

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ALEXANDER JENKINS,

Appellant.

v.

STATE OF NEVADA,

Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court

Case No. 83465

APPELLANT'S APPENDIX
VOLUME I

**APPEAL FROM JUDGMENT OF CONVICTION AND
SENTENCING**

NINTH JUDICIAL DISTRICT
STATE OF NEVADA

THE HONORABLE THOMAS W. GREGORY, PRESIDING

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No. 83465

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1 Case No. 19-CR
2 Dept. No. II
3 DA Case No. 18-2152R

4 This document does not contain personal information of any person

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6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

8 THE STATE OF NEVADA, /

9
10 Plaintiff, /

11 v. /

INFORMATION

12 RICHARD ALEXANDER JENKINS, /

13 Defendant. /
14

15 Chelsea Mazza, Deputy District Attorney, within and for the County of Douglas, State
16 of Nevada, in the name and by the authority of the State of Nevada, informs the Court that
17 Richard Alexander Jenkins has committed the crimes of FOUR COUNTS of LEWDNESS
18 WITH A CHILD UNDER 16 YEARS OF AGE, violations of NRS 201.230(1)(a) and (3), all
19 category B felonies,

20 The defendant, on or about July 1, 2018, and before the filing of this Information, at and
21 within the County of Douglas, State of Nevada,

22 **COUNT ONE: LEWDNESS WITH A CHILD UNDER 16**
23 **YEARS OF AGE, a violation of NRS 201.230(1)(a)**
24 **and (3), a category B felony**

25 being a person who was 18 years of age or older, did willfully, unlawfully
26 and lewdly commit any lewd or lascivious act, other than acts constituting
27 the crime of sexual assault, upon or with the body, or any part or member
28 thereof, with a child under the age of 16 years, with the intent of arousing,
appealing to, or gratifying the lust or passions or sexual desires of the
defendant or the child, to-wit: did place his hand or hands down the front of
the pants or shorts, and underneath underwear, of "Kory Collins," a 14-

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APP0001

1 year-old child, and did touch and/or rub her pubic area, and/or did touch
2 and/or rub his hand or hands on her buttocks while they were together at the
3 defendant's residence, with the intent of arousing, appealing to, or gratifying
4 his own lust, passion or sexual desires, all of which occurred in the County
5 of Douglas, State of Nevada,

6 **COUNT TWO: LEWDNESS WITH A CHILD UNDER 16**
7 **YEARS OF AGE, a violation of NRS 201.230(1)(a)**
8 **and (3), a category B felony**

9 being a person who was 18 years of age or older, did willfully, unlawfully
10 and lewdly commit any lewd or lascivious act, other than acts constituting
11 the crime of sexual assault, upon or with the body, or any part or member
12 thereof, with a child under the age of 16 years, with the intent of arousing,
13 appealing to, or gratifying the lust or passions or sexual desires of the
14 defendant or the child, to-wit: did place his hand or hands down the front of
15 the pants or shorts, and underneath the underwear, of "Kory Collins," a 14-
16 year-old child, and did touch and/or rub her pubic area, and/or did touch
17 and/or rub his hand or hands on her buttocks while they were together inside
18 the equipment room at the Douglas County Community Center, with the
19 intent of arousing, appealing to, or gratifying his own lust, passion or sexual
20 desires, all of which occurred in the County of Douglas, State of Nevada,

21 **COUNT THREE: LEWDNESS WITH A CHILD UNDER 16**
22 **YEARS OF AGE, a violation of NRS 201.230(1)(a)**
23 **and (3), a category B felony**

24 being a person who was 18 years of age or older, did willfully, unlawfully
25 and lewdly commit any lewd or lascivious act, other than acts constituting
26 the crime of sexual assault, upon or with the body, or any part or member
27 thereof, with a child under the age of 16 years, with the intent of arousing,
28 appealing to, or gratifying the lust or passions or sexual desires of the
defendant or the child, to-wit: did place his hand or hands down the front of
the pants or shorts, and underneath the underwear, of "Kory Collins," a 14-
year-old child, and did touch and/or rub her pubic area, and/or did touch
and/or rub his hand or hands on her buttocks while they were together in the
multi-purpose silo room, commonly referred to as the "squishy floor room."
inside the Douglas County Community Center, with the intent of arousing,
appealing to, or gratifying his own lust, passion or sexual desires, all of
which occurred in the County of Douglas, State of Nevada,

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**COUNT FOUR: LEWDNESS WITH A CHILD UNDER 16
YEARS OF AGE, a violation of NRS 201.230(1)(a)
and (3), a category B felony**

being a person who was 18 years of age or older, did willfully, unlawfully and lewdly commit any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, with a child under the age of 16 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the defendant or the child, to-wit: did place his hand or hands down the front of the pants or shorts, and underneath the underwear, of "Kory Collins," a 14-year-old child, and did touch and/or rub her pubic area, and/or did touch and/or rub his hand or hands on her buttocks while they were together behind a set of stairs inside the Douglas County Community Center, with the intent of arousing, appealing to, or gratifying his own lust, passion or sexual desires, all of which occurred in the County of Douglas, State of Nevada,

against the peace and dignity of the State of Nevada. Complainant prays the defendant be dealt with according to law.



Chelsea Mazza
Deputy District Attorney

1 The following are the names of such witnesses as are known to me at the time of filing
2 the within Information:

3
4 Sergeant Robert Duffy

Douglas County Sheriff's Office
1038 Buckeye Road
Minden, Nevada 89423

5
6
7 Sergeant Justin Williams

Douglas County Sheriff's Office
1038 Buckeye Road
Minden, Nevada 89423

8
9
10 Investigator Nadine Chrzanowski

Douglas County Sheriff's Office
1038 Buckeye Road
Minden, Nevada 89423

11
12 Tamera Woodbridge

1484 Jessica Lane # B
Gardnerville, Nevada 89410

13
14
15 Jennifer Marie Calabrese

1329 Waterloo Lane
Gardnerville, Nevada 89410

16
17 Scott Doerr

1329 Waterloo Lane
Gardnerville, Nevada 89410

18
19 Ashley Jean Gosney

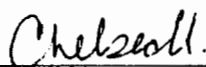
1329 Waterloo Lane
Gardnerville, Nevada 89410

20
21 Nick Lonnegren

1329 Waterloo Lane
Gardnerville, Nevada 89410

22
23 "Kory Collins"

Address on file with Douglas
County District Attorney's Office

24
25
26 
27 Chelsea Mazza
28 Deputy District Attorney

APP0004

FILED

2020 JUN 26 PM 4: 52

ROBERT R. WILLIAMS

D. GOELZ

BY _____ DEPUTY

Case No. 19-CR-0188

Dept. No. II

DA 18-2152R

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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

V.

RICHARD ALEXANDER JENKINS,

Defendant.

**MOTION TO ADMIT EVIDENCE OF
DEFENDANT'S PRIOR SEXUAL
ACTS PURSUANT TO NRS 48.045(3)
OR ALTERNATIVELY, MOTION TO
ADMIT EVIDENCE OF OTHER BAD
ACTS UNDER NRS 48.045(2)**

The State of Nevada, by and through Douglas County Deputy District Attorney Chelsea Mazza, hereby files its Motion to Admit Evidence of Defendant's Prior Sexual Acts Pursuant to NRS 48.045(3) or Alternatively, Motion to Admit Evidence of Other Bad Acts under NRS 48.045(2). This motion is based on the attached Memorandum of Points and Authorities, the pleadings and papers on file with the Court, and any testimony adduced or oral arguments presented at a hearing on the matter.

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APP0005

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POINTS AND AUTHORITIES

I. STATEMENT OF THE CASE

On November 8, 2018, RICHARD ALEXANDER JENKINS (hereinafter "Defendant") was arrested for offenses which occurred on or between July 1, 2018, and September 25, 2018. Defendant is now charged by way of an Information filed December 20, 2019 (following a preliminary examination), with four counts of Lewdness with a Child Under 16 Years of Age, category B felonies. Defendant entered a not guilty plea to all charges on January 6, 2020. The trial in this matter is currently set to begin August 18, 2020.

II. STATEMENT OF FACTS

A. Pau Wa Lu Volleyball¹

1. M.S.

On November 21, 2018, M.S. was interviewed by Investigator Nadine Chrzanowski of the Douglas County Sheriff's Office. M.S. was a student at Douglas High School and previously Defendant had been her volleyball coach. M.S. indicated she met Defendant when she was in the seventh grade and playing on the seventh grade volleyball team at Pau Wa Lu Middle School. M.S. indicated Defendant was the eighth grade coach, but he would assist with her team's practice. Defendant was then M.S.'s coach when she was on the eighth grade team. M.S. described her belief that Defendant paid special attention to certain girls on the team, including herself.

According to M.S. Defendant was always "really close" with her and other girls on her team. M.S. indicated that at the end of the season her and another volleyball player A.H. helped Defendant create his Instagram social media account. When creating his account M.S. and A.H. told Defendant he needed to include a profile picture. At this time, Defendant took a picture of himself, M.S. and A.H. and set it as his profile picture. M.S. went on to describe how Defendant then started commenting on her Instagram posts. According to M.S. Defendant would comment

¹ M.S. and B.G. gave a statement in this case. To protect their identity, the State will not attach the statement to this motion. Their statement and any related police reports have been provided to the defense in the instant matter.

1 on her posts even when volleyball season was over, Defendant was no longer her coach, and there
2 was no reason for Defendant to contact her. Defendant kept the photo with her as his profile
3 picture for quite some time, and even after M.S. later blocked Defendant from her Instagram she
4 was told Defendant continued posting pictures of her and A.H. M.S. blocked Defendant from her
5 Instagram after her eighth grade year and after Defendant commented on a picture she posted of
6 her and a friend in a swim suit, and another picture of her at her cousin's wedding. M.S. stated the
7 comments on her page made her uncomfortable and she decided to block him.

8 M.S. also reported whenever Defendant came up to her to talk he would put his arm
9 around her, on her waist and leave it there when he would talk to her. M.S. described Defendant
10 as "super touchy" and "close" with his players, describing how Defendant would always put his
11 arm around players' waists or be touching them in some way. When Defendant would put his arm
12 around M.S.'s waist it was "low" near her hip bone, and according to M.S. this would make her
13 feel weird.
14

15 After Defendant was no longer M.S.'s coach, Defendant would still contact her and asked
16 her several times to assist him with volleyball clinics. M.S. told Defendant no several times, but
17 Defendant kept asking. M.S. continued to feel uncomfortable because Defendant was still
18 "touchy" towards her, continuing to put his arm around her waist. M.S. informed the Investigator
19 she would see Defendant around the Douglas County Recreation Center or around other sporting
20 events and Defendant would always hug or touch her every time he saw her. Because Defendant
21 made her uncomfortable, M.S. began saying hi to Defendant from a distance.

22 2. B.G.

23 On November 8, 2018, B.G. was a sophomore at Douglas High School and knew
24 Defendant from attending a volleyball clinic he coached the summer prior. At the time, Defendant
25 was the coach for the Freshman Volleyball Team at Douglas High School, and recommended her
26 to make the team, stating she had potential even though she had never played before. B.G. made
27 the freshman team, and Defendant was her assistant coach. B.G. then began to help with
28

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1 volleyball clinics coached by Defendant, and later helped Defendant with coaching his team at Pau
2 Wa Lu Middle School. B.G. helped Defendant with tryouts, open gym and eventually practices.
3 At the time B.G. was also playing club volleyball, which required her to wear a certain uniform
4 which included a white top, which was somewhat see through. According to B.G., on one
5 occasion she was wearing the required uniform top and her teammate was wearing the same thing.
6 At this time, Defendant made a comment that her and her teammate's sports bras were opposite
7 colors, with B.G.'s being gray and pink straps and her teammate's being pink with gray straps.
8 B.G. informed the Investigator this comment made her uncomfortable.

9
10 B.G. also described how Defendant would often throw balls at her and other players when
11 she was assisting the Pau Wa Lu team. B.G. indicated Defendant would throw the balls at their
12 "butts".

13 **B. Victim "Kory Collins"**²

14 Between July 1, 2018, and September 25, 2018, Defendant developed a relationship with
15 Kory Collins. At the time Kory Collins was a fourteen year old volleyball player and friend of his
16 daughter A.J. Preliminary Examination Transcript ("PET") 94-95; 98 (December 6, 2019). Kory
17 and Defendant would hang out mostly every day of the summer of 2018. Id. at 99. Most of their
18 time would be spent at the Douglas County Recreation Center or Defendant's home. Id.

