Woman: (Unintelligible).
1584
1585 Woman: (Unintelligible).
1586
1587 Man: (Unintelligible).
1588
1589 Woman: (Unintelligible).
1590
1591 Woman: Without thinking.
1592
1593 Man: Is there any more candy in there?
1594
1595 Man: Oh thank god.
1596
1597 Woman: (Unintelligible).
1598
1599 Man: What is this? (Unintelligible).
1600
1601 Woman: (Unintelligible).
1602
1603 Man: (Unintelligible).
1604
1605 Woman: (Unintelligible).
1606
1607 Man: (Unintelligible).
1608
1609 Woman: (Unintelligible) reporting three dogs running in the park...
1610
1611 Man: All right. (Unintelligible).
1612
1613 Woman: ...in the area. They had a secondary collar as well. (Unintelligible) collar
1614 unknown description for the other two dogs.
1615

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1616 Man: (Unintelligible).
1617
1618 Man: No it's (unintelligible). I was - I was walked in (unintelligible).
1619
1620 Woman: Hey (unintelligible). Hey how are you?
1621
1622 Man: (Unintelligible).
1623
1624 Woman: Hey I gotta, um, um...
1625
1626 Man: So what time (unintelligible).
1627
1628 Man: (Unintelligible).
1629
1630 Woman: ...(unintelligible) (Andre Lemar Williams) no address available. It says no
1631 mailing address (unintelligible).
1632
1633 Woman: Okay (unintelligible).
1634
1635 Woman: Okay then I'll go ahead and run it.
1636
1637 Woman: Okay.
1638
1639 Woman: Thank you.
1640
1641 Woman: (Unintelligible).
1642
1643 Woman: Uh-huh bye.
1644
1645 Woman: All right bye.
1646
1647 Q1: I thought you guys had gotten into an argument afterwards. I'm sorry if I
1648 confused you on that one. Apparently that was not the - the - the case. I guess
1649 you guys weren't, um, apparently what was quoted is that they thought you,
1650 you know, () (unintelligible) () thought you were you guys
1651 were arguing...
1652
1653 Man: Detective Marshall.
1654
1655 Q1: ...um...
1656
1657 Man: (Unintelligible) on the phone. (Unintelligible) is the primary (unintelligible).
1658

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1659 Q1: ...I thought you guys were arguing and during the incident it wasn't after so
1660 that's my mistake that's why probably you were confused on that. He's on the
1661 phone with supervisor trying to figure out - trying to figure things out so.
1662
1663 A: Yeah and I just it's so hard 'cause like you know something so serious it's like
1664 hard to talk about and that's why it's like...
1665
1666 Q1: Yeah.
1667
1668 A: ...it makes me sound like...
1669
1670 Q1: I get it. I get it. I mean you probably never been in a - in anything like this
1671 before. I understand.
1672
1673 A: Right. I been to think that like I thought it so much as like a joke because like
1674 something like that I just thought never could happen until, you know, the
1675 deputy or whatever said look, you know, that it was like a rapist or that well
1676 you guys like but it's just like 'cause it's just like you guys weren't there.
1677
1678 Q1: Right. Right.
1679
1680 A: So I like stuttering about it...
1681
1682 Q1: Right.
1683
1684 A: ...and like I sound bad and I hear it I just get so scared.
1685
1686 Q1: Yeah it's all right man. And I - I - I c- I know what you're saying right now.
1687 Um, is it one of those that we had to've been there type things...
1688
1689 A: Yes.
1690
1691 Q1: ...to understand?
1692
1693 A: Yes.
1694
1695 Q1: And from when you talking about it it sounds bad and from our side...
1696
1697 A: I know.
1698
1699 Q1: ...it sounds bad.
1700
1701 A: I know.
1702
1703 Q1: No that's what I'm asking you is that what you're saying...

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1704
1705 A: Yeah.
1706
1707 Q1: ...is it sounds bad?
1708
1709 A: Yeah. Yeah.
1710
1711 Q1: Okay. Well i- I mean I don't want you to -- do- don't -- I don't want you
1712 freaking out or anything right? You're 15 years old.
1713
1714 A: I know.
1715
1716 Q1: You're not a rapist.
1717
1718 Woman: (Unintelligible).
1719
1720 Man: He had to've gone out that way. He had to've (unintelligible) that way.
1721
1722 Q1: So help me understand it so basically I mean is - is she -- did she - is she -- her
1723 accusations against you or whatever I don't know the very much
1724 (unintelligible) very details of this (unintelligible).
1725
1726 A: Right.
1727
1728 Q1: Um, is what she's doing - is what she's doing (unintelligible) like wrong or is
1729 this something that you kinda see like i- it just...
1730
1731 A: I feel like...
1732
1733 Q1: ...both sides.
1734
1735 A: ...it's plainly wrong.
1736
1737 Q1: Really? Okay.
1738
1739 A: And I know it sounds like a lot to say but it's just like I always thought like
1740 saw it as such a big commitment and like both people would have to agree
1741 into doing it and so when it did happen I just thought like - like there was so
1742 much going into it that lead us to that moment...
1743
1744 Q1: Right.
1745
1746 A: ...and to think that she just like saw it off as rape was like that's why I took it
1747 so much as a joke.
1748

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1749 Q1: Oh the whole incident?
1750
1751 A: Yeah.
1752
1753 Q1: Is it - it was - it was the laughing...
1754
1755 A: Yeah.
1756
1757 Q1: ...it's a comical that she would think that is that what you mean?
1758
1759 A: Yeah.
1760
1761 Q1: Okay. Let me talk to my partner.
1762
1763 Woman: (Unintelligible).
1764
1765 Woman: Here ya go. You're welcome. (Unintelligible).
1766
1767 Man: (Unintelligible). I guess. (Unintelligible).
1768
1769 Man: (Unintelligible) right now.
1770
1771 Man: (Unintelligible).
1772
1773 Man: Where are you going?
1774
1775 Man: ROTC.
1776
1777 Man: Can I go with ya?
1778
1779 Woman: Um, so when you go to - to (unintelligible). (Unintelligible) and then - then
1780 (unintelligible). (Unintelligible) and then I'll leave first. All right see you.
1781
1782 Woman: Why did her mother bring her in late?
1783
1784 Woman: Um, they overslept.
1785
1786 Woman: That late? Oh my gosh.
1787
1788 Woman: (Unintelligible).
1789
1790 Woman: (Unintelligible).
1791
1792 Woman: (Unintelligible) sister.
1793

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1794 Woman: Yes.
1795
1796 Woman: (Unintelligible).
1797
1798 Woman: Nye County School District has a report (unintelligible).
1799
1800 Woman: Well you're well in line there. We are pulling in (unintelligible). I need a line
1801 in there (unintelligible). Yes. (Unintelligible). I'm not upset or
1802 (unintelligible). I try to do these all week long. (Unintelligible) so.
1803
1804 Q: How tall are you?
1805
1806 A: How tall am I?
1807
1808 Q: Mm-hm.
1809
1810 A: I'm 5'7".
1811
1812 Q: Do you know how much you weigh?
1813
1814 A: Uh, like 120.
1815
1816 Q: What color are your eyes?
1817
1818 A: Brown.
1819
1820 Woman: (Unintelligible).
1821
1822 Q: Where were you born at? What city and state?
1823
1824 A: Las Vegas.
1825
1826 Woman: (Unintelligible).
1827
1828 Q: Where's mom and dad at?
1829
1830 A: My biological dad...
1831
1832 Man: (Unintelligible).
1833
1834 Man: Yes.
1835
1836 A: ...uh, I don't know and my mom is -- where she lives or?
1837
1838 Q: Yeah.

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1839
1840 Man: (Unintelligible).
1841
1842 A: She lives (unintelligible).
1843
1844 Q: Uh-huh.
1845
1846 A: 20 Lucas Lane.
1847
1848 Man: Is this your backpack (Tyler)?
1849
1850 Woman: Okay.
1851
1852 Q: So she lives right next to you?
1853
1854 A: Yeah she lives with me. I live with my mom and my stepdad.
1855
1856 Q: You live at 940 or 920?
1857
1858 A: 940.
1859
1860 Q: All right.
1861
1862 A: Yeah.
1863
1864 Q: So what's the (Rylight) address?
1865
1866 A: The (Rylight)...
1867
1868 Q: Yeah.
1869
1870 A: ...is our old house.
1871
1872 Q: Mm.
1873
1874 Woman: Hey (Jenny)?
1875
1876 Woman: Yeah.
1877
1878 Woman: Could you do a house visit?
1879
1880 Woman: Yeah.
1881
1882 Woman: (Unintelligible).
1883

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1884 Woman: No I work at (unintelligible) and that's what I'll say.
1885
1886 Woman: Please. Here's the thing is he is really good at (unintelligible). And this is den
1887 home.
1888
1889 Woman: (Unintelligible).
1890
1891 Man: 23 is clear.
1892
1893 Woman: (Unintelligible) number. You did really good.
1894
1895 Woman: (Unintelligible) and then, uh, (unintelligible).
1896
1897 Woman: You're, uh, (unintelligible).
1898
1899 Woman: (Unintelligible).
1900
1901 Woman: (Unintelligible).
1902
1903 Woman: Okay.
1904
1905 Woman: I'll tell it and then like (unintelligible).
1906
1907 Woman: (Unintelligible).
1908
1909 Woman: Hey she and I can do the house visit (unintelligible).
1910
1911 Man: Hello.
1912
1913 Woman: (Unintelligible).
1914
1915 Q: Hey it's (Tol). Hey can you, uh, run someone for (unintelligible) case number.
1916 (Tol).
1917
1918 Woman: Right never crazy.
1919
1920 Q: At the school. Oh.
1921
1922 Woman: (Unintelligible).
1923
1924 Woman: (Unintelligible).
1925
1926 Q: No, no, no, no. I – this should already be a case. I just need to find it. I'll
1927 give you the victim's name. Uh, last of () (unintelligible) .
1928 . First of , , , .

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1929
1930 Woman: (Unintelligible). Right.
1931
1932 Q: Yeah that's probably it. Thank you.
1933
1934 Woman: Right.
1935
1936 Q: Mm? Mm-mm that's it. Right.
1937
1938 Woman: No man (unintelligible). No other than that you have...
1939
1940 Man: 4371.
1941
1942 Man: 4371.
1943
1944 Woman: All right. (Unintelligible).
1945
1946 Woman: (Unintelligible) this is (unintelligible).
1947
1948 Woman: (Unintelligible).
1949
1950 Man: Okay.
1951
1952 Man: So they say (unintelligible).
1953
1954 Man: (Unintelligible).
1955
1956 Man: (Unintelligible).
1957
1958 Man: Hopefully our quarterback can do something (unintelligible).
1959
1960 Man: He hasn't killed you.
1961
1962 Man: Nope. Whatever year we go to the playoffs though. Every year
1963 (unintelligible) playoffs.
1964
1965 Man: Since you (unintelligible).
1966
1967 Man: Every year we've gone to playoffs. Last year we were game before playoffs or
1968 game before Super Bowl. We played the Patriots.
1969
1970 Woman: What about ([REDACTED])? What do you know (unintelligible). I mean I
1971 thought you did.
1972
1973 Woman: I knew that he, uh, (unintelligible). Why is he not coming?

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1974
1975 Woman: Yeah (unintelligible). He said, uh, (unintelligible). I don't have anything
1976 (unintelligible).
1977
1978 Woman: (Unintelligible).
1979
1980 Man: (Unintelligible) estimated (unintelligible).
1981
1982 Woman: (Unintelligible).
1983
1984 Man: (Unintelligible) cause (unintelligible).
1985
1986 Woman: Okay no.
1987
1988 Woman: (Unintelligible).
1989
1990 Woman: Thank you so much.
1991
1992 Woman: (Unintelligible) will be here.
1993
1994 Woman: (Unintelligible).
1995
1996 Woman: What's up?
1997
1998 A: Hey.
1999
2000 Woman: How are you?
2001
2002 A: I'm good.
2003
2004 Woman: What's going on? You all right?
2005
2006 A: Mm, yeah.
2007
2008 Woman: Okay. Hey guys I need (unintelligible).
2009
2010 Woman: (Unintelligible) I don't (unintelligible) thinking.
2011
2012 Man: (Unintelligible).
2013
2014 Woman: Yeah.
2015
2016 Man: See ya.
2017
2018 Man: W- where'd he go? Where'd he go? Okay.