19 While at the Recreation Center, Defendant and Kory would go to secluded areas. Id. at
20 100-101. Kory and Defendant would go to the equipment room, underneath the staircase, and an
21 area known as the squishy room. Id. at 101. While in the equipment room Defendant would hug
22 Kory for a long time, kiss her on the neck or either cheek, and rub his hand down Kory's back and
23 touch her butt. Id. at 106. While in the squishy room and underneath the staircase the same
24 conduct would occur which made Kory uncomfortable. Id. at 101; 126. Defendant instructed
25

26
27 ² In addition to preliminary hearing testimony, "Kory Collins" gave a statement in this case. To protect her identify, the State
28 will not attach the statement to this motion. Her statement and any related police reports have been provided to the defense in
the instant matter.

1 Kory leave the equipment room before him, and to tell people they were checking for flat balls if
2 they were asked what they were doing in the equipment room. Id. at 110; 115.

3 When Kory would go to Defendant's home she would spend the night to visit with
4 Defendant and his daughter, A.J. Id. at 102-103. They would watch movies when Kory would
5 come over to visit. Id. at 103. When watching movies, A.J, Defendant and Kory would be
6 present, watching the movies on the couch. Id. Kory described Defendant as sitting in the middle
7 of the couch and her and A.J. on separate sides of Defendant. Id. at 103-104. While on the couch
8 Defendant would have his arm around Kory, and Defendant would slowly move his hands down
9 to the bottom of her back, and put his hands down her pants, touching Kory's bottom. Id. at 104.
10 This would occur both inside and outside Kory's pants. Id. at 104-105. Defendant would also put
11 his hands down the front of Kory's pants while at Defendant's house. Id. at 106.

12 Kory described her contact with Defendant to also include Defendant kissing her neck, the
13 two of them holding hands, laying on his lap, leaning on his shoulder, and hugging for long
14 periods of time. Kory also described an incident where Defendant forcefully moved her hips, by
15 grabbing her by the hips and moving her around during a practice. Kory indicated Defendant
16 would do this when Kory made a mistake during volleyball practice.

17
18 1. Uncharged Conduct³

19 During the investigation into the instant matter Douglas County Sheriff's Office
20 Investigator Nadine Chrzanowski interviewed individuals who had observed the relationship
21 between Kory Collins and Defendant during the summer of 2018. Described below are the
22 different statements regarding Defendant's conduct with Kory Collins, many incidents which are
23 captured on surveillance footage from the Douglas County Recreation Center.

24 **Tamera Woodbridge**, Kory Collins's mother, was interviewed on September 25, 2018.
25 Tamera described incidents between Defendant and Kory Collins that caused concern. First,
26

27
28 ³ The witnesses mentioned below made statements or reports to the Douglas County Sheriff's Office, their statements and any related police reports have been provided to the defense in the instant matter.

1 Tamera described an incident where Defendant dropped Kory off after a volleyball function and
2 the hug between Defendant and Kory appeared inappropriate. Tamera discussed this with
3 Defendant and Kory and they indicated they would not hug each other in such a fashion. Second,
4 the principal from Carson Valley Middle School contacted Tamera after interactions between
5 Defendant and Kory were witnessed at school. The principal expressed concern about the intimate
6 appearance of their interaction. Tamera spoke with Defendant and Kory and suggested they not
7 have any physical contact with each other to avoid this issue.

8
9 **Ashley Gosney**, a former volleyball player and patron of the Douglas County Recreation
10 Center, was interviewed on October 4, 2018. Ashley had made a report to the Douglas County
11 Recreation Center regarding contact she observed between Defendant and Kory Collins. Ashley
12 reported she was playing volleyball at the Recreation Center and noticed a particular closeness
13 between Defendant and Kory. The contact between the coach and player bothered Ashley because
14 they were awfully close and Ashley felt weird watching them. Ashley observed Defendant and
15 Kory taking a water break and saw Defendant and Kory standing belly to belly, with Kory holding
16 onto Defendant's shirt and holding her finger in his hand. After the practice Ashley observed
17 Defendant and Kory by themselves and observed Defendant hug Kory for a long time and then
18 kiss Kory or whisper in her ear.

19 **Nicholas Lonnegren**, a trainer, was interviewed on October 5, 2018. Nicholas observed
20 unusual contact between Defendant and Kory at the Douglas County Recreation Center for about
21 two months. Nicholas described the contact as touchy feely, not like a coach would interact with a
22 player. Nicholas also described observing Defendant and Kory enter the equipment room at the
23 Recreation Center together, alone, and remain inside the room for long periods of time. Nicholas
24 found this odd enough that he asked an employee of the Recreation Center if there were cameras
25 inside the room. Nicholas described the contact between Kory and Defendant as a lot more
26 "huggy", where Defendant would touch Kory's shoulder, and would touch her back for an
27
28

1 extended period of time. Nicholas described observing Kory and Defendant in the squishy room
2 or area with padded floor, and observed Kory laying on Defendant's thigh.

3 **A.K. and K.K.** were interviewed on November 5, 2018. A.K. and K.K. are sisters that
4 played volleyball for Defendant. A.K. and K.K. described an incident between Kory and
5 Defendant that made them feel uncomfortable. A.K. and K.K. indicated they were uncomfortable
6 enough that they reported the incident to their coaches Marie Foster and Suzie Townsell.
7 According to A.K. and K.K., during open gym they observed Defendant close to Kory and
8 appeared to be coaching Kory exclusively. The group was working on serving and K.K. heard
9 Defendant tell Kory she needed to move her hips more when she served. Then, while standing
10 behind Kory, Defendant grabbed Kory's hips and moved Kory's hips around. A.K. was standing
11 directly next to Kory when this happened and indicated Defendant was close to Kory the entire
12 time. A.K. and K.K. indicated they had noticed the contact between Defendant and Kory for
13 several months and the behavior escalated and became more noticeable.
14

15 **B.G.**, described above, was interviewed on November 8, 2018. B.G. described observing
16 the relationship between Defendant and Kory. B.G. described having observed Defendant pay
17 particular attention to Kory. According to B.G. it was really awkward seeing them together.
18 According to B.G. Defendant and Kory were really touchy with each other and they would always
19 mess with each other's hands and hug and get really close. B.G. described the contact as 100
20 percent inappropriate, and B.G. felt really awkward being there and watching it. B.G. indicated
21 Defendant would put his face very close to Kory's face to talk to her.

22 **Erica Janicki**, the mother of B.G., was interviewed on November 8, 2018. Erica met with
23 Investigator Chrznowski because she had information on an interaction she observed between
24 Defendant and Kory. Erica indicated on July 30, 2018, she was in Katie's Restaurant located
25 inside the Carson Valley Inn, in Douglas County, Nevada. While there, Erica observed Defendant
26 and Kory at a booth with Defendant's daughter A.J. Erica observed Defendant and Kory interact
27 "like a couple" in a dating relationship. Erica described Kory as almost in Defendant's lap, sitting
28

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1 very close to each other, with Kory leaning against Defendant and putting her head on his
2 shoulder. According to Erica, A.J. was not interacting with Defendant this way, and A.J. sat
3 farther over in the booth. Erica took a photo of Defendant and Kory interacting in this way. Erica
4 indicated she later observed Defendant and Kory again at a scrimmage at Silver State High School
5 in Carson City. There Erica observed Defendant constantly around Kory, even when she was on
6 the sidelines, even though Defendant was not coaching Kory's team. Erica described this
7 interaction between Defendant and Kory as a flirtatious interaction, where Kory seemed isolated
8 from other teammates and completely focused on Defendant.

9
10 **Lexy Gunnell**, a former volleyball player for Defendant, was interviewed on November
11 20, 2018. Lexy described having an opportunity to observe Defendant and Kory at the Recreation
12 Center, and described their behavior as odd. According to Lexy, Kory always had her arm around
13 Defendant or was holding Defendant's hand. Lexy indicated on one incident she was working out
14 at the Recreation Center and she saw Kory laying on Defendant, putting her head on Defendant
15 and laying her head on Defendant's leg, while Defendant draped his arm around Kory. Lexy
16 stated she felt the relationship between Defendant and Kory was weird.

17 **V.S.** was interviewed on November 20, 2018. V.S. described herself as Kory's best friend
18 and informed Investigator Chrzanowski about incidents she observed between Defendant and
19 Kory. V.S. stated Defendant and Kory were always together, even during times when A.J.,
20 Defendant's daughter was not present. According to V.S., Defendant and Kory would call and
21 text on a regular basis, and on one occasion V.S. spent the night with Kory and Kory was on the
22 phone with Defendant. During this call V.S. heard Defendant because she was sitting close to
23 Kory. V.S. heard Defendant asking who was around, if Kory's mother was home, where Kory
24 was, if Kory's bedroom door was open or closed, if anyone was listening to the conversation, all
25 questions V.S. found highly secretive. On another occasion when V.S. spent the night with Kory,
26 V.S. and Kory went for a walk. During the walk they ended up at Woodette's restaurant in
27 Douglas County, Nevada. Defendant happened to be at Woodette's. At this time V.S. knew
28

APP0012

1 Defendant and Kory were not supposed to be together and it was “awkward”. According to V.S.,
2 while at Woodette’s Defendant and Kory hugged one another in a “big bear hug” that lasted for a
3 long time. Based on her observations, V.S. felt the relationship between Defendant and Kory was
4 “weird”.

5 S.M.2, a student at Douglas High School and volleyball player, was interviewed on
6 November 20, 2018. S.M.2 was a volleyball player and had been coached by Defendant.
7 According to S.M.2, she had observed Defendant pay close attention to Kory when S.M.2 was
8 helping at a clinic Defendant was coaching. S.M.2 indicated Defendant and Kory would play with
9 their hands a lot and would interlock fingers together. S.M.2 said Defendant would not stop this
10 conduct from Kory, and S.M.2 felt their relationship was a little weird. S.M.2 indicated she had
11 never seen Defendant interact this way with another player.

12 III. ARGUMENT

13 A. NRS 48.045(3), Which Was Enacted In 2015, Makes Prior Bad Acts Admissible To 14 Show A Defendant’s Propensity In Cases Involving Sexual Offenses.

15 In 2015, Assembly Bill 49 (AB 49) was introduced to enact broad changes to many
16 sexual offenses in the Nevada Revised Statutes, among those changes was an exception to the
17 general rule of NRS 48.045(2) barring propensity evidence in sexual crimes. Section 21 of AB
18 49 added NRS 48.045(3), which codifies this change:
19

20 Nothing in this section shall be construed to prohibit the admission of
21 evidence in a criminal prosecution for a sexual offense that a person
22 committed another crime, wrong, or act that constituted a separate sexual
23 offense. As used in this subsection, “sexual offense” has the meaning
24 ascribed to it in NRS 179D.097.

25 The provision creates a presumption of admissibility to allow evidence of other sexual
26 indiscretions in cases involving a new sexual offense, and tracks other states which also allow
27 propensity evidence in sex crime cases, including California, Alaska, Arizona, Georgia,
28 Illinois, Louisiana, Utah, and Florida. See Minutes of the Meeting of the Subcommittee of the

1 Senate Committee on Judiciary, Assem. Bill 49, 2015 Reg. Sess. (May 8, 2015); AB 49 John
2 Jones Power Point, Assem. Bill 49, 2015 Reg. Sess. (Nev. 2015).

3 Furthermore, this legislation clears up years of conflicting opinions issued by the
4 Supreme Court. The Nevada Supreme Court has a long history of allowing evidence of a
5 defendant's previous sexual crimes to be admitted in order to prove sexual motive. The Court
6 had carved out a narrow exception to the prohibition of NRS 48.045(2), ruling that prior sex
7 crimes, as a matter of law, were admissible because their probative value to prove a propensity
8 for sexual aberration outweighed their prejudicial nature. See McMichael v. State, 94 Nev.
9 184, 577 P.2d 398 (1978); Findley v. State, 94 Nev. 212, 577 P.2d 867 (1978). In 2002, the
10 Nevada Supreme Court overruled Findley and McMichael, holding that a trial court may admit
11 prior sexual crimes, but only after weighing the factors under Tinch. Braunstein v. State, 118
12 Nev. 68, 40 P.3d 413 (2002).

14 The legislature's enactment of AB 49 makes clear that prior sexual acts are to be
15 admitted at trial for new sexual offenses. In this case, evidence that Defendant previously acted
16 in a sexual manner with other volleyball players and Kory is admissible to demonstrate
17 Defendant's propensity to commit the sexual offenses alleged against Kory.

18 Given NRS 48.045(3), this Court should still evaluate evidence of prior sexual acts as it
19 does with all other evidence, giving due consideration to NRS 48.035(1) ("evidence is not
20 admissible if its probative value is substantially outweighed by the danger of unfair prejudice,
21 of confusion of the issues or of misleading the jury"). This will be discussed below.

22 1. Defendant's Prior Sexual Conduct is Extremely Relevant.

23 The Supreme Court has clarified what makes prior bad acts relevant in sex crimes cases.
24 In Ledbetter v. State, the defendant was accused of sexually molesting his stepdaughter over a
25 ten-year period, starting when she was five or six years old. 122 Nev. 252, 129 P.3d 671
26 (2006). An investigation revealed that the defendant had also sexually abused his biological
27 daughter and a step-granddaughter. Id. at 257-258. At trial, the court allowed the State to
28

1 present evidence that the defendant sexually abused his biological daughter and his step-
2 granddaughter. Id. at 252.

3 The Supreme Court ultimately upheld the decision to admit the prior bad acts, holding
4 that the prior acts established Ledbetter's motive under NRS 48.045(2). Id. at 262. The
5 testimony of the biological daughter and step-granddaughter as well as their mother's testimony
6 established the prior bad acts by clear and convincing evidence. Id. Finally, the Court held that
7 the probative value of the evidence was not substantially outweighed by the danger of unfair
8 prejudice to Ledbetter. Id. In analyzing the relevancy of the prior bad acts, the Court reasoned:

10 **The probative value of explaining to the jury what motivated**
11 **Ledbetter**, an adult man who was in a position to care for and protect his
12 young stepdaughter L.R. from harm, to instead repeatedly sexually abuse
13 her over so many years **was very high**. The evidence of Ledbetter's prior
14 acts of sexual abuse of T.B. and J.M. showed Ledbetter's sexual attraction
15 to and obsession with the young female members of his family, which
16 explained to the jury his motive to sexually assault L.R.

17 Id. at 263 (emphasis added).

18 Even before NRS 48.045(3), Ledbetter makes it clear that what makes a defendant's
19 previous sex acts admissible in a new sex crimes trial is propensity. Propensity is defined as "a
20 natural inclination or tendency, or a favorable disposition or partiality." Random House
21 Webster's College Dictionary 1082, Random House Publishers 1996. The bottom line is that if
22 the prior bad acts show that the Defendant has a propensity to engage in sexual acts with young
23 women and he is charged in a case with engaging in sexual acts with a young woman, the
24 evidence is admissible.

25 In the present case, Defendant's previous conduct is similar in nature to that which he
26 committed when starting his relationship with Kory, showing that he has not just a propensity
27 for victimizing young women he meets through the volleyball program, but that he has a
28 propensity for particular conduct or methods of contacting such young women. Evidence of his
prior sexual acts involving M.S., B.G., and Kory is therefore relevant to prove his propensity to
commit the charged offense.

APP0015

1 *i. Defendant Targeted Young Women Through the Volleyball Program.*

2 B.G. and M.S. played for Defendant on his various volleyball teams. Defendant
3 coached B.G. and M.S. when they were on middle school and high school teams. Defendant
4 showed favor to B.G. and M.S. as he coached them, and took a special notice in them.
5 Defendant eventually requested B.G. and M.S. volunteer to help at the clinics he would coach.
6 Once B.G. and M.S. were playing on teams for Defendant, and/or helping with clinics he
7 physically touched and/or hugged sexually, threw volleyballs at their bottoms, and/or made
8 sexual comments to B.G. and M.S.

9 Similarly, Defendant coached Kory while she was playing on a club volleyball team.
10 After befriending Kory and taking a special notice in her Defendant became closer to Kory.
11 Defendant developed a special relationship with Kory, and treated her different than other
12 players at the time. After developing this relationship and physically touching Kory in a
13 physically sexual manner, Defendant began to touch her as alleged in the Information.

14 These young women being picked out as special players meant Defendant had an
15 opportunity to get close to them. Defendant gained the trust of these young women by bringing
16 them onto his teams and developing a relationship with them. Defendant, like most criminals,
17 took measures to give himself the highest likelihood of avoiding detection and choosing young
18 women that had begun to trust him.

19 *ii. Defendant Used Social Media to Stay in Contact.*

20 Defendant maintained his contact with M.S. by using his Instagram to stay in touch with
21 M.S., comment on her photos, and post photos with her. Similarly, Defendant communicated
22 with Kory through Instagram. Defendant would often comment on Kory's photos and post
23 photos with Kory.
24

25 *iii. Defendant Chose Young Women that Needed Help with Their Volleyball Skills.*

26 When Defendant first coached B.G. he brought her onto the team, although she had
27 never played volleyball before. Defendant told B.G. she had potential and told her he had
28

1 suggested her for the team. When Kory first joined Defendant's club volleyball team she
2 needed to work on her skills. Kory was also given a chance to play on the team even though
3 she was not the most skilled.

4 iv. *Defendant Touches the Young Women in a Similar Manner.*

5 When Defendant would touch M.S. she described Defendant as placing his arm around
6 her waist, low on her hip bones. As seen by many at the Recreation Center and on surveillance
7 video, Defendant would hold Kory in a similar manner around the waist, low even on her
8 bottom.

9
10 2. The Probative Value of Defendant's Prior Sexual Offense Is Not Substantially
11 Outweighed by the Prejudice.

12 AB 49 is legislation meant to include rather than exclude prior bad acts. The other
13 provisions of NRS 48.045 make prior bad acts presumptively inadmissible and establish
14 exceptions for admissibility. Subsection 3 is the opposite: it makes prior bad acts in sex crimes
15 cases presumptively admissible. However, it is illogical to think that prior bad acts are too
16 prejudicial to be admitted because the purpose of admitting them under NRS 48.045(3) is as
17 substantive evidence that the defendant has the propensity to commit these types of crimes. It
18 would be inconsistent for the legislature to make these acts presumptively admissible while
19 also allowing for their exclusion based on the grounds of prejudice.

20 Other states that feature laws similar to AB 49 have likewise held propensity evidence
21 is not to be excluded under Rule 403, the Federal Rule that mirrors NRS 48.045(3) or its
22 similar counterparts. Under Alaska law, which allows prior sexual offenses to be presented as
23 circumstantial evidence "that the defendant is more likely guilty of the act currently charged,"
24 the Court of Appeals held that:

25
26 When evidence of other sexual assaults and attempted sexual assaults is
27 admissible under Rule 404(b)(3), and when the probative value of this
28 evidence is weighed against its potential for unfair prejudice, **the trial
judge's assessment of "unfair prejudice" no longer includes the fact
that the evidence tends to prove the defendant's propensity to**

APP0017

engage in sexual assault...[T]he legislature enacted Rule 404(b)(3) precisely because it wanted evidence of other assaults to be admissible to prove a defendant's assaultive propensity. This legislative purpose would be defeated if Rule 403 were interpreted to make the other crimes evidence "unfairly prejudicial" just because the evidence was relevant in the way the legislature intended.

Bingaman v. State, 76 P.3d 398, 414 (Alaska Ct. App. 2003)(emphasis added).

California's similar rule considers how recent the prior offense was, its similarity to the charged offense, the likely prejudicial impact, the burden on the defendant in defending against the uncharged offense, and whether less prejudicial means of presenting the information exist. People v. Loy, 254 P.3d 980 (Cal. 2011). The factors identified by California and Alaska are similar to those used to evaluate unfair prejudice in the federal system. U.S. v. LeMay, 260 F.3d 1018, 1026 (9th Cir. 2001).

Given the similarity of Defendant's conduct, the relevance in proving his propensity, and the legislature's clear intent that prior acts be admitted, this court should admit the prior bad acts with M.S., B.G. and Kory.

B. Alternatively, Evidence of Defendant's Prior Bad Acts Is Admissible as Proof of His Motive, Opportunity, Intent, Preparation, Or Plan under NRS 48.045(2).

If the Court is not willing to admit the prior bad acts under the sexual conduct analysis and the new section of NRS 48.045, the prior acts are still admissible under the motive, opportunity, intent, preparation, or plan exceptions of NRS 48.045(2). During a hearing outside the presence of the jury, the trial court must determine that: 1) the incident is relevant to the crime charged, 2) the act is proven by clear and convincing evidence, and 3) that the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice. Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064 (1997).

Defendant's previous sexual contact with B.G. and M.S. is admissible in this case because it is relevant to prove his motive to sexually victimize young women, his opportunity to abuse young women who look up to him in a coach role, his sexual intent in placing himself in positions to prey upon such women, and his plans and preparation he employs to achieve his

1 ultimate goal of sexually abusing young women. The State can prove this crime by clear and
2 convincing evidence: M.S. and B.G. are willing to testify at a hearing, and previously made
3 statements to law enforcement. Further, because the sets of conduct are so similar, the prior
4 incident is extremely relevant and is not substantially outweighed by the danger of unfair
5 prejudice.

6 Defendant's other acts with Kory are admissible in this case because it is relevant to
7 prove Defendant's motive to sexually victimize Kory, his opportunity to abuse Kory after
8 gaining her trust over time after the loss of her step-father, his sexual intent in placing himself
9 in a position where Kory would be comfortable with him, and his plans and preparation he
10 employed to achieve his ultimate goal of sexually abusing Kory. The State can prove this
11 conduct by clear and convincing evidence: the above mentioned witnesses are willing to testify
12 at a hearing, previously made statements and reports to law enforcement, and many of the
13 reported incidents are on video surveillance. Further, because the other acts with Kory are so
14 connected to the conduct alleged in the Information, the prior acts are extremely relevant and
15 are not substantially outweighed by the danger of unfair prejudice.

17 ///

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APP0019

Douglas County District Attorney
Post Office Box 218
Minden, Nevada 89423
(775) 782-9800 Fax (775) 782-9807

1 **IV. CONCLUSION**

2 The State has evidence of other act evidence involving B.G. and M.S. with uniquely
3 similar details to Defendant's conduct with Kory the victim of current pending charges. The
4 State is requesting the admittance of the prior acts involving B.G. and M.S. pursuant to NRS
5 48.045(3) or alternatively, under NRS 48.045(2). Defendant's other acts with Kory show his
6 motive, opportunity, intent, preparation, or plan with regard to the progression of his
7 relationship with Kory. The State is requesting admittance of the prior acts with Kory pursuant
8 to NRS 48.045(2).
9

10 Dated this 26 day of June, 2020.

11
12 MARK B. JACKSON
13 DISTRICT ATTORNEY

14 By: Chelsea Mazza
15 Chelsea Mazza
16 Deputy District Attorney
17 P. O. Box 218
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APP0020

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Case No. 19-CR-0188

Dept. No. II

DA 18-2152R

This document does not contain personal information of any person

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for Douglas County, Nevada, and that I deposited for delivery a true copy of Motion to Admit Evidence of Defendant's Prior Sexual Acts Pursuant to NRS 48.045(3) or Alternatively, Motion to Admit Evidence of Other Bad Acts Under NRS 48.045(2), addressed to:

Theresa Ristenpart,
464 South Sierra Street
Reno, Nevada 89501

- ☒ U.S. Mail
☐ Reno/Carson Messenger
☒ Email
☐ By placing a copy in the pick-up folder in the District Attorney's Office.

DATED this 26 day of June, 2020.

APP0021

1 RISTENPART LAW
2 Theresa Ristenpart, Esq.
3 464 South Sierra Street
4 Reno, NV 89501
5 (775) 200-1699
6 Attorney for Mr. Richard Jenkins

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District Court Clerk

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M. BIAGGINI DEPUTY

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IN THE NINTH JUDICIAL DISTRICT COURT

STATE OF NEVADA, IN AND FOR THE COUNTY OF DOUGLAS

STATE OF NEVADA,

Plaintiff,

CASE NO: 19-CR-0188

v.

DEPT. NO. II

RICHARD JENKINS,

Defendant.

NOTICE OF INTENT TO ADMIT EVIDENCE OF PRIOR FALSE ALLEGATIONS

OF SEXUAL ASSAULT BY COMPLAINING WITNESS

COMES NOW, Richard Jenkins, by and through his attorney, THERESA RISTENPART, Esq., and hereby notices this Court of intent to admit evidence of a prior false allegations of sexual assault by complaining witness.

This Notice is based upon the attached Points and Authorities, and any testimony, documentary, and real evidence as may be presented at the hearing on this matter.

APP0022

POINTS AND AUTHORITIES

I. Statement of Relevant Facts

On April 4, 2016, G.W.¹ reported to her teacher that her mother's boyfriend, Gage Maryces (Gage) had been touching her inappropriately. G.W. claimed that Gage had been coming into her bedroom after everyone else was asleep and laying down with her in her bed with her. G.W. claimed that Gage would rub her back and shoulders while they watched YouTube videos. She claimed that Gage would do this at least once a week. G.W. further claimed that one-time Gage rubbed her butt and she told him to stop and leave her room. G.W. described the interactions and touching as "inappropriate." G.W. told police and her teacher that she had told her mother Tamara, but her mother had told her not to tell anyone.