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2019
2020 Man: Dad (unintelligible).
2021
2022 Man: You'll be all right man. Huh? Don't, uh, you'll be all right.
2023
2024 Woman: (Unintelligible).
2025
2026 Man: I mean that.
2027
2028 Woman: Yeah I - I don't know why we have a truancy officer involved.
2029
2030 Man: Why? (Unintelligible).
2031
2032 Woman: (Unintelligible).
2033
2034 Woman: Because these parents don't (unintelligible) kids need to be in school. I don't
2035 know what the deal is.
2036
2037 Woman: It's true. If you look at it...
2038
2039 Woman: They don't think their kids it's - it's important for their kids to be in school.
2040 They don't think it's a law. They don't think anything. It's like sorry my son's
2041 not coming.
2042
2043 ((CROSSTALK))
2044
2045 Man: Yeah I gotcha.
2046
2047 Man: Maybe (unintelligible).
2048
2049 Man: I thought (unintelligible).
2050
2051 Man: (Unintelligible).
2052
2053 Man: I would love (unintelligible).
2054
2055 Man: (Unintelligible) well yeah.
2056
2057 Man: (Unintelligible).
2058
2059 Man: My (unintelligible) south.
2060
2061 Man: Oh (unintelligible).
2062
2063 Man: I did not.

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2064
2065 Woman: You're gonna charge (unintelligible) D.A.'s office...
2066
2067 Q: All right. Here's the thing man. I got JPO here. You're gonna be going with
2068 them. They're gonna go over to your parents okay? Based on the totality of
2069 everything, um, I - I someone says no that means no. Okay? Okay?
2070
2071 A: Okay.
2072
2073 Q1: This doesn't mean that you're - this doesn't mean the end of your life just so
2074 you know. All right I know (unintelligible) at 15 you're going oh, you know,
2075 you're thinking worse case scenario. No I get it I mean (unintelligible). You'll
2076 go - this doesn't mean a conviction that you're c- felon nothing none of that.
2077 It's just the beginning process of the justice system okay? And if it finds out,
2078 you know, in court or whatever it is you find out that this is - this is nothing
2079 and it is nothing or it is something but don't go into panic mode okay? You'll
2080 be all right.
2081
2082 Q: Um, this is JPO okay?
2083
2084 Man: How're you doing (unintelligible)?
2085
2086 Q: He's gonna be, uh, taking you to his office and then from there he's gonna do,
2087 uh, the process with you. You don't go to our jail 'cause you're not an adult so
2088 you're not going to adult jail. Okay? And you're going to be going with
2089 (Thad) here and, uh, he's gonna get a hold of mom, dad? Mom and dad and
2090 then go from there okay? All right do you have any questions for us?
2091
2092 A: No.
2093
2094 Q: Okay, um, as long as you don't go off running we're not gonna put you in any
2095 kind of restraints 'til we get out to the car okay? Please don't run. I don't
2096 wanna run today.
2097
2098 Q1: 'Cause...
2099
2100 Q: Okay?
2101
2102 Q1: ...mo- you have mom and dad home?
2103
2104 A: Yeah.
2105
2106 Q1: So no everything's okay there? Dad's not gonna flip out and beat you or
2107 anything like that is he?
2108

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2109 A: No.
2110
2111 Q1: Okay. All right.
2112
2113 Man: Have you talked to them about this at all?
2114
2115 A: Yeah and I haven't talked to them in a while because of how long ago the
2116 situation was.
2117
2118 Q1: Okay.
2119
2120 Q: Okay, um, the only thing that I'm gonna add is you need to tell your friends
2121 that they need to stop - stop messaging and - and - and bothering her.
2122
2123 Q1: Let the state handle it.
2124
2125 Q: Okay? I'm not saying you go and talk to her 'cause I'm telling you don't but y-
2126 y- you need to get your friends to stop...
2127
2128 A: Okay.
2129
2130 Q: ...confronting her with stuff like this 'cause it's getting real close to the point
2131 where I'm gonna start to...
2132
2133 Q1: Intimidating a witness?
2134
2135 Q: ...yeah I'm - I'm - I'm gonna start arresting your friends for intimidating a
2136 witness.
2137
2138 Q1: Get us in between this. It's between you and her and I get it. Your buddies are
2139 trying to help.
2140
2141 Q: We get it so okay?
2142
2143 A: Okay.
2144
2145 Q: All right. Go ahead and stand up. You're gonna go with him.
2146
2147 Woman: [REDACTED] please come to the main office.
2148
2149 Man: You wanna wait 'til after passing period.
2150
2151 Q: Oh yeah, yeah, yeah, yeah. Yeah, yeah let's wait until after passing period.
2152
2153 Man: For real though.

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2154
2155 Man: I'm gonna get a hold of mom and have her meet us at the office.
2156
2157 Q: Okay. Um, are any of your parents, um, at home right now or do they work?
2158
2159 A: Uh, I think both of them are working.
2160
2161 Q: Okay.
2162
2163 A: Except for my mom.
2164
2165 Q: Okay. We're gonna wait all right so we're gonna wait until after passing
2166 period. No reason for them to...
2167
2168 Man: Right.
2169
2170 Q: ...see you go out with us.
2171
2172 Man: Your mom's (Marcie)?
2173
2174 A: Yeah.
2175
2176 Man: (Unintelligible) went to school together. Where does your mom work now?
2177
2178 A: She works at, uh...
2179
2180 Man: (Unintelligible).
2181
2182 A: ...(Gold Town).
2183
2184 Q: (Unintelligible).
2185
2186 Man: And so she's working right now?
2187
2188 Q: (Unintelligible)...
2189
2190 A: Yeah I'm pretty sure.
2191
2192 Q: ...a lot (unintelligible) when you came into (unintelligible).
2193
2194 ((CROSSTALK))
2195
2196 Man: Will she be able to answer the phone?
2197
2198 Q: You guys talk some?

2199
2200 A: Yeah she'll...
2201
2202 Man: What was he doing with?
2203
2204 Q: Huh?
2205
2206 Man: What was he doing?
2207
2208 Man: And, uh, which number is hers?
2209
2210 A: It's 209-8342.
2211
2212 Man: I'm gonna step in this other office and give her a call.
2213
2214 A: Okay.
2215
2216 Q: How long's passing period?
2217
2218 Q1: Five minutes.
2219
2220 Q: (Unintelligible).
2221
2222 Q1: Dude what you want me to do? Put 'em on lockdown?
2223
2224 Q: Yeah.
2225
2226 Q1: Okay just so you could walk out the front door without being seen?
2227
2228 Q: Kind of.
2229
2230 Q1: (Auggie)'s been giving me a bunch of shit about my hair. Says I should shave
2231 it.
2232
2233 Q: Yeah why don't you shave it?
2234
2235 Q1: I just don't know if (unintelligible).
2236
2237 Q: You look like a bird.
2238
2239 Q1: Okay like a bird? Like what kind of bird though? Like Big Bird was pretty
2240 ugly.
2241
2242 Q: (Unintelligible).
2243

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2244 Q1: I know I'm just saying though. Like what bird are we talking about 'cause
2245 there's some good-looking birds. Maybe like an eagle. Like I could be like
2246 like a (unintelligible).
2247
2248 Q: (Unintelligible).
2249
2250 Q1: Nah, nah I think that's where you're going with that. I don't like
2251 (unintelligible).
2252
2253 Q: (Unintelligible) eagle.
2254
2255 Q1: I like that. Yeah thanks y- man. You like (unintelligible) my self esteem there
2256 a little bit.
2257
2258 Q: Okay you mean a bald eagle. Like the most un-American looking bald eagle
2259 I've ever seen.
2260
2261 Q1: Yeah I don't know if I can pull it off though man.
2262
2263 Q: I mean y- you can't pull that off either.
2264
2265 Q1: (Unintelligible). I mean (unintelligible) so it's hard to be (unintelligible) but
2266 I'm just saying. I think (Auggie) and (Hoffman) have a different point of
2267 view.
2268
2269 Q: Oh yeah they're taller than anyone.
2270
2271 Q1: That's what I'm saying. I don't wanna shave.
2272
2273 Q: Okay then don't. Then just be made fun of. Or shave it and be made fun of.
2274
2275 Q1: That's what I'm saying like either way it's a lose/lose situation.
2276
2277 Q: If you ever change agencies you're gonna have to change your name like
2278 legally.
2279
2280 Q1: You think so?
2281
2282 Q: Guarantee it.
2283
2284 Q1: You think anyone else will hire me though?
2285
2286 Q: Huh?
2287
2288 Q1: You think someone will hire me?

2289
2290 Q: No I don't think we would re-hire you.
2291
2292 Q1: No, no do you think another agency would hire...
2293
2294 Q: No, no but I don't think we would re-hire you.
2295
2296 Q1: Re-hire.
2297
2298 Q: Mm?
2299
2300 Q1: I think so.
2301
2302 Q: I don't think so.
2303
2304 Q1: A- after what we've seen in the past, um, I think - I think they would re-hire
2305 me.
2306
2307 Woman: We can do that outside. Uh, can I ask you a quick question? In regards to,
2308 um, the [REDACTED] boys so (unintelligible) ever file a report with you guys the
2309 one boy getting hit at the sheriff's (unintelligible)?
2310
2311 Q1: Yeah. Yeah I took a report.
2312
2313 Woman: Okay dad's and the boys are here and they wanna talk to somebody.
2314
2315 Q1: Okay just have them hang out for a few minutes. There'll be - when passing
2316 period's over they're gonna leave and I'll take care of that.
2317
2318 Woman: Okay. Okay.
2319
2320 Woman: (Unintelligible) 1-19-7.
2321
2322 Q1: I don't think I'd get hired anywhere else. 'Cause I've thought about going to
2323 (unintelligible).
2324
2325 Man: (Unintelligible) get a proper nameplate man.
2326
2327 Q1: Proper oh yeah.
2328
2329 Q: Like a proper name. Something that doesn't inferce you know fear in the
2330 cannon world.
2331
2332 Q1: Yeah. I mean there's like - I - I told, uh, who did I talk to it's a
2333 (unintelligible) there's a (unintelligible) position (unintelligible) put in for.

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2334

2335 ((CROSSTALK))

2336

2337 Man: (Unintelligible) if she has any questions.

2338

2339 Man: (Unintelligible).

2340

2341 Q: You got mom?

2342

2343 Man: It's (Marcie) (unintelligible).

2344

2345 Q1: Uh, point of contact will be (unintelligible).

2346

2347 Man: Okay. Do you have a card (Billy)?

2348

2349 Q: Um, I don't, um, my cards are all old.

2350

2351 Q1: Never got a card. You need to get some cards man.

2352

2353 Q: Yeah I've asked for 'em but all my cards just say deputy on it now. I could
2354 scratch it out and put detective but...

2355

2356 Man: Just (Murphy) just keeps telling us to go to (unintelligible).

2357

2358 Man: You have went above and beyond.

2359

2360 Woman: (Unintelligible). I don't have his size.

2361

2362 Q: What'd you do Fancher?

2363

2364 Q1: I got a compliment.

2365

2366 Q: From who?

2367

2368 Q1: (Unintelligible)

2369

2370 Man: Yeah.

2371

2372 Q1: See now no...

2373

2374 Man: (Unintelligible).

2375

2376 Q1: ...see they refused it anyway.

2377

2378 Man: Has he, uh...

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2379
2380 Q: You want me to like write my name on it?
2381
2382 Man: Yeah. And I'll just give it to mom when we get into it.
2383
2384 Q1: Saw a really tall guy with (unintelligible).
2385
2386 Woman: Scary, uh, yeah.
2387
2388 Man: Hot.
2389
2390 Woman: (Unintelligible). Here buddy. Oh my god I mean really.
2391
2392 Q1: Mm-hm. So you wonder why I work in schools man. We get school – this is
2393 it all the time.
2394
2395 ((CROSSTALK))
2396
2397 Q1: It's always like snacks or something.
2398
2399 Man: Not bad. Yeah, yeah, yeah.
2400
2401 Q1: It's really not.
2402
2403 Man: You're away from admin.
2404
2405 Q1: Yeah.
2406
2407 Man: That's the most important.
2408
2409 Q: Right.
2410
2411 Q1: Yeah it is.
2412
2413 Q: Are they - are they clear? Are they done?
2414
2415 Q1: Mm-hm.
2416
2417 Q: All right come on let's go.
2418
2419 Man: (Unintelligible).
2420
2421 Q: All right cool.
2422
2423 Q1: See you later.

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2424

2425

2426

2427

2428

The transcript has been reviewed with the audio recording submitted and it is an accurate transcription.

Signed _____

FILED
FIFTH JUDICIAL DISTRICT

MAR 11 2021

Nye County Clerk

~~Brittani Smith~~ Deputy

IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF NYE

THE HONORABLE ROBERT W. LANE, DISTRICT JUDGE

-oOo-

In the Matter of:

EDWARD STEEVES,

A Child.

)
) MOTION TO SUPPRESS

) MARCH 8, 2021

) 1:50 P.M.

) PAHRUMP, NEVADA

APPEARANCES:

For the State:

KIRK D. VITTO, ESQ.
CHIEF DEPUTY DISTRICT ATTORNEY
Nye County Courthouse
Pahrump, Nevada 89060

For the Defendant:

DANIEL MARTINEZ, ESQ.
DEPUTY PUBLIC DEFENDER
552 East Charleston Boulevard
Las Vegas, Nevada 89104

Juvenile Probation
Officer:

RANDALL SALTZMAN

The Child:

EDWARD STEEVES

Reported by: CECILIA D. THOMAS, RPR, CCR No. 712

1 PAHRUMP, NYE COUNTY, NEVADA, MONDAY, MARCH 8, 2021

2 1:50 P.M.

3 -oOo-

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

5
6 (The following testimony was recorded and
7 later transcribed by a certified court reporter
8 from the JAVS Recording System.)

9 THE COURT: Edward Steeves, 19-0015.

10 ~~All right. Counsel, I show a Motion to~~
11 Suppress filed by Mr. Martinez, so why don't you go
12 ahead and get started for me.

13 MR. MARTINEZ: Thank you, Judge.

14 THE COURT: Thank you.

15 MR. MARTINEZ: Your Honor, I filed this
16 Motion to Suppress Mr. Steeves' statements that he
17 made to the Nye County Sheriff's Office. The
18 circumstances surrounding that are that the
19 Nye County Sheriff's Office was investigating
20 Mr. Steeves for the Petition that was ultimately filed
21 against him. They went down to school. They pulled
22 him out of class without the permission of the
23 principal or anyone at the school without notifying
24 Mr. Steeves's guardians, sat him in a room, they read
25 him his Miranda rights. Mr. Steeves said that he

1 waived those Miranda rights and then proceeded to talk
2 to members of the Nye County Sheriff's Office.

3 In order for that waiver of Miranda to be
4 valid, it must be knowing, intelligent, and voluntary.
5 Your Honor, it's my position that no 15-year-old in
6 the country can knowingly, voluntarily, and
7 intelligently waive their Miranda rights without their
8 parent or guardian present. The case law that I cited
9 to in my Motion clearly states that it is a strong
10 preference to have a parent or guardian there when a
11 minor is being interrogated and read Miranda by
12 police, and whenever feasible that should be the case.

13 But the case law says it doesn't always
14 have to be the case. That's my position, Judge. And
15 I take that position based on all of the other rules
16 and all of the other laws that we have here in the
17 state and in the country. Every single one of us, we
18 are born with constitutional rights. We can own a
19 firearm, we can vote, we can get married, we can hold
20 office, unless you're a minor. Then you can't
21 purchase firearms, then you can't vote, then you can't
22 hold office, you can't get married.

23 Why did we make it that way, Judge?
24 Because we know that minors -- their brains are not
25 fully formed yet. They haven't gotten to that point

1 where they can make those rational decisions, they can
2 waive the pros and cons. They don't have the life
3 experience needed in order to exercise those
4 constitutional rights. It hasn't formed yet when
5 they're that age.

6 But the stance that we have is that, "Hey,
7 you minors, they can't exercise all of these
8 constitutional rights because their brains aren't
9 fully formed, they don't know what they're doing, they
10 are not smart enough to exercise those constitutional
11 rights. But it's perfectly okay for them to waive a
12 constitutional right without their parent or guardian
13 present. And I don't agree with that at all,
14 Your Honor. I think that doesn't make any sense at
15 all. If a minor needs a parent or guardian present to
16 exercise a constitutional right, logic would follow
17 that they absolutely need a parent or guardian present
18 to waive a constitutional right.

19 Beyond the U.S. Constitution, the
20 procedures in place here in Nye County say the same
21 thing. The procedures from the Sheriff's Office are
22 that when they pull a child out of school they are
23 supposed to notify the principal. Why is that?
24 Because the school district has a policy that when a
25 child is being interviewed by members of the

1 Nye County Sheriff's Office, they notify the parents
2 so the parents can come down; they can be a part of
3 that interview; they can help their child make a
4 knowing, voluntary, and intelligent decision about
5 whether or not to waive their Miranda rights and
6 continue speaking to police.

7 That didn't happen in this case.
8 The school district couldn't follow through with their
9 end of the policy because they were never notified by
10 the Nye County Sheriff's Office. They went in -- they
11 violated their own policy. So Mr. Steeves, in the
12 interview, quickly read his Miranda rights, like every
13 adult is quickly read their Miranda rights. At this
14 point, he's got an eighth grade education. He's never
15 had any experience with law enforcement, any
16 interaction with them whatsoever. He does not
17 understand what his Miranda rights are and what they
18 mean. He can't possibly knowing and intelligently
19 waive those rights in order to give a statement to
20 police.

21 But that's a burden we're holding him to.
22 We're holding him to a burden that all of the adults
23 are held to. Everything else that we have in our
24 country, in society, everything says that we shouldn't
25 hold minors to the same standard that we hold adults

1 to because they're not mature, they're not smart
2 enough, their brains haven't formed yet. But that's
3 the standard that the State wants to hold him to here
4 and still allow his statements in.

5 Part of that reason is how minors will
6 interact with adults. And we saw that in this
7 interview, Judge. Mr. Steeves started this interview
8 by saying, "I didn't do anything wrong. I didn't do
9 this. I didn't do this." But then through the
10 interrogation, through the badgering, through the
11 repeated questioning, through the techniques of
12 seasoned detectives, his story ends up changing
13 because they're asking questions and they're pointing
14 him in the direction that they want him to go so they
15 can get the information that they want so they can
16 bring him here with a Petition today, Judge.

17 These statements should be suppressed. We
18 should hold law enforcement to a higher standard,
19 everybody to a higher standard to make sure that the
20 constitutional rights of everybody, and especially
21 minors, are protected from this point going forward.
22 And for that reason, I'm asking the Court to suppress
23 all of Mr. Steeves' statements that he did make to law
24 enforcement.

25 And if needed, Judge, if you need more

1 information, we can certainly set this matter for an
2 evidentiary hearing. I know you've seen some proof
3 that we know the Nye County Sheriff's Office violated
4 their policy when they pulled him out without talking
5 to the principal, and I know that we have proof that
6 it is the school policy to notify parents when kids
7 are being spoken -- when police are interviewing the
8 kids in school. So if you need more information, we
9 can certainly set this matter for an evidentiary
10 hearing, and we can take it from there.

11 THE COURT: Thank you, sir.

12 MR. MARTINEZ: Thanks, Judge.

13 THE COURT: Mr. Vitto?

14 MR. VITTO: Thanks, Judge. The facts of
15 this issue aren't really in dispute. What actually
16 took place isn't being disputed. However, if this
17 Court was interested in listening to the interview,
18 listening to the officers testify in relation to it,
19 that's fine. We can have that hearing.

20 As the Court will hear, there was no
21 badgering. The statements that the Defense is seeking
22 to have suppressed clearly, the officers were told
23 that the sex was consensual. Yes, the young man said
24 she said no, but he thought it meant something other
25 than no. The School District policy is not

1 controlling here in respect -- at all, in respect to
2 what actually took place. And as my -- the District
3 Attorney set forth, there's no basis to suppress these
4 statements.

5 The detectives met the young man in an
6 administrative room at Pahrump Valley High School. He
7 was seated in a well-lighted room in a padded chair.
8 He was not handcuffed. He was not restrained. There
9 were school employees present. So whether someone
10 said to the principal, "Hey, we're doing this,"
11 clearly and obviously the school knew. They were
12 there; they were present. It took place in the school
13 with school employees in the area.

14 He was then read the Miranda warnings.
15 "You have the right to remain silent. If you give up
16 that right to remain silent, anything you say can be
17 used against you in a court of law. You have the
18 right to an attorney. If you can't afford an
19 attorney, an attorney will be appointed to represent
20 you. You don't have to talk to us at all. You don't
21 have to answer any questions, and because you're a
22 juvenile, you have the right to have a parent or
23 guardian present." He was again told that he didn't
24 have to talk to anybody if he didn't want to.

25 Despite the warnings that every kid has

1 seen on television or in social media or is otherwise
2 aware of, he began to talk. As the District Attorney
3 pointed out on page 3 of the Opposition, "To call the
4 interrogation tactics" -- quote-unquote -- "badgering
5 would be to stretch credulity to its very limits."
6 During the entire interview, he denied taking part in
7 any nonconsensual sexual conduct, and in fact, stated
8 that when consent was revoked, he stopped. It was
9 roughly 90 minutes, 87. Two breaks were taken
10 totaling about ten to 15 minutes.

11 The District Attorney points out that after
12 conceding that a juvenile defendant is entitled to the
13 same protections under Miranda as an adult under
14 Marvin, a Minor, v. the State of Nevada, the whole of
15 the right to Miranda warnings is elementary. The
16 premise is not disputed. The fact of the matter is he
17 was fully informed of his Miranda rights at the very
18 beginning of the interview; told he could remain
19 silent; told exactly what would happen; given the
20 opportunity, every opportunity to stop, to not answer
21 questions, to have an attorney present, to have a
22 parent or guardian present; and on two separate
23 occasions told that he didn't have to speak to police
24 officers at all. He decided to speak with police
25 officers.

1 The requirement, and all we're here for, is
2 whether the requirements of Miranda v. Arizona were
3 met. The requirements of Miranda were clearly,
4 unequivocally, beyond dispute met prior to the
5 commencement of questioning. If that's the basis to
6 suppress, the Defense Motion fails.

7 If the Court wants to hear evidence, that's
8 fine. It's certainly something we have no objection
9 to. But the entire matter was captured on video. It
10 was hardly a police dominated environment. There was
11 no restraint. The environment was by no means
12 threatening. Every response was voluntary, willing,
13 knowing. He would even, during the interview, dispute
14 the detectives. He had the wherewithal. This was not
15 a helpless child. He had the wherewithal to dispute
16 characterizations of his answers and questions. There
17 were no strong-arm tactics used.

18 Many of the statements were made,
19 volunteered without even a question. The tone of the
20 conversation was civil. No threats. No verbal
21 threats. No physical intimidation. The defendant
22 simply responded to questioning in a knowing and
23 voluntary fashion.

24 The District Attorney points out that the
25 fact that he was 15 years old at the time could hardly

1 be said to render his voluntary responses involuntary.
2 And a review of the questioning, the video, and what
3 would come out in testimony would bear that out.

4 And again, he was informed twice that he
5 didn't have to speak to police at all. And all of
6 this was provided before questioning even began.
7 Based on the totality of the circumstances, he chose
8 to voluntarily answer all of the police questioning
9 without hesitation, without badgering. And clearly,
10 any review of the evidence or the video, which isn't
11 contested -- factually what occurred isn't
12 contested -- it is what it is. Everybody's seen it.
13 There was no lack of sophistication of at least a
14 normal 15-year-old child. His answers are clear. His
15 answers are cogent. They're responsive to the
16 questions put to him and illustrative of the fact that
17 he is aware of what he's been accused of.

18 The District Attorney contends -- finishing
19 up on page 5, "To contend that he was unable to
20 understand the waiver of his rights is a smoke screen
21 at best." This motion should be denied.

22 THE COURT: Anything else?

23 MR. MARTINEZ: Judge, the State argues here
24 that essentially Miranda was followed. He was read
25 his Miranda rights; that's it. That's not it. The

1 next portion of it is whether or not those rights were
2 knowingly, voluntarily, and intelligently waived. And
3 Miranda rights are essentially instructions. This is
4 where we are.

5 In my career as an attorney, I can't tell
6 you how many times I've seen people come into court
7 and to be given instructions by the Court, orders on
8 what to do when they're out of custody. And then they
9 call us to say, "I didn't quite understand what he
10 said. I didn't quite understand what they were
11 talking about," if I get a call. They may just not
12 understand and continue doing what they're doing. And
13 then when they get in trouble, they say, "Well, I
14 didn't understand."

15 The normal person that we deal with doesn't
16 hear instructions one time and say, "I got it. I
17 figured it out. I understand. I'll do exactly what
18 you're telling me to." That's where -- much less any
19 child. But again, that's a standard that we want to
20 hold a 15-year-old to here, Judge. He was read the
21 Miranda rights, yes. And we're expecting him to
22 understand them, process them, analyze them in the
23 situation he's in where he's confronted by two members
24 of the Nye County Sheriff's Office.

25 No 15-year-old can do that. No, not one.

1 It's for that reason his rights were not knowingly and
2 intelligently waived. They cannot be knowingly and
3 intelligently waived without the presence of a
4 guardian, without an adult to help him out, to help
5 him understand. That's my position, Judge. And
6 that's the reason why I'm asking the Court to suppress
7 his statements.

8 THE COURT: Thank you, Sir.

9 Anything else?

10 MR. Vitto: Yes. It isn't the law. To say
11 that no 15-year-old can do this without the advice of
12 a parent or a guardian, is not the law. That's the
13 position that the Defense takes. That's the position
14 he wants to argue, but it's not the law. You can't do
15 that. You can waive without the presence of a parent
16 or guardian.