Douglas County Sheriff's Office interviewed G.W., Tamara, and Gage. Gage denied ever touching G.W. in an inappropriate manner. DCSO concluded that the allegation was "unfounded" and closed the case. Tamara reported to DCSO that she was "concerned about G.W.'s mental state."

In spring 2018, G.W.'s stepfather, with whom she reported to very close, passed away after suffering from cancer. That summer, G.W. became closer friends with Mr. Jenkins' daughter, Alyssa. G.W. spent hours at the Jenkins home, having dinner, hanging out with Alyssa, Kim (Mr. Jenkins' partner), David (adult son), Chris (roommate), and Mr. Jenkins. G.W.'s mom and family would come over to the Jenkins for barbeques and the Jenkins family took G.W. and her mother on a rafting trip. Mr. Jenkins allowed G.W. to be an "assistant."

¹ G.W. are the initials of the same complaining party in this instant case in which she is identified by a **APP0023** "Kory Collins."

1 along with his daughter Alyssa, during the summer/fall volleyball clinics he coached at the
2 Douglas County Community Center.

3 In late summer 2018, G.W. tried out for the Douglas County High School volleyball
4 team, at the time coached by Marie Foster. G.W. did not make the team.

5 On September 19, 2018, Ashley Gosley made a report to the Douglas County
6 Community Center claiming she, two days prior, noticed a "strange relationship and touchy
7 behavior with Coach Rick and a younger player."

8 Douglas Community Center reported Ashley Gosley's claims to the Douglas County
9 Sheriff's Office (DCSO). On September 27, 2018, DCSO interviewed G.W. who repeatedly
10 denied any allegations of inappropriate touching by Mr. Jenkins.
11

12 After this interview, G.W. reached out to Marie Foster to ask about private lessons in
13 order to help make the high school volleyball team. Marie Foster had a private coaching
14 session with G.W. on October 28, 2018. Marie Foster reported to investigating police that she
15 sat down at the beginning of the lesson with G.W. and told G.W. that she had heard
16 stories/rumors about Rick Jenkins. Marie Foster then proceeded to share details of her own
17 personal sexual abuse with G.W. G.W. allegedly then told Marie Foster that Mr. Jenkins would
18 shove her into the equipment room and grope her. Marie Foster ultimately disclosed to G.W.
19 that she is a mandated reporter and would have to report this allegation.
20

21 On November 1, 2018, DCSO interviewed G.W. again. This time G.W. claimed that
22 Mr. Jenkins would rub her butt which made her feel uncomfortable. She also claimed that he
23 put his hands down the front of her pants and almost touched the top of her vagina. G.W.
24 claimed that this happened in at the Jenkins' home and at the Douglas County Community
25 Center.
26

II. Argument

In a sexual assault case, the complaining witness' credibility is critical and thus an alleged victim's prior fabricated accusations of sexual abuse or sexual assault are highly probative of a complaining witness' credibility concerning current sexual assault charges. *Miller v. State*, 105 Nev. 497, 500, 779 P.2d 87, 89 (1989).

Nev. Rev. Stat. § 50.090. Nevada's rape shield law, precludes admission of a victim's previous sexual conduct. However, the Supreme Court of Nevada has carved out an exception to § 50.090, holding that it does not encompass prior false allegations of sexual abuse or sexual assault because it is important to recognize in a sexual assault case that the complaining witness' credibility is critical and thus an alleged victim's prior fabricated accusations of sexual abuse or sexual assault are highly probative of a complaining witness' credibility concerning current sexual assault charges. *Abbott v. State*, 122 Nev. 715, 717, 138 P.3d 462, 464 (2006). As such, defense counsel may cross-examine a complaining witness about previous fabricated accusations, and if the witness denies making the allegations, counsel may introduce extrinsic evidence to prove that, in the past, fabricated charges were made. *Id.*

Before extrinsic evidence of a complaining witness's false accusations can be admitted, a threshold inquiry must establish both the fact of the accusations and the falsity thereof, even before the defense counsel launches into cross-examination. *Efrain M. v. State*, 107 Nev. 947, 948, 823 P.2d 264, 265 (1991). Thus, if defendant wishes to cross-examine the complaining witness about prior false sexual abuse or sexual assault accusations and to introduce extrinsic evidence of these false accusations, defendant must first file a notice of intent to do so. *Id.*

The trial court is then required to hold a hearing, outside the jury's presence, to determine whether the cross-examination is warranted and whether the extrinsic evidence is

1 admissible. *Id.* Specifically, defendant must show, by a preponderance of the evidence, that:
2 (1) the accusations were made; (2) the accusations were false; and (3) the extrinsic evidence is
3 more probative than prejudicial. *Id.* There is no timeliness requirement, and the evidentiary
4 hearing may take place during trial. *Id.* Additionally, defendant is not required to describe the
5 specific prior accusation in the notice of intent to introduce extrinsic evidence. *Id.*

6 **CONCLUSION**

7 Based on the foregoing, Mr. Jenkins notices intent to admit evidence of prior false
8 allegations of sexual “inappropriate” touching by the complaining witness.
9

10 **AFFIRMATION PURSUANT TO NRS 239B.030**

11 The undersigned does hereby affirm that the preceding document does not contain the
12 Social Security Number of any person.

13 DATED this 25th day of June, 2020.



14
15 THERESA RISTENPART, ESQ.

1 CERTIFICATE OF SERVICE

2
3 I certify that on the 25th day of June, 2020, I e-mailed and sent via USPS mail a true copy
4 of the attached document to:

5 Chelsea Mazza
6 Douglas District Attorney's Office
cmazza@douglas.nv.gov

7 Lisa Dee
8 LISA DEE, CP
9

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26 **APP0027**

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6 Attorney for Mr. Richard Jenkins

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A. NEWTON DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT

STATE OF NEVADA, IN AND FOR THE COUNTY OF DOUGLAS

STATE OF NEVADA,

Plaintiff,

v.

RICHARD JENKINS,

Defendant.

CASE NO: 19-CR-0188

DEPT. NO. II

**OPPOSITION TO STATE'S MOTION TO ADMIT EVIDENCE OF DEFENDANT'S
PRIOR SEXUAL ACTS PURSUANT TO NRS 48.045(3) OR ALTERNATIVELY,
MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS UNDER 48.045(2)**

Mr. Richard Jenkins, by and through his counsel, Theresa Ristenpart, Esq. hereby files this Opposition to the State's Motion to Admit Evidence of Defendant's Prior Sexual Acts Pursuant to N.R.S. 48.035(3) or Alternatively, Motion to Admit Evidence of Other Bad Acts Under N.R.S. 48.045(2).

This Opposition is based upon the following Points and Authorities and any testimony or oral arguments presented at a hearing on the matter.

POINTS AND AUTHORITIES

I. STATEMENT OF RELEVANT FACTS

On June 26, 2020, the State filed a Motion to Admit Evidence of Defendant's Prior Sexual Acts Pursuant to NRS 48.035(2), or Alternatively, Motion to Admit Evidence of Other Bad Acts under NRS 48.045(2). On June 26, 2020, Defense filed a Motion to Compel Discovery as the State still had not turned over to Defense "video recordings of interviews of Maddie Smalley (Supp. 8), Vegas Salmon (Supp. 10), Hannah Schaeffer (Supp. 11) and "SM" (Supp. 12)" which form the basis for many of the alleged acts contained in the State's Motion.

On July 6, 2020, Defense received the video recordings of these interviews. On July 9, 2020, Defense filed a motion for enlargement of time, due to having just received the recorded interviews, to respond to the State's Motion and asked for until July 24, 2020 to respond.

II. Argument

It is difficult to respond directly to each of the State's alleged acts it wishes to introduce as the State does not specify exactly what it claims is a "sexual act" and should be admitted pursuant to NRS 48.045(3) and what acts should be admitted pursuant to NRS 48.045(2). The State puts in numerous allegations from over ten different witnesses, but then in its argument asks the Court to only consider admitting "Defendant's prior sexual contact with B.G. and M.S. and Kory." State's Motion pg. 14 lines 12-15, pg. 15 line 2, 6. As such, Defense will address the allegations of M.S., B.G. and Kory.

A. Allegations by M.S. and B.G. are not admissible under NRS 48.045(3) or NRS 48.045(2).

In general, prior bad act evidence is "volatile evidence." *Tavares v. State*, 117 Nev. 725, 731, 30 P.3d 1128, 1132 (2001). Such evidence is heavily disfavored because bad acts are often

1 irrelevant and prejudicial and force the accused to defend against vague and unsubstantiated
2 charges. *Newman v. State*, 129 Nev. Adv. Op. 24, 298 P.3d 1171, 1178 (2013). The principal
3 concern with admitting such evidence is that the jury will be unduly influenced by the
4 evidence, and thus convict the accused because the jury believes that the accused is a bad
5 person. *Walker v. State*, 116 Nev. 442, 445, 997 P.2d 803, 806 (2000); *Braunstein v. State*, 118
6 Nev. 68, 73, 40 P.3d 413 417 (2002); *Berner v. State*, 104 Nev. 695, 696-97, 795 P.2d 1144,
7 1145-46 (1988); *Michelson v. United States*, 225 U.S. 469, 476 (1948) (noting that such
8 evidence is said to weigh too much with the jury and to over persuade them as to prejudice one
9 with a bad record and deny him a fair opportunity to defend against a particular charge).

11 However, in 2015, the Nevada legislature passed AB 49, which makes evidence of
12 another crime, wrong, or act that constituted a separate sexual offense presumptively
13 admissible. This law was modeled off of similar laws in other states, and the Federal Rules of
14 Evidence 413, 414 and 415. There have been numerous due process challenges to these
15 statutes, with the majority of Courts finding that the law passes Constitutional muster, as long
16 as the Court submits the evidence to a balancing test and excludes evidence that is more
17 prejudicial than it is probative. Each State has determined that there are certain factors that the
18 Court must consider when weighing prior act evidence.

20 In *People v. Falsetta*, 21 Cal.4th 903, 986 P.2d 182 (1999), the Defense challenged a
21 statute that allowed the admission of prior sex offenses as propensity evidence in sex offense
22 cases. The Court held that the statute was constitutional as long as the evidence is not
23 inadmissible pursuant to the statute that required the Court to weigh the probative value and the
24 prejudicial impact of such evidence. *Id.* at 911. In reaching this conclusion, the Court
25 considered three separate reasons why, in the case before it, allowing in propensity evidence
26

1 did not offend due process. First, the Court considered the often unfair burden on the defense
2 of having to defend against both the charged offense and the uncharged offense. *Id.* at 915. The
3 Court noted that the prior evidence was restricted only to sex offenses, the statute required pre-
4 trial notice, and the evidence sought to be admitted had been proved through the defendant's
5 prior guilty pleas, where he admitted the prior rape. *Id.* at 16. The Court noted that with a guilty
6 plea to the sex offense, "defendants in similar circumstances will not be burdened unduly by
7 having to 'defend' against these charges." *Id.* The second reason focused on judicial
8 economy, and avoiding protracted "mini-trials" to determine the truth or falsity of the prior
9 charge. *Id.* In *Falsetta*, the prior sex offense was easily proven through the defendant's plea of
10 guilty, which ensured that no inefficient side tracking would occur. *Id.* at 916. Finally, the
11 Court considered the undue prejudice that would arise through the admission of the defendant's
12 other offense. *Id.* The Court found that the careful weighing process that must occur prior to
13 the admission of a prior act supports the constitutionality of the statute. Before allowing
14 admission of a prior, the Court must consider such factors as: its nature, relevance and possible
15 remoteness, the degree of certainty of its commission and the likelihood of confusing,
16 misleading, or distracting the jurors from their main inquiry, its similarity to the charged
17 offense, its likely prejudicial impact on the jurors, the burden on the defendant in defending
18 against the uncharged offense, and the availability of less prejudicial alternatives to its outright
19 admission, such as admitting some but not all of the defendant's other sex offenses or
20 excluding irrelevant though inflammatory details surrounding the offense. *Id.* at 916-17.

23 The Court noted that the probative value is increased by the relative similarity between
24 offenses, the close proximity in time, and the independent sources of information. *Id.* The
25 prejudicial impact is reduced if the uncharged act resulted in an *actual conviction*, and a prison
26

1 term, which ensures that the jury would not be tempted to convict the defendant simply to
2 punish him for other offenses, and that the jury's attention would not be diverted by having to
3 make a separate determination whether the defendant committed the other offense. *Id.*

4 In *Bingaman v. State*, 76 P.3d 398 (2003), the Alaska Supreme Court discussed the
5 balancing tests that the Court must do in cases of domestic violence. It noted that just because
6 prior bad act evidence is admissible, does not mean it should be admitted. *Id.* at 401. It would be
7 improper for a jury to conclude that, regardless of whether a defendant is guilty of the charged
8 crime, he should be punished for acts committed on a different occasion. *Id.* at 415-16. It would
9 also be improper for a jury to convict a defendant because, regardless of whether or not he
10 committed the charged crime, the defendant has done similar things in the past, and should be
11 imprisoned to prevent more such crimes in the future. *Id.* at 416. It would further be improper
12 for a jury to conclude that because a defendant is wicked, dangerous or despicable, he is not
13 entitled to the normal protections of the law. *Id.* If the trial judge concludes that the jury probably
14 cannot confine its consideration of the other act evidence to the limited purpose for which it is
15 being admitted, or if the judge concludes that the other-acts evidence will prejudice the fairness
16 of the trial, the judge *must* exclude the evidence. *Id.* (emphasis added). The Alaska Supreme
17 Court determined that the Court must consider the following factors in determining whether to
18 admit other act evidence:
19
20

- 21 1. How strong is the government's evidence that the defendant actually committed the
22 other acts?
- 23 2. What character trait do the other acts tend to prove?
- 24 3. Is this character trait relevant to any material issue in the case? How relevant? And how
25 strongly do the defendant's other acts tend to prove this trait?
- 26

- 1 4. Assuming the offered character evidence is relevant to a material issue, how seriously
2 disputed is the material issue? Does the government need to offer more evidence on this
3 issue?
- 4 5. And is there less prejudicial evidence that could be offered on this point? In other
5 words, how great is the government's need to offer evidence of the defendant's other
6 acts?
- 7 6. How likely is it that litigation of the defendant's other acts will require an inordinate
8 amount of time?
- 9 7. How likely is it that the evidence of the defendant's other acts will lead the jury to
10 decide the case on improper grounds or will distract the jury from the main issues of the
11 case?
12 *Id.*

13 In answering those questions, the court should analyze whether the other acts
14 demonstrate the same type of situational behavior as the crime currently charged, and the
15 recency or remoteness of the other act. *Id.*

16
17 In *U.S. v. Lemay*, 260 F.3d 1018, (9th Cir. 2001), the Ninth Circuit articulated several
18 factors that a district judge must evaluate in determining whether to admit evidence of a
19 defendant's prior acts of sexual misconduct. These factors are: 1) the similarity of the prior acts
20 to the acts charged, 2) the closeness in time of the prior acts to the acts charged, 3) the frequency
21 of the prior acts, 4) the presence or lack of intervening circumstances, and 5) the necessity of the
22 evidence beyond the testimonies already offered at trial. *Id.* at 1028. The Court noted that this list
23 of factors is not exclusive, and judges should consider other factors relevant to the individual
24 cases. *Id.* Further, the Court noted that the evidence in *LeMay* was highly reliable, in that he had
25 been convicted of at least one of the prior rape charges. *Id.* at 1029. The propensity inference
26

1 that the evidence allowed was based on proven facts and the defendants own admissions, not
2 rumor, innuendo, or prior uncharged acts capable of multiple characterizations. *Id.* The Court
3 held that while courts are not limited to prior acts where a defendant has been tried and found
4 guilty, the extent to which an act has been proved is a factor that should be considered when
5 conducting a Rule 403 inquiry. *Id.*

6 In *United States v. Enjady*, 134 F.3d 1427, 1433 (10th Cir. 1998), the Court lays out
7 different factors that should be considered when conducting a Rule 403 analysis. These
8 include:

9
10 1) how clearly the act has been proved; 2) how probative the evidence is of the material
11 fact it is admitted to prove; 3) how seriously disputed the material fact is; 4) whether the
12 government can avail itself of any less prejudicial evidence; 5) how likely it is that such
13 evidence will contribute to an improperly based jury verdict; 6) the extent to which such
14 evidence will distract the jury from the central issues of the trial; and 7) how time
15 consuming it will be to prove the prior conduct. *Id.*

16 In this case, the State argues that the M.S. and B.G. claims should be admissible because
17 it shows Mr. Jenkins has the propensity to commit these currently alleged sexual offenses. This
18 argument must fail for a number of reasons. First, B.G. and M.S.'s claims are not "sexual
19 offenses" under NRS 179D.097. Second, as the State argues the new provision, it is
20 unconstitutional, and cannot be used to proffer the evidence as the State proposes. Finally, even
21 if the Court finds that the prior case is a sexual offense and that despite the State's argument,
22 the statute is constitutional, the evidence is far more prejudicial than probative, and the Court
23 must exclude it.
24
25
26

1 **1) M.S. and B.G.'s Claims are Not Sexual Offenses under NRS 179D.097.**

2 NRS 48.045(3) states that nothing in this section shall be construed to prohibit the
3 admission of evidence in a criminal prosecution for a sexual offense that a person committed
4 another crime, wrong, or act that constituted a separate sexual offense. As described in this
5 subsection, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

6 NRS 179D.097 defines "sexual offense" as any of the following offenses:

- 7 a) Murder of the first degree committed in the perpetration or attempted perpetration of
8 sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of
9 age pursuant to paragraph (b) of subsection 1 of NRS 200.030.
10 b) Sexual assault pursuant to NRS 200.366.
11 c) Statutory sexual seduction pursuant to NRS 200.368.
12 d) Battery with intent to commit sexual assault pursuant to subsection 4 of NRS 200.400.
13 e) An offense involving the administration of a drug to another person with the intent to
14 enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an
15 offense listed in this section.
16 f) An offense involving the administration of a controlled substance to another person
17 with the intent to enable or assist the commission of a crime of violence pursuant to
18 NRS 200.408, if the crime of violence is an offense listed in this section.
19 g) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual
20 exploitation.
21 h) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730,
22 inclusive.
23 i) Incest pursuant to NRS 201.180.
24 j) Solicitation of a minor to engage in acts constituting the infamous crime against nature
25 pursuant to NRS 201.195.
26 k) Open or gross lewdness pursuant to NRS 201.210.
 l) Indecent or obscene exposure pursuant to NRS 201.220.
 m) Lewdness with a child pursuant to NRS 201.230.
 n) Sexual penetration of a dead human body pursuant to NRS 201.450.
 o) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a
 felony.
 p) Any other offense that has an element involving a sexual act or sexual conduct with
 another.
 q) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (p), inclusive.
 r) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or
 207.193.
 s) An offense committed in another jurisdiction that, if committed in this State, would be
 an offense listed in this section.

1 In an interview on November 21, 2018, M.S. told Douglas County Sheriff Office (DCSO)
2 that she, along with another volleyball player helped Mr. Jenkins create his Instagram account
3 for him. All three took a picture together while she was setting up his account to use the
4 picture as his profile picture. M.S. claims that Mr. Jenkins would comment or like somethings
5 she posted on her Instagram account and that made her feel "uncomfortable." M.S. also claims
6 that Mr. Jenkins would always put his arm around players' waists or be touching them in some
7 way and would put his arm around her waist "low" near her hip bone which made her feel
8 "weird." M.S. describes Mr. Jenkins as "super touchy" and "close" with his volleyball players
9 and claims that every time she saw him, he would always hug when saying hi.
10

11 B.G. claims that once Mr. Jenkins commented on her sports bra being the opposite color
12 of her teammate's sports bra and that made her feel "uncomfortable." B.G. also claims that Mr.
13 Jenkins would throw balls at the player's "butts."

14 Nothing M.S. or B.G. claims falls under the definition of "sexual offense" in NRS
15 176D.097. Throwing balls and hugging people are not "sexual offenses." Commenting on the
16 color of sports bras and liking innocuous pictures on Instagram accounts are not "sexual
17 offenses." This testimony is not admissible pursuant to NRS 48.045(3) as these claims are not
18 "sexual offenses" pursuant to NRS 179D.067.
19

20 **2) NRS 48.045(3) is Unconstitutional, as Argued by the State in its Motion.**

21 The State argues that NRS 48.045(3) "makes prior bad acts in sex crimes cases
22 presumptively admissible" arguing that it "would be inconsistent for the legislature to make
23 these acts presumptively admissible while also allowing for their exclusion based upon the
24 grounds of prejudice." State's Motion pg. 13 lines 12-19. The State's argument that the
25
26

1 evidence should not be weighed under NRS 48.035, and excluded if the prejudicial nature
2 outweighs the probative value is unconstitutional.

3 In *U.S. v. LeMay*, 260 F.3d 1018, (2001), the Court stated that Rule 414 is not a blank
4 check, entitling the government to introduce whatever evidence it wishes, no matter how
5 minimally relevant and potentially devastating to the defendant. *Id.* at 1022. Rule 403 remains
6 applicable to evidence introduced under Rule 414, and if conscientiously applied, will protect
7 defendants from propensity evidence so inflammatory as to jeopardize their right to a fair trial.
8 *Id.* See also, *People v. Falsetta*, 986 P.2d 182, (1999) ("by subjecting evidence of uncharged
9 sexual misconduct to the weighing process, the Legislature has ensured that such
10 evidence cannot be used in cases where its probative value is substantially outweighed by the
11 possibility that it will consume an undue amount of time or create a substantial danger of undue
12 prejudicial, confusion of issues or misleading the jury...with this check upon the admission of
13 evidence of uncharged sex offenses in prosecutions for sex crimes, we find that [the statute]
14 does not violate the due process clause.") *Bingaman v. State*, 76 P.3d 398(2003); *State v.*
15 *Burns*, 978 S.W.2d 759 (Mo.1998) (holding a Missouri statute unconstitutional that allowed for
16 the introduction of prior sexual misconduct which did not confer discretion to exclude unduly
17 prejudicial evidence).

18
19
20 The Court *must* engage in the analysis outlined by other Courts and mandated by NRS
21 48.035.

22 **3) The Prejudicial Nature of M.S. and B.G.'s Claims Substantially Outweighs the**
23 **Probative Value.**

24 In this case, Mr. Jenkins would be forced to defend himself against not only Kory
25 Collins' allegations, but also against M.S. and B.G.'s claims. It is clear that the State is trying
26

1 to bolster their alleged victim's statements by having other teenagers testify that Mr. Jenkins'
2 actions made them "uncomfortable" while also trying to paint the false picture before the jury
3 that Mr. Jenkins is a sexual predator preying on his volleyball players.

4 These prior claims are extremely prejudicial and is exactly the type of prior conduct that
5 should be excluded under NRS 48.035. If admitted, Mr. Jenkins would be forced to defend
6 himself against not only the charged allegations, but uncharged claims which do not involve
7 sexual acts. Finally, this evidence cannot be admitted for proof of Mr. Jenkins's motive,
8 opportunity, intent, preparation, plan, and lack of mistake, as the State cannot show, by clear
9 and convincing evidence, that these claims occurred, or were committed with devious
10 intentions.
11

12 **B. Uncharged Acts relating to Kory Collins are not admissible under NRS 48.045(3)**
13 **or NRS 48.045(2).**

14 The State argues that Kory Collins claimed that Mr. Jenkins also kissed her neck, held
15 hands with her, that she would lay on this lap, lean on his shoulder, and hug for long periods of
16 time, and forcibly moved her hips during a volleyball practice. The State argues that it should
17 be allowed to admit Kory Collins' testimony about these acts pursuant to NRS 48.045(3) and
18 (2).
19

20 Just like with the claims by B.G. and M.S., kissing the neck, holding hands, allowing
21 her lay on his lap and lean on his shoulder, hug and move her hips during a volleyball practice
22 are not "sexual offenses" as defined in NRS 179D.167 and NRS 48.045(3). Pursuant to NRS
23 48.045(2), there is not clear and convincing evidence of these claims, as Kory Collins did not
24 testify to any of the alleged other acts as described by the State.
25
26

CONCLUSION

Claims made by B.G. and M.S. are not “sexual offenses” and are not admissible pursuant to NRS 48.045(3). Any probative value under NRS 48.045(2) is greatly outweighed by prejudicial effect causing Mr. Jenkins to defend himself in a trial within a trial. Other acts claimed by Kory Collins are also not “sexual offenses” and not proven by clear and convincing evidence. Wherefore, this Court must deny the State’s motion.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the Social Security Number of any person.

DATED this 24th day of July, 2020.



THERESA RISTENPART, ESQ.