17 And we're not talking about any
18 15-year-old. And I'm not the moving party. The
19 Defense is the moving party. He wants to throw a
20 blanket over every 15-year-old and say, "As a matter
21 of law, no 15-year-old can do this." But we don't
22 care about every 15-year-old. We care about this
23 15-year-old. And I'm not the moving party. The
24 Defense has to convince you that this 15-year-old
25 couldn't knowingly, willingly, voluntarily waive and

1 engage with the police. He hasn't done it.

2 THE COURT: My understanding of what's
3 currently going on with the Nevada Supreme Court and
4 the legislature is that they are slowly progressing
5 towards the point that they're going to order, or
6 legislate, that every juvenile who is interviewed has
7 to have an attorney present and it has to be
8 videotaped. That's the direction they're going in.
9 They haven't reached it yet, but they're going in that
10 direction.

11 Most of Mr. Vitto's argument is the
12 standard argument that would be made in adult
13 situation with adult being given a waiver, the Miranda
14 waivers, and so forth, and he correctly argued it.
15 The Defense's point is this isn't an adult, it's a
16 15-year-old. Whereupon, Mr. Vitto said, "Well, for
17 most 15 year olds, maybe it would be a good argument.
18 But for this 15-year-old, it isn't."

19 -the question is of course, did he
20 knowingly, intelligently, and voluntarily waive. And
21 I agree with Mr. Vitto that we need to take these on a
22 case by case basis and not make a ruling today that
23 sets precedence for all cases. We have to look at the
24 totality of the facts and the circumstances.

25 In this case, however, there were I believe

1 about six complaints or so by the parents to the
2 Nye County Sheriff's Office and the school about
3 things that everybody did wrong. And the Nye County
4 Sheriff's Office reviewed it, and the school did, and
5 they came back and they said, "We didn't do anything
6 wrong, except one thing. We have a policy," the
7 Sheriff's Office says, "that whenever you go to
8 interview a child, you have to first notify the
9 principal so that the school can do their policy."
10 The Sheriff's Office failed to do that. And the
11 officer was found in violation of that policy.

12 Therefore, we have to hold police to proper
13 policies and procedures, and they did not do so, and
14 based on that, I am suppressing the statement. The
15 Sheriff's Office has to follow proper policy, notify
16 the principal, who then has to do what he has to do.
17 And then in that situation depending on each case fact
18 specific -- it may be a situation where they did what
19 they were supposed to and the parents didn't come down
20 and the kid confessed and the Defense stands up and
21 says, "We object. He's just a kid." And I would
22 probably say, "No, it's fine." Depending on each
23 case. But in this one, the Sheriff's Office didn't do
24 their proper policy, so I'm going to suppress the
25 statements.

1 MR. VITTO: Now, here's the conundrum that
2 I'm in. It doesn't hurt our case. We can go forward,
3 we have the victim. We will appeal this decision,
4 however. But the problem with appealing this decision
5 is if there's no record. We don't have the video as
6 part of the record. We don't have the officer's
7 statement. So what I would ask, I would ask if we can
8 make the video, at least make the video a part of the
9 record so that we can reference it on appeal.

10 THE COURT: All right. And are you talking
11 about filing a Writ? Because the appeal is going too
12 late probably.

13 MR. VITTO: We have specific -- I think we
14 have to appeal suppression -- a suppression that's
15 been granted, like two or three days --

16 THE COURT: Right.

17 MR. VITTO: -- we have to appeal it.

18 THE COURT: Yeah. Who has that video that
19 you want to make part of the record?

20 MR. MARTINEZ: We both do.

21 MR. VITTO: Yes.

22 THE COURT: All right. So any objection to
23 making it part of the record?

24 MR. MARTINEZ: No, Judge.

25 THE COURT: All right.

1 MR. MARTINEZ: That's fact -- as he said,
2 it's fact not disputed.

3 THE COURT: Besides the video, which I'm
4 ordering to be made part of the record, is there
5 anything else that you were referring to, Mr. Vitto,
6 that you want to be part of the record?

7 MR. VITTO: You know what, I'm fine with
8 that, Judge.

9 THE COURT: Okay. Anything else for today?

10 MR. MARTINEZ: I don't - well, Judge, I
11 would say we need to set the next hearing which would
12 be an evidentiary hearing, but if the State is going
13 to appeal this decision, I know they have to do it
14 pretty quickly. I think we kind of wait for the
15 appeal to run its course before we set an evidentiary
16 hearing.

17 THE COURT: Kirk, status check, how far
18 out?

19 MR. VITTO: Status check, four months.

20 THE COURT: July 12th.

21 MR. VITTO: Thanks, Judge.

22 THE COURT: July 12th, 1:15.

23 MR. MARTINEZ: Thanks, Judge.

24 THE COURT: Thank you.

25 -oOo-

1 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF THE
2 PROCEEDINGS.
3
4

5 *Cecilia D. Thomas*

6 Cecilia D. Thomas
7 RPR, CCR No. 712
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FILED
FIFTH JUDICIAL DISTRICT

JAN - 4 2021

Nye County Clerk

~~Brittany Smith~~ Deputy

IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF NYE

In the Matter of

EDWARD MATTHEW STEEVES,

A Child.

MOTION TO SUPPRESS
DEFENDANT'S STATEMENTS

COMES NOW, the Juvenile, Edward Matthew Steeves, by and his through his Public Defender Daniel E. Martinez, Esq., of Daniel Martinez Law, LLC, and hereby moves the Court for an Order suppressing his statements made to law enforcement.

This motion is made and based on all the papers and pleadings on file herein, the Points and Authorities submitted herewith, the exhibits attached hereto, and any further evidence and argument may be adduced at the hearing of this matter.

DATED this 4th day of January, 2021.

Daniel Martinez Law, LLC



Daniel E. Martinez, Esq.
Nevada Bar No.: 12035

NOTICE OF MOTION

TO: Nye County, Plaintiff; and

TO: District Attorney, its Attorneys;

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion to Suppress Defendant's Statements on Calendar for hearing in Department 2 of the above-entitled Court on the 1st day of February, 2021, at 1:15 p.m. or as soon thereafter as counsel may be heard.

DATED this 4th day of January, 2021.

Daniel Martinez Law, LLC


Daniel E. Martinez, Esq.
Nevada Bar No.: 12035

DANIEL MARTINEZ LAW

POINTS AND AUTHORITIES
FACTUAL BACKGROUND

On September 25, 2019, Deputy Tolle responded to Pahrump Valley High School due to an allegation by Jada Boley (hereinafter "Jada") that her ex-boyfriend, Edward Steeves (hereinafter "Eddie"), committed a sexual assault of her on September 6, 2019 (hereinafter "the incident"). The Nye County Sheriff's Office conducted an investigation of the reports, interviewing Jada several times in addition to alleged witnesses.

On December 10, 2019, Detectives Marshall and Fancher interviewed Eddie at Pahrump Valley High School in relation to the incident. Eddie was born on October 5, 2004, and at the time of the interview he was half way through his freshman year of high school. The Detectives report advising Eddie of his *Miranda* rights in addition to apprising Eddie of his right to have a parent present for the interview. Eddie proceeded to speak with the Detectives without counsel or his parents present. The Police Report does not document that Eddie indicated an understanding of the rights he was waiving.

During the interview, Eddie repeatedly denied any wrongdoing. Despite his denials, the Detectives repeatedly told Eddie that he raped Jada until he began to cry. The Detectives further insisted to Eddie that he admitted to wrongdoing, despite Eddie's repeated insistence they were misunderstanding him. Eddie was subsequently charged with Sexual Assault.

LEGAL ARGUMENT

The Due Process Clause, as well as the accused's right not to be compelled to be a witness against himself/herself incorporated in the Fifth Amendment of the United States Constitution and Article I section 2 of the Nevada Constitution, have been fashioned and adopted to deal with certain heinous realities of archaic criminal justice systems. The Miranda warning must be given when a person is deprived of freedom of action in any significant way. *Miranda v. Arizona*, 384 U.S. 436, 16 L.Ed. 2d 694 (1966). This law was adopted in Nevada and made mandatory during custodial interrogations initiated by police officers. *Skinner v. State*, 83 Nev. 380, 432 P.2d 675 (1967). The juvenile is entitled to the same Four

1 and Fourteenth Amendment protection afforded to adults. *Marvin, a Minor v. The State of Nevada*,
2 Nev. 836; 603 P.2d 1056 (1979).

3 In *Miranda*, the court defined an in-custody interrogation as "[q]uestioning initiated by la
4 enforcement officers after a person has been taken into custody or otherwise deprived of his freedom
5 action in any significant way." *Id.* To determine whether a custodial interrogation has occurred, th
6 Court must consider the totality of the circumstances, including: (1) the site of the interrogation, (c
7 whether the objective indicia of an arrest are present and (3) the length and form of questioning. *Alwai*
8 v. *State*, 112 Nev. 141, 155, 912 P.2d 243, 252 (1996). The other objective indicia of arrest include: (c
9 whether the suspect was told that the questioning was voluntary or that he/she was free to leave; (c
10 whether the suspect was not formally under arrest; (c) whether the suspect could move about free
11 during questioning; (d) whether the suspect voluntarily responded to questions; (e) whether th
12 atmosphere of questioning was police-dominated; (f) whether the police used strong-arm tactics
13 deception during questioning; and (g) whether the police arrested the suspect at the termination
14 questioning. *State v. Taylor*, 114 Nev. 1071, 968 P.2d 315 (1998) & *United States v. McKinney*, 88 F.
15 551, 554 (8th Cir. 1996). All seven factors need not be present in order to determine that the suspe
16 was or was not in custody. *Id.*

19 Courts have noted that the prosecution has the burden of proving, usually by a preponderance
20 the evidence, that the *Miranda* warning was sufficient and that if there was a waiver of those rights th
21 it was intelligently, knowingly, and voluntarily made. *Colorado v. Connelly*, 479 U.S. 157, 93 L.Ed.
22 473 (1986). The government's burden to show *Miranda* was waived knowingly, willingly, a
23 intelligently is heightened when dealing with juveniles because they may not adequately understand t
24 right against self-incrimination. *In re Gault*, 387 U.S. 1, 18 L.Ed. 2d 527 (1967). In *Blackburn*
25 *Alabama*, 361 U.S. 199 (1960), the court held that in order for an interrogation to carry the taint
26 coerciveness, there need not be a showing of physical threats. Instead the court held that if, in the total
27 of circumstances an atmosphere of coercion is created, the statements are involuntary in nature. *Id.*
28

1 indicating that coercive confessions erode the values of society and humanity, the court stat
2 "[c]oercion can be mental as well as physical, and that the blood of the accused is not the only hallma
3 of an unconstitutional inquisition" *Id* at. 206.

4 Before being interviewed, a child should be advised of his rights and cautioned that any answe
5 may be used in criminal courts as well as before the juvenile court. Special efforts should be mad
6 especially in the case of young children, to interview the juvenile only in the presence of a parent
7 guardian. *Harling v. United States*, 111 U.S. App. D.C. 174, 295 F.2d 161, 163-64 n. 12 (1961
8 Although a juvenile does have the capacity to make a voluntary confession without the presence
9 assent of a parent or guardian, and a confession is not psychologically coerced or involuntary simp
10 because no adult assented to it, it is preferred that a responsible custodian be present. *Stokely v. State*
11 *Maryland*, 301 F.Supp. 653, 660 (D.Md. 1969); *People v. Lara*, 432 P.2d 202, 212 (Cal. 1967); *In*
12 *J.F.T.*, 320 A.2d 322, 324 (D.C App. 1974). Absent extraordinary circumstances, this should always
13 the policy when a child is being questioned or a formal statement concerning his participation is bei
14 taken.

15 However, if a parent is not present, the trial court should consider the sophistication of t
16 defendant and factors such as age, education, and other pertinent facts in determining whether a wai
17 of Miranda outside the presence of a parent was sufficient. *In re J.F.T.*, 320 A.2d 322 (D.C. App. 197
18 Clearly, the more serious the offense and the younger the accused, the greater the precaution that shou
19 be taken in the interrogation process. Because of a child's presumed immaturity, special safeguar
20 should be placed around police interview in investigating a delinquent act since it is not known at t
21 time whether or not the juvenile court will retain jurisdiction over the case or permit trial in an ad
22 criminal court. NRS 62B.390. It cannot always be assumed that the police interview will lead only to
23 non-criminal proceeding.

24 In this case, it is undisputed that Eddie was subjected to a custodial interrogation. Detectiv
25 Marshall and Fancher detained Eddie and advised him of his Miranda rights and his right to hav
26

parent present. Eddie agreed to speak with the Detectives about the incident at that time. However, because of his age, Eddie could not knowingly, intelligently, and voluntarily waive his *Miranda* rights outside the presence of a parent under the circumstances.