CERTIFICATE OF SERVICE

I certify that on the 24th day of July, 2020, I e-mailed and sent via USPS mail a true copy of the attached document to:

Chelsea Mazza
Douglas District Attorney's Office
cmazza@douglas.nv.gov

for her
LISA DEE, CP

RECEIVED

JUL 28 2020

Douglas County
District Court Clerk

FILED

2020 JUL 28 PM 4:35

BOBBIE R. WILLIAMS
A. NEWTON

BY _____ DEPUTY

Case No. 19-CR-0188

Dept. No. II

DA 18-2152R

This document does not contain personal information of any person

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA, /
/
Plaintiff, /
v. /
/
RICHARD ALEXANDER JENKINS, /
/
Defendant. /

**NOTICE OF INTENT TO OFFER
TESTIMONY OF EXPERT WITNESS**

The State of Nevada, by and through Deputy District Attorney Chelsea Mazza of the Douglas County District Attorney's Office, gives notice of intent to offer the testimony of expert witness John S. Pacult, LCSW. The State submits this notice of expert witness testimony pursuant to NRS 174.234.

John S. Pacult is a Licensed Clinical Social Worker. Mr. Pacult will testify as to his training, education and experience. Mr. Pacult will testify generally regarding grooming; victim dynamics, including but not limited to conduct before, during and after abuse; and offender dynamics, including behavior types and conduct. Mr. Pacult is expected to testify regarding the disclosure of Kory Collins, and delayed disclosure in general. Mr. Pacult is further expected to testify regarding grooming and the conduct of Defendant in this case.

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APP0042

Douglas County District Attorney
Post Office Box 218
Minden, Nevada 89423
(775) 782-9800 Fax (775) 782-9807

1 Attached hereto is State's Exhibit 1, the Curriculum Vitae for Mr. Pacult.
2

3 Dated this 28 day of July, 2020.
4

5 MARK B. JACKSON
6 DISTRICT ATTORNEY

7 By: Chelsea
8 Chelsea Mazza
9 Deputy District Attorney
10 P. O. Box 218
11 Minden, Nevada 89423
12 (775)782-9800
13
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APP0043

EXHIBIT LIST

Exhibit 1.....John S. Pacult, LCSW Curriculum Vitae

Douglas County District Attorney
Post Office Box 218
Minden, Nevada 89423
(775) 782-9800 Fax (775) 782-9807

APP0044

EXHIBIT 1

EXHIBIT 1

APP0045

John S. Pacult, LCSW, Inc.
6655 W. Sahara Ave., Ste. B200
Las Vegas, NV 89146
(702) 248-5456
Federal Tax ID 88-0387809

EDUCATION

Bachelor of Arts, May 1992
University of Nevada-Las Vegas
Major: Social Work

Associate of Arts, Sept. 1989
Clark County Community College
Major: General Studies

Master of Arts, May 1995
University of Nevada-Las Vegas
Major: Social Work

PROFESSIONAL EXPERIENCE

Private Practice

Provide presentence counseling for adult and adolescent sexual offenders and their families and victims of sexual abuse.
Provide clinical services that consist of individual, marital, and family therapy with all client populations.
Complete Psychosexual Evaluations for both adult and adolescent sexual offenders with contracts for the Division of Parole and Probation and Clark County Division of Juvenile Justice Services. Also, complete evaluations for the District Attorney's Office, the Public Defender's Office, Special Public Defender Office (adult and juvenile divisions) and private attorneys.
Conduct Danger Assessments for the Family Courts and District Courts in cases concerning physical abuse/neglect allegations/convictions since 2008.
Expert witness testimony concerning sexual abuse and defense mitigation work.
Child custody evaluations and competency evaluations.

University of Nevada Las Vegas School of Social Work

Field Liaison for BSW and MSW students in field practicums
Meet with agency supervisors and students twice a semester
Review learning agreements and mid-term and final journals

Pathways of Nevada

Qualified Mental Health Professional
Review of clinical services for Pathways foster care staff, development and oversight of treatment plans and all clinical documentation
Assessment of clients in care to determine clinical needs

Fresh Start Services (FSS)

Clinical consultant, training professional and paraprofessional staff, meeting with program participants in order to address behavioral and mental health issues and facilitating meetings between multi-disciplinary parties concerning client care.
Review of FSS documentation and case files for quality assurance purposes.
Observe client/staff interaction in order to provide feedback to all parties to improve communication and relationships within the group homes.

Part-time clinical staff; Charter Behavioral Health Systems of Southern Nevada

Conducted group therapy sessions with adult clients (inpatient).
Provided outpatient counseling services for all general client population issues.
Provided individual and family therapy with adolescent clients (inpatient).

Nevada Homes For Youth

Clinical consultant, training professional and paraprofessional staff, meeting with program participants in order to address behavioral and mental health issues and facilitating meetings between multi-disciplinary parties concerning client care.
Review of NHFY documentation and case files for quality assurance purposes.
Observe client/staff interaction in order to provide feedback to all parties to improve communication and relationships within the group homes.

Contract therapist; Bridge Counseling & Associates

Provided out-patient counseling to clients with a multitude of presenting problems such as depression, marital problems, behavior problems, parenting issues, and anger/violence issues.
Responsibilities included conducting an intake/clinical assessment, develop treatment plans, and maintaining insurance eligibility.
Client populations included adults, adolescents, children, families, and couples.

Lead therapist- Program Consultant- The Center for Independent Living

Co-facilitated sex offense specific process groups for a day treatment program with juvenile sexual offenders.
Provided program consultation, assisted with program development and staff training.
Maintained clinical milieu through treatment teams, case management, and support from State parole.

Program Manager; Out-patient counseling center

Conducted six to eight weekly sex offense specific therapy groups for adolescent and adult sexual offenders, along with their family members.

Counseling also included family, marital, and individual therapy with adult/adolescent sexual offenders, along with general population clients.

All administrative duties of the sexual offender program that included marketing, supervision of staff, leading clinical treatment teams, and extensive case management responsibilities.

Completed sex offense specific evaluations for both adolescent and adult sexual offenders.

Social Worker I-Clark County Social Services

Interviewed, assessed, and developed case plans for senior citizens who were experiencing crisis, abuse, neglect, and/or exploitation.

Provided appropriate referrals for clients to community agencies and other services, along with ongoing case management with a minimum of sixty clients.

Activity & Recreational Therapist-Montevista Hospital

Conducted initial interviews and clinical assessments related to physical fitness, activities, and mental health of patients in a psychiatric hospital.

Devised and implemented individual treatment plans.

Active participant in multidisciplinary treatment planning for patients.

Instructed patients in relaxation, occupational, and recreational therapy.

EMPLOYMENT HISTORY

Private Practice; Las Vegas, NV: March 1998 – Present.

UNLV School of Social Work, Las Vegas, NV: August 2003 – 2013 (field liaison)

Pathways of Nevada: Qualified Mental Health Professional – September 2012 - 2014

Spring Mountain Treatment Center (residential program) 2003 - 2010 (Consultant)

Fresh Start Services (adolescent sex offender group home) Feb 2005 – May 2005(Consultant)

Nevada Homes For Youth, Las Vegas, NV: October 2002 – Jan 2004 (Consultant)

Charter Behavior Health Systems; Part-time staff; Las Vegas, NV: April 1998 - April 1999.

Bridge Counseling; Contract Therapist; Las Vegas, NV: October 1997 - April 1999.

Family & Child Treatment; Program Manager; Las Vegas, NV: June 1995 - March 1998; Contract therapist from November 1992 - June 1995.

Center for Independent Living; Lead therapist/Program consultant; Las Vegas, NV: April 1996 - October 1997.

Clark County Social Service; Social Worker I; Las Vegas, NV: September 1992 - June 1995.

HCA Montevista Hospital; Positive Choices Program; Adolescent Facilitator; Las Vegas, NV: December 1992 - September 1997.

Nevada Association for the Handicapped; Case Manager; Las Vegas, NV: June 1992 – September 1992.

Children's Behavioral Services; Mental Health Technician; Las Vegas, NV: October 1991 - June 1992.

HCA Montevista Hospital; Activity Therapist; Las Vegas, NV: April 1991 - 1993.

ACCOMPLISHMENTS & PROFESSIONAL AFFILIATIONS

June 27, 1998, conducted an all-day workshop on the assessment and treatment of juvenile sexual offenders, sponsored by the Nevada Association of Social Workers.

December 10, 1998; conducted a two-hour workshop for the State of Nevada Adult Parole/Probation Department on an overview of sexual offender treatment, and a one-hour workshop on April 24, 2001, on the use of polygraph and psychosexual evaluations.

Oct. 8, 1999 to October 2008- provide an overview of sexual offender typology, assessment and treatment for the Sexual Assault Response Team (nurses, law enforcement, etc.).

Oct. 15, 1999, presented at the NASW Conference on the use of polygraph testing in sex offender treatment.

October 26, 2000, Presented to the American College of Forensic Examiners Annual Conf. in Las Vegas re: the use of polygraph testing and Abel Assessment for sexual offenders.

Presented a half-day pre-conference training for the California Coalition on Sexual Offending (CCOSO) on adolescent and adult sex offender risk assessment, May 15, 2002.

Conducted full-day training on adolescent sexual offender assessment and treatment at the youth correctional setting at the Caliente Youth Center on May 31, 2002, and a similar full-day training for the Nevada Youth Training Center in Elko, NV on June 7, 2002.

April 2000 and January 2002: conducted training for the City of Las Vegas Parks & Recreation on how to improve their policies regarding sexual misconduct and an overview of sexual offender profiles and behaviors.

Co-presenter at the 6th Annual Child Welfare Conference concerning recent trends in juvenile sexual offender legislation, supervision and treatment (May 2003).

Expert witness testimony for the Clark County School District (2003/2004).

Half-day training for juvenile probation officers in March of 2004 on integration of treatment and supervision and full-day training for FSS group home staff (overview of juvenile sex offenders, supervision needs, boundaries, reporting requirements) (March 21, 2005)

Completed Competency Evaluation training (March 4, 2005) for Misdemeanor offenses

Passed the Nevada Board of Examiners for Social Workers Clinical Examination with score of 91% in 1997.

Clinical member of Association for the Treatment of Sexual Abusers (ATSA) 1998-2006.

Member (and former chairperson) of the Southern Nevada Juvenile Task Force on Juvenile Sexual Offenders.

Former member of Professionals and Youth Building a Commitment (PAYBAC) and former Mentor of that program for the Clark County School District.

Former Volunteer Advisory Committee member with Big Brothers & Big Sisters of Southern Nevada, and former volunteer trainer for Community Action Against Rape (CAAR).

Passed the Nevada Board of Examiners for Social Workers Basic Examination with a score of 89% in 1992.

Several television appearances and one radio segment discussing sexual offender treatment and trends of legislation, along with several testimonials to the Nevada State Legislature on sexual offender issues and numerous presentations to students at UNLV concerning sexual offender treatment.

A formerly approved supervisor and site for MSW students and LCSW Interns. Also attending continuing education unit trainings on a regular basis (minimum of 36 hrs. every two years), dealing with general mental health issues and specific training in the assessment and treatment of sexual offenders and victims of sexual abuse.

First sex offender program in Southern Nevada to utilize polygraph testing as a part of the assessment and treatment process (1998).

First contracted Psychosexual Evaluator in Southern Nevada with the Department of Public Safety Division of Parole and Probation (1999).

Former Chairperson and member of the Nevada Adult Sex Offender Management (NASOM) team (2005).

Expert witness testimony for the Clark County District Attorney's Office concerning sexual abuse victim dynamics/behavior (11/09).

Training presentation (2 hrs) on sexual offender assessment and treatment for the Nevada Coalition on Sexual Assault (11/09).

Endorsed as an expert by District Court Department XIV to evaluate an alleged victim of sexual abuse (6/10).

Endorsed as an expert by Justice Court Nye County 9-8-10 Williams. vs. State concerning sexual abuse victim dynamics.

Attended Western States Conference on Sexual Abuse on 9-1 and 9-2-10 concerning interviewing victims of physical and sexual abuse.

Endorsed as an expert in District Court Dept XXI and testified in State vs. Castenada on January 26, 2011.

Provided a training (3/24/11) for the Clark County Juvenile Probation Sex Offender Unit, the District Attorney's Office, and Public Defender's Office on risk assessment for juvenile sexual offenders.

Provided training (6/16/11) for the Division of Parole and Probation Presentence Investigation unit concerning Psychosexual Evaluations.

Expert witness consultation for the Clark County District Attorney's Office January 2013 State vs. Van Horn.

Nevada Supreme Court ruling in Blackburn vs. State of Nevada filed February 14, 2013 ruled that John Pacult was correct in his use of clinical judgment as a part of the risk assessment process and affirmed Mr. Blackburn's conviction.

Currently certified as a Competency Evaluator for misdemeanor cases in Nevada through December 2020.

Expert witness consultation for the Clark County District Attorney's office May 2013 – State vs. C. Watson

Training for Adult Parole and Probation on risk assessment, supervision, and what to look for in terms of recidivism behavior with sex offenders October 10, 2013

Attended a six hour training on the ERASOR (a juvenile sex offender risk assessment tool) on November 15, 2013

Attended an eight hour training on December 3, 2013 provided by the National Institute of Crime Prevention concerning sexual offender typologies and child sexual abuse

Provided expert witness testimony for Nye County District Court on January 29, 2014

Pearson vs. Nye County concerning pedophilia, risk assessment tools, grooming, and high risk behavior.

Provided expert witness testimony for a jury in Nye County District Court on February 12, 2014 Pearson vs. Nye County concerning grooming behaviors of sexual offenders.

Met with Nevada Attorney General Ms. Catherine Cortez-Masto on March 21, 2014 concerning the implementation of the Adam Walsh act and provided testimony and research in support of not implementing the new law.

Guest speaker for Criminal Justice 104 class at College of Southern Nevada on April 28, 2014 concerning sexual offenders; community notification; Psychosexual evaluations and Juvenile risk assessments; the Presentence Investigation process.

Conducted two-hour training for Bamboo Group Homes and their foster parents and staff on May 5, 2014 concerning sexual abuse reporting; sexual abuse dynamics; sexualized behavior in children; and supervision needs for at risk children.

Provided a one-hour training at Montevista Hospital on October 10, 2014 concerning adult and juvenile sexual offenders.

Conducting mental health and risk assessments in Clark County District Court and Federal Court for mitigation purposes for defense attorneys Ms. Julie Raye, Esq., Mr. William Terry, Mr. Richard Schonfeld, Mr. David Fischer, Mr. Scott Eichhorn, Mr. Benjamin Durham, Ms. Erickson, Mr. Gary Guymon and the Clark County Public Defender's Office in child abuse, sexual abuse, weapons, burglary, kidnapping, attempt murder, murder and robbery cases.

Part of a PBS Channel 10 one-hour documentary on Human Sex Trafficking that aired on January 27, 2015 and streamed on-line January 28, discussing sex offender/pimp dynamics and the impact to the victims.

February 11, 2015, participated as an on-line moderator for A Path Appears, part of the PBS documentary series on human trafficking.

Attended a day-long training on April 14, 2015, presented by the National Institute of Crime Prevention concerning Drug Facilitated Rape, Keys to a Successful Rape Investigation, Child Sexual Abuse and Interviewing the Rape Suspect

April 20, 2015 - Guest speaker for a Criminal Justice class at the College of Southern Nevada concerning Psychosexual Evaluations and sex offender treatment.

Retained as an expert witness in Doe vs. Valley Health Systems LLC 09-A-595780-C in November 2015 regarding victim dynamics, delayed disclosure, and trauma which settled in favor of the plaintiff prior to deposition or a trial.

Attended a three-day training regarding domestic violence and sexual assault on February 22-24, 2016 presented by The National Institute of Crime Prevention.

Attended a re-certification training for Competency Evaluations offered by Lake's Crossing on February 26, 2016.

Testified as an expert concerning victim dynamics, grooming, sex offender risk assessment and delayed disclosure in Wald vs. State of Nevada in Nye County on August 25, 2016.

Retained as an expert by Clark County District Attorney's Office in Nolan vs. State C-14-296704 on December 8, 2016 concerning grooming and victim dynamics.

Retained as an expert by Ladah Law Firm for a deposition on January 17, 2017 in US District Court Civil Action 2:16 cv 01696 –JAD-PAL - Doe vs Fausto Barraza-Balcazar; Clark County School District – testifying concerning my efforts to provide in-depth training for CCSD teachers/staff to help prevent educator sexual abuse and my opinion regarding CCSD current training for teachers and staff.

Retained as an expert to testify concerning grooming at a jury trial on May 5th, 2017- State vs. Azucena C321044 in Clark County District Court – guilty 30 of 39 counts.

Testified at the State BAR in reference to an attorney seeking readmission to practice law after five years of rehabilitation services in relationship to sexual misconduct – readmission was approved unanimously - May 2017.

Part of a three-part story in the Las Vegas Review Journal in May of 2017 regarding the Clark County School District's lack of training for teachers and employees to help stop educator sexual abuse of students – Reviewjournal.com/brokentrust.

June 12, 2017 – guest webinar speaker for Prevent Child Abuse Nevada Task Force – Implementing the Concept of Perpetrator Prevention into the Child Sexual Abuse Prevention Equation as a part of Stop Educator Sexual Abuse Misconduct and Exploitation (SESAME).

Consultant for Trinity International Schools developing policy and procedure regarding staff/student contact, communications, etc., along with staff training regarding educator sexual misconduct – July and August 2017 – ongoing Coordinator of Educator Sexual Abuse Prevention (CESAP).

Expert witness testimony August 1st 2017 concerning grooming State vs. Willie Sampson C182432 and rebuttal testimony August 2nd of defense expert, Dr. Norman Roitman, concerning Oppositional Defiance Disorder – guilty all five counts.

Expert witness testimony September 20th, 2017 concerning grooming State vs. Richard Milewski C14-296831 – found guilty on all 18 counts.

Continuing education unit training regarding risk assessment and statistics measuring accuracy, ethical principals in risk assessment and feedback informed treatment (2017). Expert Witness for the Clark County Office of the Special Public Defender (10/17).

Expert witness testimony concerning grooming and child suggestibility in State vs. Deandre Allen 11/6/2017.

Retained as an expert witness State vs. Honea (309548) regarding grooming (11/17) found Guilty 25 years - Life.

March 2018 - retained as an expert witness State vs. Theil (C329725) regarding grooming and delayed disclosure. Guilty – life in prison – convicted on all felony counts

July 20, 2018 – retained as an expert by State in grooming and delayed disclosure – Pitts vs State of Nevada C-327442 – guilty 2 counts.

December 2019 - Retained as an expert by defense in William Thomas C-18-335885 – trial postponed.

Retained as an expert on grooming and delayed disclosure – State vs. Jonathan Milliken Trial date pending March 2020.

February 2020 qualified as an expert regarding sexual abuse dynamics Family Court Judge Cheryl B. Moss Dept. 13 in a child custody case.

PROFESSIONAL REFERENCES

Mr. Steven Wolfson, Clark County District Attorney
Mr. William Terry, Esq.
Ms. Caroline Campbell, Probation Officer

Case No. 19-CR-0188

Dept. No. II

DA 18-2152R

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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for Douglas County, Nevada, and that I deposited for delivery a true copy of Notice of Intent to Offer Testimony of Expert Witness, addressed to:

Theresa Ristenpart,
464 South Sierra Street
Reno, Nevada 89501

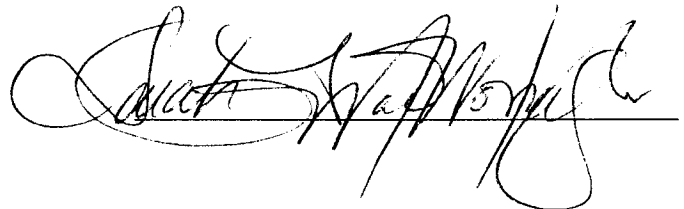
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☒ Email

☐ By placing a copy in the pick-up folder in the District Attorney's Office.

DATED this 28 day of July, 2020.



APP0055

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2020 AUG -4 PM 4: 33

Case No. 19-CR-0188

Douglas County
District Court Clerk

DOUGLAS R. WILLIAMS
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Dept. No. II

DA 18-2152R

BY **A. NEWTON** DEPUTY

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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

**REPLY TO OPPOSITION TO
STATE'S MOTION TO ADMIT
EVIDENCE OF DEFENDANT'S
PRIOR SEXUAL ACTS PURSUANT
TO NRS 48.045(3) OR
ALTERNATIVELY, MOTION TO
ADMIT EVIDENCE OF OTHER BAD
ACTS UNDER NRS 48.045(2)**

The State of Nevada, by and through Douglas County Deputy District Attorney Chelsea Mazza, hereby files this Reply to Opposition to State's Motion to Admit Evidence of Defendant's Prior Sexual Acts Pursuant to NRS 48.045(3) or Alternatively, Motion to Admit Evidence of Other Bad Acts Under NRS 48.045(2). This reply is based on the attached Memorandum of Points and Authorities, the pleadings and papers on file with the Court, and any testimony adduced or oral arguments presented at a hearing on the matter.

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APP0056

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. ARGUMENT**

3 Defendant argues the prior incidents involving M.S., B.G., and Kory Collins are not
4 sexual offenses under NRS 179D.097. Defendant next argues the State's suggested use of this
5 evidence under NRS 48.045(3) is unconstitutional. In addition, Defendant argues the use of
6 this evidence is more prejudicial than probative and the State cannot prove the conduct by clear
7 and convincing evidence. The State respectfully requests the Court, after a hearing on the
8 evidence, admit evidence of Defendant's other act conduct, as it is admissible under either NRS
9 48.045(3) or alternatively, NRS 48.045(3).
10

11 **A. Defendant's prior acts with M.S., B.G., and Kory Collins constitute sexual
12 offenses under NRS 179D.097.**

13 Defendant argues the conduct the State is requesting be admitted does not constitute
14 sexual offenses. Opposition, p. 8. Defendant appears to cite directly from NRS 179D.097,
15 however, has mislabeled the offenses listed as a "sexual offense" and has completely left out
16 subsection (n). Subsection (n) indicates "[s]exual conduct between certain employees of a
17 school or volunteers at a school and a pupil pursuant to NRS 201.540" is a sexual offense. As
18 stated in NRS 179D.097(1)(s), an attempt or conspiracy to commit an offense listed in
19 paragraphs (a) to (r) is also a "sexual offense." In addition, subsection (r) indicates "[a]ny other
20 offense that has an element involving a sexual act or sexual conduct of with another" is a
21 "sexual offense." The conduct of Defendant with M.S., B.G., and Kory Collins is sexual and
22 should be considered "sexual offenses" by the Court, as the conduct can fall under subsections
23 (n), (s), or (r) of NRS 179D.097.

24 Even if the Court were to find the conduct of Defendant with M.S., B.G., and Kory
25 Collins does not constitute sexual offenses, evidence of the conduct should still be admitted by
26 the Court under NRS 48.045(2). Defendant's conduct is admissible under NRS 48.045(2), as
27 proof of Defendant's motive, opportunity, intent, preparation, or plan. Defendant's conduct is
28

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1 admissible as 1) the incidents are relevant to the crime charged, 2) the acts can be proven by
2 clear and convincing evidence, and 3) the probative value of the evidence is not substantially
3 outweighed by the danger of unfair prejudice. *Tinch v. State*, 113 Nev. 1170, 1176, 946 P.2d
4 1061, 1064 (1997).

5 **B. Defendant's conduct may be admitted to show Defendant's propensity, which**
6 **does not violate the United States or Nevada Constitutions.**

7 The Nevada Supreme Court determined NRS 48.045(3) supersedes NRS 48.045(2)'s
8 restriction on evidence of similar bad conduct for purposes of showing propensity in sexual
9 offense cases. *Franks v. State*, 135 Nev. 1, 3 (2019). The court in *Franks* found the statute
10 plainly provides "[n]othing in this section shall be construed to prohibit the admission of
11 evidence in a criminal prosecution for a sexual offense that a person committed another crime,
12 wrong or act that constitutes a separate sexual offense." *Id.* at 4 (citing NRS 179D.097(1)(r) to
13 define a "sexual offense" to include "[a]ny offense that has an element involving a sexual act or
14 sexual conduct with another."). "[I]n criminal prosecutions for sexual offenses, NRS 48.045(3)
15 allows for the admission of evidence of a prior bad act constituting a sexual offense 'to prove
16 the character of a person in order to show that the person acted in conformity therewith' that
17 would otherwise be barred under NRS 48.045(2)." *Id.* at 4. "Reading NRS 48.045(3) as
18 restating that prior sexual offenses may be considered for other purposes under NRS 48.045(2)
19 but not for propensity purposes would render NRS 48.045(3) meaningless, as NRS 48.045(3)
20 provides a specific admissibility standard in criminal sexual offense cases, replacing the
21 general criteria set forth in NRS 48.045(2) and superseding subsection 2's restriction on
22 propensity evidence in such cases." *Id.* The court concluded in *Franks* that NRS 48.045(3)
23 unambiguously permits the district court to admit prior sexual bad acts for *propensity* purposes
24 in a criminal prosecution for a sexual offense. *Id.* (emphasis added).