Eddie was fourteen (14) years old at the time of the incident, and barely fifteen (15) when interviewed by Detectives. As such, at the time he allegedly intelligently, knowingly, and voluntarily waived his *Miranda* rights without first speaking to a parent, guardian, or counsel, he had, at most, an eighth (8th) grade education. Furthermore, prior to that day, Eddie had never interacted with law enforcement or been in trouble, so he had no familiarity with the criminal justice system, nor the reality of interacting with the police as the subject of an investigation. Middle school does not cover the concept of waiving one's rights against self-incrimination under the Constitution. It is likely the typical ninth (9th) grader does not know what it means to "waive" one's Constitutional rights. As such, it is likely that Eddie had never heard about the criminal justice concepts covered in *Miranda* warnings before being "advised" by the Detectives in the middle of a school day.

Under the circumstances, any statement procured from Eddie would be coerced and involuntary, and thus, the Detectives should have attempted to inform and involve Eddie's parent or guardian in order to get a thorough waiver of rights. This becomes more apparent by the conduct and demeanor of the Detectives as documented in their report. Detectives repeatedly badger Eddie into "admitting" wrongdoing despite his repeated denials. Eddie begins to cry under the circumstances as the Detectives put words in his mouth and tell him he has already admitted to the crime. These statements are obtained so coercively as to make any waiver of rights, or denial of parental presence, completely involuntary and void.

Eddie faces serious charges of sexual assault that come with potential lifelong consequences and stigmas, even if only pursued in the juvenile system. At the time of the interview, he was a fifteen (15) year old high school freshman with no education regarding the justice system, no criminal history, and no experience interacting with law enforcement. As such, he could not voluntarily waive his rights un-

DANIEL MARTINEZ LAW

1 the circumstances without being further advised by a parent or counsel. The Court should appropriate
2 weigh Eddie's age, education, immaturity, and lack of sophistication and find his statements were made
3 involuntarily, under coercion by law enforcement, and thus, should be excluded.

4
5 **CONCLUSION**

6 The Defendant could not knowingly, intelligently, and voluntarily waive his *Miranda* right
7 because of his age, education, the severity of the charge, the absence of a parent or guardian, and the
8 totality of the circumstances. Any and all statements made by Edward Steeves must be suppressed.

9 DATED this 4th day of January, 2021.
10

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12 Daniel Martinez Law, LLC

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15 Daniel E. Martinez, Esq.
16 Nevada Bar No.: 12035
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DANIEL MARTINEZ LAW

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CERTIFICATE OF SERVICE

I, Daniel E. Martinez, Esq., Nye County Public Defender and counsel for the Juvenile,
EDWARD MATTHEW STEEVES, do hereby certify that I have served the following:

**Juvenile's Motion to Suppress Defendant's Statements in
Case No. JV 19-0015A
In the Matter of Edward Matthew Steeves**

upon said Plaintiff by delivering a true and correct copy thereof on January 4, 2021, to the following:
NYE COUNTY DISTRICT ATTORNEY'S OFFICE



Daniel E. Martinez, Esq.

COPY

FILED
FIFTH JUDICIAL DISTRICT

JAN 28 2021

Nye County Clerk
Brittani Smith Deputy

Case No. JV19-0015A

Department 2

IN THE FIFTH JUDICIAL DISTRICT COURT
COUNTY OF NYE, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

EDWARD STEEVES,

Defendant.

OPPOSITION TO DEFENDANT'S
MOTION TO SUPPRESS
DEFENDANT'S STATEMENTS

TO: EDWARD STEEVES, DEFENDANT; and

TO: DANIEL E MARTINEZ ESQ., ESQ. Attorney for Defendant;

YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that the State hereby submits its Opposition to Defendant's Motion to Suppress Defendant's Statements in the above entitled case. This opposition is based on all papers and pleadings herein, the attached Points and Authorities, and any further evidence and arguments adduced by counsel at the hearing of this matter.

DATED this 28 day of January, 2021.

CHRIS ARABIA
NYE COUNTY DISTRICT ATTORNEY

By 
CHRIS ARABIA
District Attorney

NYE COUNTY DISTRICT ATTORNEY
P.O. BOX 39
PAHRUMP, NEVADA 89041
(775) 751-7080

POINTS AND AUTHORITIES
STATEMENT OF OPERATIVE FACT

On December 10, 2019, Detectives J. Marshall and W. Fancher responded to the Pahrump Valley High School, in response to a report of a sexual assault incident which occurred on September 6, 2019. The purpose of their arrival was to interview the Defendant in this matter, Edward Steeves, then age 15, concerning that incident. Prior to this interview, an investigation of the incident had been ongoing for approximately 1.5 months.

Detectives Marshall and Fancher met the Defendant in an administrative room at Pahrump Valley High School. He was seated in a well-lighted room, in a padded chair. He was not handcuffed, or in any other way restrained. There were school employees present within feet of where the Defendant was seated. For much of the interview, the door to the interview room was open, and one could hear school employees bustling about outside the room. After introducing himself and telling Eddie why he was there, Detective Marshall read Eddie his Miranda warnings.

In giving Eddie his Miranda warnings, Detective Marshall informed Eddie of the following facts: (1) He had the right to remain silent; (2) If he chose to talk, anything that he said could be used against him in a court of law; (3) that he had the right to an attorney; (4) That if he could not afford, an attorney, one would be appointed for him at no cost or fee and could be present at the time of questioning if he wished; (5) That Eddie did not have to talk to them at all, or to answer any questions if he did not wish; and (5) That because he was a juvenile, he had the right to have a parent or guardian present at the time that he talked to them. He was then again told that he did not have to talk to the Detectives at all, if he did not want to.

NYE COUNTY DISTRICT ATTORNEY
P.O. BOX 39
PAHRUMP, NEVADA 89041
(775) 751-7080

1 Despite these warnings, Eddie began speaking with the Detectives, as criminal
2 interviews go, and to call the interrogation tactics "badgering" would be to stretch
3 credulity to its very limits. During the entire interview, Eddie denied taking part in any
4 non-consensual sexual conduct. In fact, when it was suggested that the reporting
5 witness had "revoked" her consent, Eddie stated that he stopped any ongoing efforts
6 at intercourse.

7 The entire interview took place over the course of one hour and 27 minutes.
8 During that time, Detectives took at least two breaks, totaling about 10-15 minutes. At
9 the end of the interview, Defendant Steeves was taken into custody by a JPO.
10 (Juvenile Probation Officer).

11 **LEGAL ARGUMENT**

12 In his motion to suppress, Defendant spends much time attempting to establish
13 that the Defendant was in custody, and that, as such, he was entitled to be given
14 *Miranda* warnings. Miranda v. Arizona, 384 U.S. 436, 16 L.Ed.2d 694 (1966). It is
15 undisputed that the requirements established by *Miranda* clearly apply to custodial
16 interrogations conducted by police officers in the state of Nevada. Skinner v. State,
17 83 Nev. 380, 432 P.2d 675 (1967). The State concedes that a juvenile defendant is
18 entitled to the same protections under *Miranda* as an adult criminal suspect would be.
19 Maryln. a Minor, v. The State of Nevada, ___ Nev. 836, 603 P.2d 1056 (1979). This
20 whole of the *right* to *Miranda* warnings, however, is elementary. The State does not
21 dispute this premise. Whether he was actually in custody or not, however, Eddie
22 Steeves was fully informed of his *Miranda* rights at the very beginning of the interview
23 conducted at PVHS. He was told of his right to remain silent. He was told that
24 anything that he said could and would be used against him in a court of law. He was

1 informed of his right to have an attorney, retained or appointed, present during his
2 questioning. He was informed of his right to have a parent or guardian present during
3 his questioning. Finally, he was told on two separate occasions that he did not have to
4 speak to police officers at all. (See, GETAC video, interview of Eddie Steeves,
5 12/10/2019). The requirements of Miranda v. Arizona were clearly satisfied before
6 the commencement of questioning.

7 A review of the GETAC video prepared during the December 10, 2019 interview
8 of Eddie Steeves demonstrates a number of things. The questioning took place at his
9 school, hardly a police-dominated environment. The Defendant was not restrained at
10 all during his questioning, and in fact was seated in an unthreatening environment, in a
11 padded chair. He voluntarily responded to all of police questioning, and even disputed
12 some of the Detectives' characterizations of his answers to questions. No strong-arm
13 tactics were used to get the Defendant to answer questions, and in fact many of his
14 statements were made without a question. The tone of the conversation was civil. No
15 threats were made, and no verbal threats or physical intimidation were employed. The
16 Defendant simply responded to questioning in a knowing and voluntary fashion.

17 The fact that Eddie Steeves was 15 years old at the time that he was
18 questioned can hardly be said to render his voluntary responses to questioning
19 involuntary. A review of his questioning via GETAC recording bears this out. Eddie
20 Steeves was informed that any responses to questioning could and would be used
21 against him in a court of law. He was also informed twice that he did not have to
22 speak to police officers at all. All of this information was given to him before
23 questioning even commenced. Every child over the age of 10 years old has heard the
24 Miranda Warnings hundreds of times, simply by virtue of police TV dramas. Even with

NYE COUNTY DISTRICT ATTORNEY
P.O. BOX 39
PAHRUMP, NEVADA 89041
(775) 751-7080

1 this information in hand, Eddie Steeves chose to voluntarily answer all of the police
2 questioning without hesitation, and without badgering.

3 A review of this GETAC video will convince the court that Eddie Steeves does
4 not lack the sophistication of at least the normal 15 year old. His answers are clear,
5 responsive to the questions put to him, and illustrative of the fact that he is aware of
6 what he has been accused of. To contend that he was unable to understand the
7 waiver of his rights is a mere smokescreen, at best.

8 **CONCLUSION**

9 In accordance with the foregoing, Plaintiff, the State of Nevada, respectfully
10 submits that the Defendant's Motion to Suppress his own statements should be
11 Denied, in its entirety.

12 DATED this 28 day of January, 2021.

13
14 CHRIS ARABIA
NYE COUNTY DISTRICT ATTORNEY

15
16 By 
17 CHRIS ARABIA
District Attorney
18
19
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23
24

NYE COUNTY DISTRICT ATTORNEY
P.O. BOX 39
PAHRUMP, NEVADA 89041
(775) 751-7080

CERTIFICATE OF SERVICE

I, Renne McKeen, Paralegal, Office of the Nye County District Attorney, P. O.
Box 39, Pahrump, Nevada 89041, do hereby certify that I have served the following:

OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS STATEMENTS
Case No. JV19-0015A
STATE v. EDWARD STEEVES

upon said Defendant herein by mailing a true and correct copy thereof, postage
prepaid, on 1/28/2021, to the following:

DANIEL E MARTINEZ ESQ.


Renne McKeen

FILED
FIFTH JUDICIAL DISTRICT

MAR 10 2021

Nye County Clerk

~~Brittani Smith~~ Deputy

1 No. JV 19-0015A

2 Juvenile Division

3 The undersigned affirms that
4 this document does not contain
the social security number of
any person.

5
6 **IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**
7 **IN AND FOR NYE AND ESMERALDA COUNTIES**
8

9
10 In the Matter of

COURT ORDER

11 **EDWARD STEEVES,**

12 **A Child.**
13 _____ /
14

15 On December 12, 2020, a Petition was filed by the Nye County District Attorney's Office
16 ("State") against a minor EDWARD STEEVES ("Minor") for one count of Sexual Assault. The
17 Minor's attorney Daniel Martinez ("Defense") filed a Motion to Suppress on January 4, 2021.
18 The State filed an Opposition on January 28, 2021. A hearing was held on March 8, 2021
19 regarding the Motion to Suppress. This Order follows.
20

21 The Defense argues that on December 10, 2020, the Nye County Sheriff's Office
22 Detectives Marshall and Fancher interviewed the Minor at Pahrump Valley High School, in
23 relation to the alleged sexual assault ("incident") which occurred on or about September 6, 2020.
24 The Minor's age was 15 and he was half-way through his freshman year. The detectives advised
25 him of his Miranda rights and interviewed him without notifying the school principal as required
26 by policy and procedure between the Nye County Sheriff's Office and the high school; and
27 without the minor's parents or attorney being present. The defense argues that due to his youth
28 and immaturity level, an interrogation should not have occurred without the principal being

1 notified, the parents being present and/or an attorney for the minor. The defense argues the
2 report does not document his understanding of his Miranda rights he was waiving. The defense
3 argues the Minor repeatedly denied the assault, but the detectives badgered him and used
4 interrogation skill techniques until the minor cried and confessed. The defense argues it was a
5 custodial interrogation. The defense argues the minor did not knowingly, intelligently and
6 voluntarily waive his Miranda rights. The defense argues the minor had never interacted with
7 law enforcement, had no familiarity with the criminal justice system and no experience being
8 interviewed by the police. The defense argues because of his age, education, the severity of the
9 charge, the absence of a parent or guardian, and the totality of the circumstances, the minor did
10 not know or understand what it means to waive his Constitutional Miranda rights, that his
11 statements were coerced and involuntary, and the statements should be suppressed.

12
13 The State presented objections and argues that all the authorities involved in conducting the
14 investigation, specifically the Nye County Sheriff's Office with witness representation from
15 school administration at Pahrump Valley High School, appropriately complied with the Nevada
16 Revised Statutes, the Minor's Miranda rights, and that the Minor was made aware of his rights to
17 have a parent(s) present. The State argues the interrogation was not custodial, was not coercive,
18 and that a review of the taped interview video would show the Minor knowingly, intelligently
19 and voluntarily waived his Miranda rights.

20
21 The parents of the minor filed a complaint to the Nye County Sheriff's Office that a
22 number of policies and procedures were violated by the interview and investigation of their son.
23 The Sheriff's Office Internal Affairs investigated the complaints and prepared reports on their
24 findings. The parties stipulated that the Court could review those reports in camera prior to the
25 hearing on the motion to suppress, to ascertain if there were any violations of policy and
26 procedure.

27 The reports indicate that the Internal Affairs investigation, using a preponderance of the
28 evidence standard, made findings of exoneration on all but one complaint, finding that Detective

1 Marshall had violated Nye County Sheriff's Office policy 3013 by not notifying the principal he
2 was on campus to conduct an investigation and interview. NCSO Policy 3013, School
3 Investigations, states in part: "Members of the Nye County Sheriff's Office will conduct
4 criminal investigations of certain offenses whether school is in session or not. These offenses
5 include: Sexual assaults, drug related problems, assault with injury (maiming) etc. The school
6 principal shall be informed of any investigation conducted on school property during school
7 hours."

8
9 The report indicates that another officer claimed to have told the principal about the
10 interrogation, but the principal claimed to have no memory of being notified.

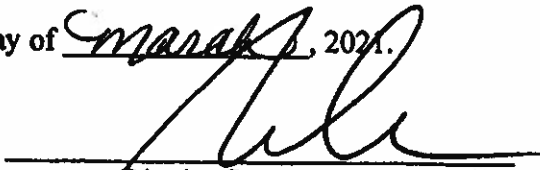
11 It was stated at the hearing that the normal policy and procedure was for the Sheriff's
12 Office to notify the principal, who would then contact the parents to inform them of the
13 requested interview so they could elect to be present or not. The principal did not contact the
14 parents, who were surprised to learn their child had been interviewed. At the hearing, the Court
15 did not reach a review of the videotape or a finding on whether the Minor knowingly,
16 intelligently and voluntarily waived his Miranda rights based on the totality of the circumstances.
17 Instead, the Court held that because the Sheriff's Office found that a violation of NCSO policy
18 and procedures had occurred by the failure to notify the principal of the interrogation, and thus
19 notification to the parents, the interview would be suppressed.

20 IT IS THEREFORE ORDERED that the defense's Motion to Suppress Juvenile's
21 Statements, be and is hereby granted.

22
23 IT IS FURTHER ORDERED that the State's request to produce the video recording shall
24 be allowed for the Court record.

25 IT IS SO ORDERED.

26 DATED this 10th day of March, 2021.

27
28 
District Court Judge

COPY

Case No. *JV 19-0015*

FILED
FIFTH JUDICIAL DISTRICT

Juvenile Division
LEA# 19NY-3371

DEC 12 2019

*The undersigned affirms that
this document does not contain
the social security number of
any person*

Nye County Clerk
DEBRA BENNETT Deputy

**IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF NYE**

In the Matter of

EDWARD STEEVES,

A Child.

PETITION

Petitioner, Chief Deputy District Attorney, Kirk Vitto, Office of the District
Attorney, County of Nye, State of Nevada, respectfully represents as follows:

I.

There is now living or found within the County of Nye, State of Nevada, a minor
Child whose full name is **EDWARD STEEVES**, born on **OCTOBER 5, 2004**, and
whose address is **940 E LUCAS LN, PAHRUMP TOWNSHIP, NYE COUNTY,**
NEVADA.

II.

The name(s) and residence address(es) of the parent(s), guardian(s), or
custodian(s), and spouse if any, of said Child are:

III.

Petitioner is informed and believes, and therefore alleges upon information and
belief, that said Child, before the filing of this Petition, in Nye County, Nevada, did,

NYE COUNTY DISTRICT ATTORNEY
P.O. BOX 39
PAHRUMP, NEVADA 89041
(775) 751-7080

1 then and there, commit a delinquent act, i.e., an act designated as a crime under the
2 law of the State of Nevada, or violated a County or Town ordinance or any rule or
3 regulation having the force of law, in the following manner, to wit:

4 **SEXUAL ASSAULT**, in violation of NRS 200.366, A DELINQUENT ACT,
5 **AND NOT A CRIMINAL OFFENSE, PURSUANT TO NRS 62B.330, A**
6 **CATEGORY 'A' FELONY IF COMMITTED BY AN ADULT**, committed in
7 the following manner, to wit: That **ON OR ABOUT SEPTEMBER 6,**
8 **2019**, in Pahrump Township, Nye County, Nevada, said child did willfully
9 and unlawfully subject another person, to wit: JANE DOE, to sexual
10 penetration, against the victim's will, or under conditions in which said
11 child knew or should have known that the victim was mentally or
12 physically incapable of resisting or understanding the nature of his
13 conduct, by taking, or pulling, the victim's pants down, while she resisted,
14 and thereafter penetrating her vaginally, with his penis, after he was told
15 "no";

16 **IV.**

17 Said Child is not in custody at the time of filing of this Petition.

18 **V.**

19 **WHEREFORE**, Petitioner prays as follows:

- 20 1. That the Court direct the Clerk of this Court to issue a Summons
21 requiring the person or persons who have custody or control of said Child to appear
22 personally and bring the Child before the Court at a time and date stated in the
23 Summons;
- 24 2. That after hearing the evidence, the Court declare said Child to be within
the purview of the Juvenile Court Act of the State of Nevada, adjudge said Child a
ward of this Court and make such further and additional orders as the best interests of
said Child require.

25 ///

26 ///

27 ///

NYE COUNTY DISTRICT ATTORNEY
P.O. BOX 39
PAHRUMP, NEVADA 89041
(775) 751-7080

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Under penalties of perjury, the undersigned declares that he is the Petitioner named in the foregoing Petition and knows the contents thereof; that the Petition is true of his own knowledge, except as to those matters stated on information and belief, and as to those matters, he believes it to be true.

DATED this 11th day of December, 2019.

CHRIS ARABIA
NYE COUNTY DISTRICT ATTORNEY

By:


KIRK VITTO
Deputy District Attorney

FILED
FIFTH JUDICIAL DISTRICT

DEC 12 2019

Nye County Clerk
Tom Pemberton

1 No. JV 19-0015A

2 Juvenile Division

3 The undersigned affirms that this
4 document does not contain the
5 social security number of
6 any person.

7 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
8 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE
9

10 In the Matter of

11 EDWARD MATHEW STEEVES,

COURT ORDER

12 a Child.
13

14 This matter having come on for a detention hearing pursuant
15 to NRS 62C.040 before the Honorable Robert W. Lane, District
16 Judge of the Fifth Judicial District Court, on December 12,
17 2019, the child above-named being present telephonically, and
18 accompanied by parents Marci Luis, mother, and Michael Garcia
19 stepfather, and being represented by Carl Joerger, Esq., Private
20 Attorney. Kirk Vitto, Chief Deputy District Attorney, was also
21 present, representing the state. Being fully advised in the
22 premises and having heard all of the evidence in support of the
23 allegations, the Master finds the following facts to be true:

24 The said EDWARD MATHEW STEEVES is alleged to have violated:
25 NRS 200.366 SEXUAL ASSAULT.

1 IT IS THEREFORE RECOMMENDED that the said minor be released
2 from the custody of the Clark County Detention Center, in Las
3 Vegas, Nevada, and placed on House Arrest until further order of
4 the Court under the following conditions:

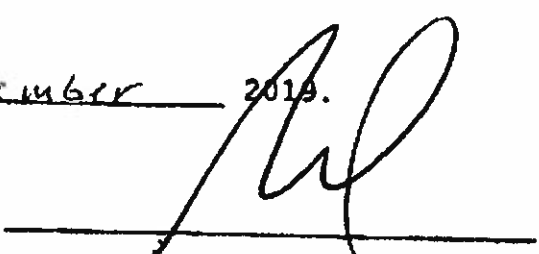
5 1. That said minor shall not have contact with alleged
6 victim, in person or by a person acting in his behalf, to
7 include but not limited to the following in writing, by
8 telephone/cell phone, by any electronic devices or by any social
9 media outlets. This order shall remain in place until further
10 order of the court.

11 2. That the said minor shall not own or have possession of a
12 cell phone that has a camera and or internet access, youth
13 shall not have access to the internet for the purpose of social
14 networking. Youth may use the internet as may be required by
15 the school for academic purposes, only with adult supervision.

16 IT IS FURTHER RECOMMENDED that an initial hearing in the
17 above-entitled matter be scheduled at the hour of 1:15 o'clock
18 p.m. on the 16th day of December 2019, before the Honorable
19 Robert W. Lane, District Judge, in the District Courtroom, 1520
20 E. Basin Ave., Pahrump, Nye County, Nevada.

21 IT IS SO ORDERED.

22 DATED this 12 day of December 2019.

23
24
25

District Judge

Case No.: ~~19-001571~~ ^{JV} 19-0015 A
Dept. No.: Juvenile Court

Carl M. Joerger, Esq.
Nevada Bar No.: 5379
LAW OFFICE OF CARL M. JOERGER
1231 East Basin Road, Suite 9
Pahrump, NV 89060
(775) 751-2500
Attorney for Defendant

FILED
FIFTH JUDICIAL DISTRICT

DEC 16 2019

Nye County Clerk

Sarah Westfall Deputy

**FIFTH JUDICIAL DISTRICT COURT JUVENILE DIVISION
COUNTY OF NYE, STATE OF NEVADA**

THE STATE OF NEVADA,

Plaintiff,

vs.

EDWARD STEEVES,

Defendant.

**NOTICE OF APPEARANCE OF PRIVATE RETAINED COUNSEL, WAIVER OF 60-
DAY RULE FOR TRIAL, ENTRY OF NOT GUILTY PLEA/DENIAL
AND REQUEST FOR DISCOVERY**

COMES NOW, Carl M. Joerger, Esq., and hereby submits his Notice of Appearance of Private Retained Counsel, herein as attorney of record for Defendant, Edward Steeves, a minor, and demands that all copies of notices, pleadings, and documents be served upon him at the above-captioned address.

Defendant further, by and through his attorney, Carl M. Joerger, Esq., hereby files his Waiver of 60-Day Rule For Trial. Defendant also Enters his plea of NOT GUILTY/DENIAL. That the Pre-Trial Hearing be set for in the Ordinary Course and at the Court's Convenience. The Hearing/Arraignment in this matter is currently scheduled for Thursday, December 12, 2019 at the hour of 8:45 a.m.

1 Further, PLEASE TAKE NOTICE that the Defendant, by and
2 through Carl M. Joerger, Esq., his attorney, hereby requests
3 discovery in the above-referenced action.

4 NRS 174.235, applicable to Justice Court through NRS
5 189.005, requires the prosecuting attorney to provide state and
6 constitutionally mandated discovery before trial. It states as
7 follows:

8 1. Except as otherwise provided in NRS 174.233, to
9 174.295, inclusive, at the request of a defendant, the
10 prosecuting attorney shall permit the defendant to
inspect an to copy or photograph any:

11 (a) Written or recorded statements or confessions
12 made but the defendant, or any written or recorded
13 statements made by a witness or witnesses, or any
reports of statements or confessions, or copies
thereof, within the possession or custody of the
prosecuting attorney;

14 (b) Results or reports of physical or mental
15 examinations, scientific tests or scientific
16 experiments made in connection with the particular
case, or copies thereof, within the possession or
custody of the prosecuting attorney; and

17 (c) Books, papers, documents or tangible objects
18 that the prosecuting attorney intends to introduce
19 in evidence during the case in chief of the state,
or copies thereof, within the possession or
custody of the prosecuting attorney.

20 Defendant is not entitled to discovery of internal reports
21 or other matters deemed privileged by the Nevada or United States
22 Constitution, but is entitled to all discovery mandated by the
23 Constitution.

24 Defendant is charged with:
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1 Therefore, Defendant is entitled to and requests the
2 provision of all items below defined which are in your
3 possession, or in possession of any state agency involved in the
4 case, including State and Federal law enforcement agencies. See
5 *Kyles v. Whitley*, 115 S.Ct. 1555 (1995).

6 1) all exhibits anticipated to be used at trial, including
7 demonstrative evidence, impeachment documents, refresh
8 recollection documents or prior testimony, NRS
9 171.161(1)@;

10 2) all written or taped statements by Defendant, including
11 any interview tapes, statements made to any authorities,
12 booking videotapes and other booking or release documents,
13 and any wiretap, surveillance, informant taped or overheard
14 evidence, under NRS 174.235 and NRS 171.1965(1)(a);

15 3) the results of any scientific or other tests regarding
16 this matter, under NRS 171.1965(1)(b), including but not
17 limited to voice tests, telephone call registers,
18 handwriting tests, fingerprinting tests, voice or personal
19 identification lineups, or any other test, under *Brady v.*
20 *Maryland*, 373 U.S. 83 (1963);

21 4) any documents showing that any witness was offered
22 leniency in exchange for testimony, under *Giglio v. United*
23 *States*, 405 U.S. 150 (1972);

24 5) any evidence showing inconsistencies in the testimony
25 of a material witness, including all reports of any
26 interview of any material witness to the above alleged acts
27

1 committed by Defendant, wiretap, taped or surveilled
2 statements concerning Defendants, dispatch tapes or logs, or
3 any other impeachment evidence, under *United States v.*
4 *Bagley*, 473 U.S. 667, (1985), or *Pennsylvania v. Ritchie*,
5 480 U.S. 39, 58 (1987);

6 6) all felony convictions, or misdemeanors going to
7 truthfulness, suffered by any witness to the above alleged
8 acts, which sentence was completed less than ten years
9 before these allegations; *Green v. Bock Laundry Machine Co.*,
10 490 U.S. 504 (1989); *Riddle v. State*, 96 Nev. 589, 590, 613
11 P.2d 1031 (1980);

12 7) any documents. such as agency files or reports,
13 evidencing prior bad acts by any witness which could be
14 relevant to that witness' motive, opportunity, intent,
15 preparation, plan, knowledge, identity, or absence of
16 mistake or accident under NRS 48.045(2) and *Kyles v.*
17 *Whitley*, 115 S.Ct. 1555 (1995), or *United States v.*
18 *Henthron*, 931 F.2d 29 (9th Cir. 1991);

19 8) any documents evidencing character or a trait of
20 character of the victim of the crime, including truthful
21 character, under NRS 48.045(b) and *Kyles*. or any documents
22 evidencing good character or trait of character of
23 Defendant, under NRS 48.045(1)(a); and

24 9) a list of any material witnesses, or any person who
25 can supply information concerning any information contained
26 in requests 1 through 8, above, or constituting a defense
27

1 to, or rebutting an element of the above charge, under
2 Brady;

3 If there are any items of physical evidence not readily
4 duplicated, the State has a duty to inform Defendant of the
5 nature of those items, and cooperate in arrangements for
6 inspection and copying thereof. NRS 171.1965(1). The State
7 possesses a continuing duty to provide after acquired discovery
8 in a timely manner, under NRS 174.295.

9 If the State possesses any item which could be discoverable
10 under State or Constitutional law, or other items which the State
11 asserts requires an in camera inspection by the court, see
12 Ritchie, 480 U.S. 39, 58 (1987); U.S. v. Roark, 924 F.2d 1426
13 (8th Cir. 1991), it has a duty to present those items in question
14 to the court for an in camera inspection.

15 Dated this 11 day of December 2019.

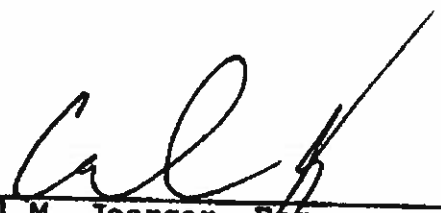
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17 
18 Carl M. Joerger, Esq.
19 Nevada Bar No.: 5379
20 LAW OFFICE OF CARL M. JOERGER
21 1231 East Basin Road, Suite 9
22 Pahrump, NV 89060
23 (775) 751-2500
24 Attorney for Defendant
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CERTIFICATE OF HAND-DELIVERY

I HEREBY CERTIFY that on the 4 day of December 2019, I served upon the Plaintiffs a copy of the foregoing NOTICE OF APPEARANCE OF PRIVATE RETAINED COUNSEL, WAIVER OF 60-DAY RULE FOR TRIAL, ENTRY OF NOT GUILTY PLEA/DENIAL AND REQUEST FOR DISCOVERY by personally hand-delivering a true and correct copy of same in a sealed envelope, addressed as follows:

Chris Arabia
Nye County District Attorney
1520 East Basin Avenue, Suite 107
Pahrump, NV 89060



Carl M. Joerger, Esq.
Nevada Bar No.: 5879
LAW OFFICE OF CARL M. JOERGER
1231 East Basin Road, Suite 9
Pahrump, NV 89060
(775) 751-2500
Attorney for Defendant

1 No. JV 19-0015A

2 Juvenile Division

3 The undersigned affirms that
4 this document does not contain
the social security number of
any person.

FILED
FIFTH JUDICIAL DISTRICT

DEC 18 2019

Juanita Torres
Nye County Clerk
Deputy

5 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
6 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE
7
8

9 In the Matter of

10 EDWARD MATHEW STEEVES,

COURT ORDER

11 A Child.
12 _____/

13 The Petition of Kirk Vitto, Chief Deputy District Attorney,
14 of the County of Nye, State of Nevada, came on for an initial
15 hearing before the Honorable Robert W. Lane, District Judge of
16 the Fifth Judicial District Court on December 16, 2019. The
17 child above-named being personally present and accompanied by
18 Marci Luis, mother and Michael Garcia Stepfather, and being
19 represented by Carl Joerger, Esq., Private Attorney. Kirk
20 Vitto, Chief Deputy District Attorney, represented Petitioner.
21 Being fully advised in the premises and having heard all of the
22 evidence in support of the Petition, the Master finds the
23 following facts to be true:

24 1. Notice of this hearing has been given in the manner and
25 for the period prescribed by law;

1 2. The name of said child is EDWARD MATHEW STEEVES, who
2 was born on October 5, 2004, and whose address is 940 E. Lucas
3 Lane, Pahrump, Nevada 89048.

4 3. Said child is living or was found within this County
5 and within the jurisdiction of the Court for allegedly having
6 committed an act designated as a crime under the law of the
7 State of Nevada, or has been accused of violating an ordinance
8 of this County, in that said child is said to have, on or about
9 the 6th day of September, 2019, in Pahrump, Nye County, Nevada,
10 willfully unlawfully violated NEVADA REVISED STATUTE NRS 200.366
11 SEXUAL ASSAULT, Petition(A).

12 4. After being duly informed of his rights and receiving
13 advice from counsel, Carl Joerger, denied the allegations listed
14 in the said Petition, in behalf of the said minor.

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1 IT IS THEREFORE RECOMMENDED that a pre-trial conference in
2 the above-entitled matter be scheduled at the hour of 1:15
3 o'clock p.m. on the 13th day of January 2020, before the
4 Honorable Robert W. Lane, District Judge, in the District
5 Courtroom, 1520 E. Basin Ave., Pahrump, Nye County, Nevada.

6 IT IS SO ORDERED.

7
8 DATED this 18 day of December, 2019.

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14 District Judge
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FILED
FIFTH JUDICIAL DISTRICT

FEB 13 2020

Nye County Clerk

Juanita Torres Deputy

No. JV 19-0015A

Juvenile Division

The undersigned affirms that
this document does not contain
the social security number of
any person.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE

In the Matter of

EDWARD STEEVES,

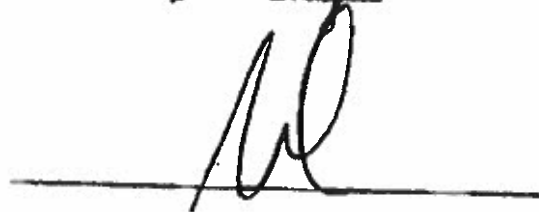
ORDER OF CONTINUANCE

A Child.

It appearing to the Court that the pre-trial conference
regarding Petition(A), scheduled on the 3rd day of February 2020,
be continued, and good cause appearing therefore,

IT IS HEREBY ORDERED that the matter be continued before the
Honorable Robert W. Lane, District Judge, at the hour of 1:15
o'clock p.m., on the 9th day of March 2020, in the District
Courtroom, 1520 E. Basin Ave., Department 2 Pahrump, Nye County,
Nevada.

Dated this 13th day of February 2020.


District Judge

1 No. JV 19-0015

2 Juvenile Division

3 The undersigned affirms that
4 this document does not contain
5 the social security number of
6 any person.

FILED
FIFTH JUDICIAL DISTRICT

MAR 16 2020

Nye County Clerk
Sarah Westfall Deputy

6 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
7 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE
8

9
10 In the Matter of

11 EDWARD MATHEW STEEVES,

12 A Child.
13 _____ /

COURT ORDER

14 The Petition of Kirk Vitto, Chief Deputy District Attorney, of the County of Nye, State of
15 Nevada, came on for a Pre-Trial Conference before the Honorable Robert W. Lane, District
16 Judge of the Fifth Judicial District Court on March 9, 2020. The above-named child was
17 personally present and accompanied by Marci Luis, mother and Michael Garcia Stepfather, and
18 being represented by Carl Joerger, Esq., Private Attorney. Kirk Vitto, Chief Deputy District
19 Attorney, represented Petitioner. Thad Rucker, Juvenile Probation Officer was present on behalf
20 of the Juvenile Probation Department. Being fully advised in the premises and having heard all
21 of the evidence in support of the Petition, the Court finds the following facts to be true:
22

23 1. Notice of this hearing has been given in the manner and for the period prescribed
24 by law.

25 2. The name of said child is EDWARD MATHEW STEEVES, who was born on
26 October 5, 2004, and whose address is 940 E. Lucas Lane, Pahrump, Nevada 89060.

27 / / / /

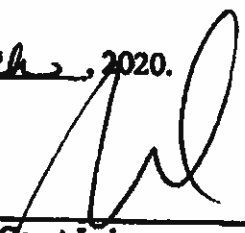
28 / / / /

1 3. Said child is living or was found within this County and within the jurisdiction of the
2 Court for allegedly having committed an act designated as a crime under the law of the State of
3 Nevada, or has been accused of violating an ordinance of this County, in that said child is said to
4 have, on or about the 6th day of September, 2019, in Pahrump, Nye County, Nevada, willfully
5 unlawfully violated NEVADA REVISED STATUTE NRS 200.366 SEXUAL ASSAULT,
6 Petition, (A).

7
8 IT IS THEREFORE RECOMMENDED that an Evidentiary Hearing in the above-
9 entitled matter be scheduled at the hour of 1:15 o'clock p.m. on the 8th day of June 2020, before
10 the Honorable Robert W. Lane, District Judge, in the District Courtroom, 1520 E. Basin Ave.,
11 Pahrump, Nye County, Nevada.

12 IT IS SO ORDERED.

13
14 DATED this 16th day of March, 2020.

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19 District Court Judge
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**FILED
FIFTH JUDICIAL DISTRICT**

MAY 27 2020

**Nye County Clerk
Terri Pemberton Deputy**

1 **Case No.: JV19-0015**

2 **Dept. No.: 2**

3 **Carl M. Joerger, Esq.**

4 **Nevada Bar No.: 5379**

5 **LAW OFFICES OF CARL M. JOERGER**

6 **1231 East Basin Road, Suite 9**

7 **Pahrump, NV 89060**

8 **(775) 751-2500**

9 **Attorney for Defendant**

10 **FIFTH JUDICIAL DISTRICT COURT JUVENILE DIVISION**
11 **COUNTY OF NYE, STATE OF NEVADA**

12 **THE STATE OF NEVADA,**

13 **Plaintiff,**

14 **vs.**

15 **EDWARD MATHEW STEEVES,**

16 **Defendant.**

17 **STIPULATION AND ORDER TO CHANGE EVIDENTIARY HEARING TO PRE-TRIAL**
18 **HEARING**

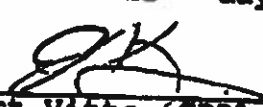
19 **Due to Defense Counsel, Carl M. Joerger, Esq., and Kurt**
20 **Vitto, Chief Deputy District Attorney agreeing to change the**
21 **Evidentiary Hearing to a Pre-Trial Hearing, and at the request of**
22 **Carl M. Joerger, Esq. and Kirk Vitto, CDDA,**

23 **IT IS HEREBY STIPULATED that the Hearing in the above-**
24 **entitled matter currently scheduled in the Pahrump District Court**
25 **for June 8, 2020, be changed from an Evidentiary Hearing to a Pre**
26 **Trial Hearing.**

1 Dated this 26 day of May, 2020

Dated this day of May, 2020

2
3 
4 Carl M. Joerger, Esq.
5 Nevada Bar No.: 5379
6 LAW OFFICE OF CARL M. JOERGER
7 1231 East Basin Road, Suite 9
8 Pahrump, Nevada 89060
9 (775) 751-2500
10 Attorney for Defendant


Kurt Visto, CDDA
Nevada Bar No.: 3885
NYE COUNTY DISTRICT ATTORNEY
1520 East Basin Road
Pahrump, Nevada 89060
(775) 751-7080
Attorney for Plaintiff

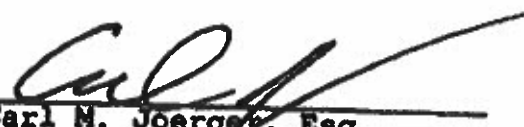
11 ORDER

12 Based on the above and foregoing, the Evidentiary Hearing
13 currently scheduled for June 8, 2020 shall be changed to a Pre-
14 Trial Hearing.

15 Dated this 27 day of May 2020.

16 **ROBERT W. LANE**
17 DISTRICT COURT JUDGE

18 Submitted by:

19 
20 Carl M. Joerger, Esq.
21 Nevada Bar No.: 5379
22 LAW OFFICES OF CARL M. JOERGER
23 1231 East Basin Road, Suite 9
24 Pahrump, NV 89060
25 (775) 751-2500
26 Attorney for Defendant
27
28

FILED
FIFTH JUDICIAL DISTRICT

JUN 10 2020

Nye County Clerk

~~Judy Ayotte~~ Deputy

1 **No. JV 19-0015**

2 **Juvenile Division**

3 The undersigned affirms that
4 this document does not contain
5 the social security number of
6 any person.

7 **IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT**
8 **OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE**

9
10 **In the Matter of**

11 **EDWARD MATHEW STEEVES,**

12 **A Child.**
13 _____ /

COURT ORDER

14 **The Petition of Kirk Vitto, Chief Deputy District Attorney, of the County of Nye, State of**
15 **Nevada, came on for a Pre-Trial Conference before the Honorable Robert W. Lane, District**
16 **Court Judge of the Fifth Judicial District Court on June 8, 2020. The above-named child was**
17 **personally present and accompanied by Marci Luis, mother and Michael Garcia stepfather, and**
18 **was represented by Carl Joerger, Esq., Private Attorney. Kirk Vitto, Chief Deputy District**
19 **Attorney, represented Petitioner. Randy Saltzman, Juvenile Probation Officer was present on**
20 **behalf of the Juvenile Probation Department. Being fully advised in the premises and having**
21 **heard all of the evidence in support of the Petition, the Court finds the following facts to be true:**

22
23 **1. Notice of this hearing has been given in the manner and for the period prescribed**
24 **by law.**

25 **2. The name of said child is EDWARD MATHEW STEEVES, who was born on**
26 **October 5, 2004, and whose address is 940 E. Lucas Lane, Pahrump, Nevada 89060.**

27 **/ / / /**

28 **/ / / /**

1 3. Said child is living or was found within this County and within the jurisdiction of the
2 Court for allegedly having committed an act designated as a crime under the law of the State of
3 Nevada, or has been accused of violating an ordinance of this County, in that said child is said to
4 have, on or about the 6th day of September, 2019, in Pahrump, Nye County, Nevada, willfully
5 unlawfully violated NEVADA REVISED STATUTE NRS 200.366 SEXUAL ASSAULT,
6 Petition, (A).

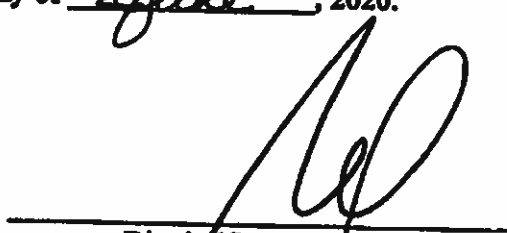
7 IT IS THEREFORE ORDERED that Carl Joerger, Esq., be removed from the case.

8 IT IS FURTHER ORDERED that DANIEL MARTINEZ, Esq., Nye County Public
9 Defender, be, and hereby is appointed to represent the above-named child, regarding Petition
10 (A), filed on December 12, 2019. DANIEL MARTINEZ, Esq., is ordered to maintain time logs
11 and expense records in the representation of such for consideration by the court in assessing fees
12 and expenses against the parents of said child as provided in NRS 62D.030.

13 IT IS FURTHER ORDERED that a Pre-Trial Conference be continued in the above-
14 entitled matter to 1:15 o'clock p.m. on the 6th day of July 2020, before Robert W. Lane, District
15 Court Judge, in the District Courtroom #2, 1520 E. Basin Ave., Pahrump, Nye County, Nevada.

16 IT IS SO ORDERED.

17 DATED this 10th day of June, 2020.

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25 District Court Judge
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1 Case No: JV 19-0015

2 Juvenile Division

3 The undersigned affirms that
4 this document does not contain
the social security number of
any person.

FILED
FIFTH JUDICIAL DISTRICT

JUN 17 2020

Nye County Clerk

~~Sarah Westfall~~ Deputy

6 **IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR NYE AND ESMERALDA COUNTIES**

8
9 In the Matter of:

10 **EDWARD MATHEW STREEVES,**

NOTICE OF HEARING

11 **A Child.**
12 _____

13 To: Marci Luis
14 940 E. Lucas Lane
15 Pahrump, NV 89060

16 Pursuant to NEVADA REVISED STATUTE 62D.120, you are hereby notified that a
17 Pre-Trial Conference on Petition (A), heretofore has been filed in the above-entitled court, and
18 the same is hereby set for hearing, in the District Court, 1520 E. Basin Ave., District Courtroom
19 No. 2, in Pahrump, Nye County, Nevada, to commence at 1:30 o'clock p.m., on Monday the 6th
20 day of July 2020.

21 Pursuant to NEVADA REVISED STATUTE 62D.130, an employer notice for the parent
22 or guardian is available upon request.

23 DATED this 17th day of June 2020.
24

25 **FAILURE TO APPEAR WILL RESULT IN FURTHER COURT ACTION.**
26
27
28

JUL 14 2020

Nye County Clerk

~~Trent Pemberton~~ Deputy

1 No. JV 19-0015

2 Juvenile Division

3 The undersigned affirms that
4 this document does not contain
the social security number of
any person.

5
6 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
7 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE
8
9

10 In the Matter of

11 EDWARD MATHEW STEEVES,

12 A Child.
13

COURT ORDER

14 The Petition of Kirk Vitto, Chief Deputy District Attorney, of the County of Nye, State of
15 Nevada, came on for a Pre-Trial Conference before the Honorable Robert W. Lane, District
16 Court Judge of the Fifth Judicial District Court on July 6, 2020. The above-named child was
17 personally present and accompanied by Michael Garcia stepfather, and was represented by
18 Daniel Martinez, Public Defender. Kirk Vitto, Chief Deputy District Attorney, represented
19 Petitioner. Randy Saltzman, Juvenile Probation Officer was present on behalf of the Juvenile
20 Probation Department. Being fully advised in the premises and having heard all of the evidence
21 in support of the Petition, the Court finds the following facts to be true:
22

23 1. Notice of this hearing has been given in the manner and for the period prescribed
24 by law.

25 2. The name of said child is EDWARD MATHEW STEEVES, who was born on
26 October 5, 2004, and whose address is 940 E. Lucas Lane, Pahrump, Nevada 89060.

27 / / / /

28 / / / /

1 3. Said child is living or was found within this County and within the jurisdiction of the
2 Court for allegedly having committed an act designated as a crime under the law of the State of
3 Nevada, or has been accused of violating an ordinance of this County, in that said child is said to
4 have, on or about the 6th day of September, 2019, in Pahrump, Nye County, Nevada, willfully
5 unlawfully violated NRS 200.366 SEXUAL ASSAULT – Petition (A).
6

7 4. Mr. Martinez informs the Court that he needs additional time to review discovery and
8 requests that the pre-trial conference be rescheduled to September. Mr. Martinez proceeds to
9 request that said child's house arrest be lifted.

10 IT IS THEREFORE ORDERED that the said child shall not own or have possession of a
11 cell phone that has a camera and or internet access, youth shall not have access to the internet for
12 the purpose of social networking. Youth may use the internet as may be required for school,
13 only being actively supervised by an adult who has line of sight of the device screen.

14 IT IS FURTHER ORDERED that the said child shall not have any contact with the
15 alleged victim, in person, or by a person acting on his behalf, to include but not limited to the
16 following: in writing, by telephone/cell phone that has a camera, by any electronic devices or by
17 any social media outlets. This order shall remain in place until this case is disposed of or unless
18 further ordered by the Court.

19 IT IS FURTHER ORDERED that said child's House Arrest, (Order and Conditions of
20 Release, filed on December 12, 2019), be lifted.

21 IT IS FURTHER ORDERED that the Juvenile Probation Department will be allowed to
22 check on said child at any time until further order of the Court.
23

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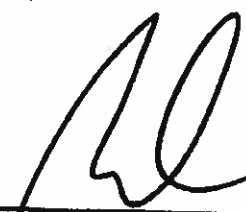
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1 IT IS FURTHER ORDERED that the Pre-Trial Conference be continued in the above-
2 entitled matter to 1:15 o'clock p.m. on the 21st day of September 2020, before Robert W. Lane,
3 District Court Judge, in the District Courtroom #2, 1520 E. Basin Ave., Pahrump, Nye County,
4 Nevada.

5 IT IS SO ORDERED.

6 DATED this 14th day of July, 2020.

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13 District Court Judge
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FILED
FIFTH JUDICIAL DISTRICT

DEC 28 2020

Nye County Clerk
Brittani Smith Deputy

1 Case No. JV19-0015A

2 Department 2

3 *The undersigned affirms that*
4 *this document does not contain*
5 *the social security number of*
6 *any person.*

7 IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF NYE

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

STIPULATION TO CONTINUE

12 EDWARD STEEVES,

13 Defendant.

14 At the request of the State, IT IS HEREBY STIPULATED AND AGREED by
15 and between Defendant, EDWARD STEEVES, by and through his attorney, Daniel E
16 Martinez Esq., and Plaintiff, the State of Nevada, by and through its attorney, CHRIS
17 ARABIA, Nye County District Attorney, that the Evidentiary Hearing in the above-
18 entitled matter, currently set on January 11, 2021, at 1:15 P.M. be continued to a date
19 and time convenient to court and counsel.

20 DATED this 22nd day of December, 2020.

21 CHRIS ARABIA
22 NYE COUNTY DISTRICT ATTORNEY

23 By Nicholas D. Pitaro
24 Deputy District Attorney

Daniel E Martinez Esq. Bar 14484
Attorney for Defendant

NYE COUNTY DISTRICT ATTORNEY
P.O. BOX 39
PAHRUMP, NEVADA 89041
(775) 751-7080

NYE COUNTY DISTRICT ATTORNEY
P.O. BOX 39
PAHRUMP, NEVADA 89041
(775) 751-7080

1 Case No. JV19-0015A

2 Department 2

3 *The undersigned affirms that*
4 *this document does not contain*
5 *the social security number of*
6 *any person.*

FILED
FIFTH JUDICIAL DISTRICT

DEC 28 2020

Nye County Clerk
Brittani Smith Deputy

7 IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF NYE

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

ORDER TO CONTINUE

12 EDWARD STEEVES,

13 Defendant. /

14 Upon stipulation of the parties herein, and good cause appearing therefor,

15 IT IS HEREBY ORDERED that the Evidentiary Hearing in the above-entitled
16 matter be, and the same is hereby, continued from January 11, 2021, at 1:15 P.M. to

17 February 1, 2021 at 1:15 p.m.

18 | | **ROBERT W. LANE** | |

19 DISTRICT COURT JUDGE

20 12-28-2020

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

2
3 THE STATE OF NEVADA,

Supreme Court Case No. 82614

4 Appellant,

5 vs.

6 E.S., A CHILD,

7 Respondent.

8
9 **CERTIFICATE OF SERVICE**

10 I hereby certify and affirm that the Appellants Appendix was electronically
11 filed with the Nevada Supreme Court on April 8, 2021. Electronic Service of the
12 foregoing document shall be made in accordance with the Master Service List as
13 follows:

14 DANIEL MARTINEZ, ESQ.
15 Attorney for Respondent
16 3199 Warm Springs #400
Las Vegas, Nevada 89120

AARON FORD
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717

17 KIRK D. VITTO
Chief Deputy District Attorney

18 **By. /s/ C. Michalsky**
19 Employee, District Attorney's Office
20