25 *Franks* further addressed the application of NRS 48.045(3), and determined that the
26 *Petrocelli* framework established for admitting evidence of a prior act for purposes other than
27 propensity is *not applicable* in cases where the State seeks to present evidence of separate acts
28 constituting sexual offenses for purposes of showing propensity in a current sexual offense

1 prosecution. 135 Nev. at 4-5 (emphasis added); *see also Petrocelli v. State*, 101 Nev. 46
2 (1985), *superseded in part by statute as stated in Thomas v. State*, 120 Nev. 37, 44-45 (2004).
3 The Nevada Supreme Court addressed procedural safeguards to mitigate against the risk that a
4 jury will convict for crimes other than those charged. First, the State must request the district
5 court's permission to introduce the evidence of the prior sexual offense for propensity purposes
6 outside the presence of the jury. *Franks*, 135 Nev. at 5. "The State must then proffer its
7 explanation of how the prior sexual offense is relevant to the charged offense, i.e., tends to
8 make it more probable that the defendant engaged in the charged conduct." *Id.* Second, prior to
9 the admission of prior sexual offense evidence for propensity purposes under NRS 48.045(3),
10 the district court must make a preliminary finding that the prior sexual offense is relevant for
11 propensity purposes, and that a jury could reasonably find by a preponderance of the evidence
12 that the bad act constituting a sexual offense occurred. *Id.* Third, the district court should
13 evaluate whether the evidence is unfairly prejudicial under the following factors:

- 14 (1) similarity of the prior acts to the acts charged,
- 15 (2) the closeness in time of the prior acts to the acts charged,
- 16 (3) the frequency of the prior acts,
- 17 (4) the presence or lack of intervening circumstances, and
- 18 (5) the necessity of the evidence beyond the testimonies already offered at trial.

19 *Id.*, citing *United States v. LeMay*, 260 F.3d 1018, 1027 (9th Cir. 2001).

20 Under NRS 48.045(3) and the procedural safeguards set forth by the Nevada Supreme
21 Court, Defendant's conduct is admissible to show Defendant's propensity and is not
22 presumptively inadmissible. As discussed in the States Motion and below, the evidence is
23 relevant, can be proven by a preponderance of the evidence, and is not unfairly prejudicial.
24 Defendant's conduct should be admitted to show propensity.

25 **C. Evidence of Defendant's conduct with M.S., B.G., and Kory Collins is not**
26 **unfairly prejudicial.**

27 As Stated above, the Nevada Supreme Court looks to certain factors in determining
28 whether prior acts constituting a sexual offense are unfairly prejudicial. Those factors include

(1) similarity of the prior acts to the acts charged, (2) the closeness in time of the prior acts to the acts charged, (3) the frequency of the prior acts, (4) the presence or lack of intervening circumstances, and (5) the necessity of the evidence beyond the testimonies already offered at trial. *Franks v. State*, 135 Nev. 1, 5 (2019). In this case, the evidence the State seeks to admit is not unfairly prejudicial. The prior acts involving M.S. and B.G. are similar to the acts involving Kory Collins as they involve inappropriate touching of female volleyball players which they all described as making them uncomfortable. The acts involving M.S. and B.G. are all close in time to the incidents involving Kory Collins. In addition, the acts all occurred during times when Defendant was coaching volleyball. The frequency of the acts is consistent and occurs over time during Defendant's career as a volleyball coach for young women. There are no intervening circumstances in this case as Defendant continues with his conduct and continues with his coaching from the time he is coaching M.S., and B.G., to the time he coached Kory Collins. The evidence is necessary beyond the testimony to be offered at trial. "While evidence regarding the prior bad acts may not have been necessary to establish the State's case, the evidence 'need not be *absolutely necessary*' to the prosecution's case in order to be introduced; it must simply be helpful or *practically necessary*" *Franks*, 135 Nev.1, at 7. Defendant's other acts are at the very least helpful to the State if not practically necessary. Defendant has argued Kory Collins fabricated the alleged incidents for attention and/or to be given a spot the volleyball team, but these prior incidents show Defendant's conduct was continuous and inappropriate with other young women, not just Kory Collins. Based upon these factors, the evidence the State seeks to admit is not unduly prejudicial to Defendant.

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APP0060

D. Defendant's conduct with M.S., B.G., and Kory Collins can be proven by clear and convincing evidence.

Defendant asserts the State cannot prove Defendant's prior bad acts with M.S., B.G., and Kory Collins by clear and convincing evidence. This conduct can be proven by either a preponderance of the evidence or clear and convincing evidence as M.S., B.G., and Kory Collins are willing to testify at a hearing, and previously made statements to law enforcement. In addition, the acts with Kory Collins were observed by other witnesses.

II. CONCLUSION

The State requests the admittance of the prior acts involving M.S., B.G., and Kory Collins pursuant to NRS 48.045(3) or alternatively, under NRS 48.045(2).

Dated this 4 day of August, 2020.

MARK B. JACKSON
DISTRICT ATTORNEY

By: Chelsea Mazza
Chelsea Mazza
Deputy District Attorney
P. O. Box 218
Minden, Nevada 89423
(775)782-9800

Case No. 19-CR-0188

Dept. No. II

DA 18-2152R

This document does not contain personal information of any person

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for Douglas County, Nevada, and that I deposited for delivery a true copy of Reply to Opposition to State's Motion to Admit Evidence of Defendant's Prior Sexual Acts Pursuant to NRS 48.045(3) or Alternatively, Motion to Admit Evidence of Other Bad Acts under NRS 48.045(2), addressed to:

Theresa Ristenpart,
464 South Sierra Street
Reno, Nevada 89501

- ☐ U.S. Mail
☒ Reno/Carson Messenger
☐ Email
☐ By placing a copy in the pick-up folder in the District Attorney's Office.

DATED this 9 day of August, 2020.

APP0062

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AUG 27 2020

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2020 AUG 27 PM 1:44

BOBBIE R. WILLIAMS
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BY [Signature] DEPUTY

1 Case No. 19-CR-0188

2 Dept. No. II

3 DA Case No. 18-2152R

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6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

8 THE STATE OF NEVADA, /

10 Plaintiff, /

11 v. /

AMENDED INFORMATION

12 RICHARD ALEXANDER JENKINS, /

13 Defendant. /

15 Chelsea Mazza, Deputy District Attorney, within and for the County of Douglas, State
16 of Nevada, in the name and by the authority of the State of Nevada, informs the Court that
17 Richard Alexander Jenkins has committed the crimes of FOUR COUNTS of LEWDNESS
18 WITH A CHILD UNDER 16 YEARS OF AGE, violations of NRS 201.230(1)(a) and (3), all
19 category B felonies,

20 The defendant, on or between July 1, 2018, and September 25, 2018, and before the
21 filing of this Information, at and within the County of Douglas, State of Nevada,

22 **COUNT ONE: LEWDNESS WITH A CHILD UNDER 16**
23 **YEARS OF AGE, a violation of NRS 201.230(1)(a)**
24 **and (3), a category B felony**

25 being a person who was 18 years of age or older, did willfully, unlawfully
26 and lewdly commit any lewd or lascivious act, other than acts constituting
27 the crime of sexual assault, upon or with the body, or any part or member
28 thereof, with a child under the age of 16 years, with the intent of arousing,
appealing to, or gratifying the lust or passions or sexual desires of the
defendant or the child, to-wit: did place his hand or hands down the front of
the pants or shorts, and underneath the underwear, of "Kory Collins," a 14-

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1 year-old child, and did touch and/or rub her pubic area, and/or did touch
2 and/or rub his hand or hands on her buttocks while they were together at the
3 defendant's residence, with the intent of arousing, appealing to, or gratifying
4 his own lust, passion or sexual desires, all of which occurred in the County
5 of Douglas, State of Nevada,

6
7 **COUNT TWO: LEWDNESS WITH A CHILD UNDER 16**
8 **YEARS OF AGE, a violation of NRS 201.230(1)(a)**
9 **and (3), a category B felony**

10 being a person who was 18 years of age or older, did willfully, unlawfully
11 and lewdly commit any lewd or lascivious act, other than acts constituting
12 the crime of sexual assault, upon or with the body, or any part or member
13 thereof, with a child under the age of 16 years, with the intent of arousing,
14 appealing to, or gratifying the lust or passions or sexual desires of the
15 defendant or the child, to-wit: did place his hand or hands down the front of
16 the pants or shorts, and underneath the underwear, of "Kory Collins," a 14-
17 year-old child, and did touch and/or rub her pubic area, and/or did touch
18 and/or rub his hand or hands on her buttocks while they were together inside
19 the equipment room at the Douglas County Community Center, with the
20 intent of arousing, appealing to, or gratifying his own lust, passion or sexual
21 desires, all of which occurred in the County of Douglas, State of Nevada,

22 **COUNT THREE: LEWDNESS WITH A CHILD UNDER 16**
23 **YEARS OF AGE, a violation of NRS 201.230(1)(a)**
24 **and (3), a category B felony**

25 being a person who was 18 years of age or older, did willfully, unlawfully
26 and lewdly commit any lewd or lascivious act, other than acts constituting
27 the crime of sexual assault, upon or with the body, or any part or member
28 thereof, with a child under the age of 16 years, with the intent of arousing,
appealing to, or gratifying the lust or passions or sexual desires of the
defendant or the child, to-wit: did place his hand or hands down the front of
the pants or shorts, and underneath the underwear, of "Kory Collins," a 14-
year-old child, and did touch and/or rub her pubic area, and/or did touch
and/or rub his hand or hands on her buttocks while they were together in the
multi-purpose silo room, commonly referred to as the "squishy floor room,"
inside the Douglas County Community Center, with the intent of arousing,
appealing to, or gratifying his own lust, passion or sexual desires, all of
which occurred in the County of Douglas, State of Nevada,

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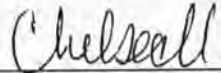
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**COUNT FOUR: LEWDNESS WITH A CHILD UNDER 16
YEARS OF AGE, a violation of NRS 201.230(1)(a)
and (3), a category B felony**

being a person who was 18 years of age or older, did willfully, unlawfully and lewdly commit any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, with a child under the age of 16 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the defendant or the child, to-wit: did place his hand or hands down the front of the pants or shorts, and underneath the underwear, of "Kory Collins," a 14-year-old child, and did touch and/or rub her pubic area, and/or did touch and/or rub his hand or hands on her buttocks while they were together behind a set of stairs inside the Douglas County Community Center, with the intent of arousing, appealing to, or gratifying his own lust, passion or sexual desires, all of which occurred in the County of Douglas, State of Nevada,

against the peace and dignity of the State of Nevada. Complainant prays the defendant be dealt with according to law.



Chelsea Mazza
Deputy District Attorney

1 RISTENPART LAW
2 Theresa Ristenpart, Esq.
3 464 South Sierra Street
4 Reno, NV 89501
5 (775) 200-1699
6 Attorney for Mr. Richard Jenkins

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FEB 03 2021

Douglas County
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2021 FEB -3 PM 2:41

DEBBIE A. WILLIAMS
CLERK

BY *Shah* DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT

STATE OF NEVADA, IN AND FOR THE COUNTY OF DOUGLAS

STATE OF NEVADA,

Plaintiff,

CASE NO: 19-CR-0188

v.

DEPT. NO. II

RICHARD JENKINS,

Defendant.

MOTION TO PRECLUDE TESTIMONY OR

FOR A HALLMARK HEARING – JOHN PACULT

COMES NOW, Richard Jenkins, by and through his attorney, THERESA RISTENPART, Esq., and hereby moves to exclude the anticipated testimony of John Pacult, or in the alternative, for an evidentiary hearing to determine this testimony's admissibility under NRS 50.275 and *Hallmark v. Eldridge*, 124 Nev. 492, 189 P.3d 646 (2008).

This Motion is based upon the attached points and authorities, the Fourteenth, Fifth, and Sixth Amendments to the United States Constitution, Nev. Const. art. 1 § 8, and any testimony, documentary, and real evidence as may be presented at the hearing on this matter.

FACTS

1 On April 4, 2016, G.W.¹ reported to her teacher that her mother's boyfriend, Gage
2 Maryces (Gage) had been touching her inappropriately. G.W. claimed that Gage had been
3 coming into her bedroom after everyone else was asleep and laying down with her in her bed
4 with her. G.W. claimed that Gage would rub her back and shoulders while they watched
5 YouTube videos. She claimed that Gage would do this at least once a week. G.W. further
6 claimed that one-time Gage rubbed her butt and she told him to stop and leave her room. G.W.
7 described the interactions and touching as "inappropriate." G.W. told police and her teacher
8 that she had told her mother Tamara, but her mother had told her not to tell anyone.
9

10 Douglas County Sheriff's Office interviewed G.W., Tamara, and Gage. Gage denied
11 ever touching G.W. in an inappropriate manner. DCSO concluded that the allegation was
12 "unfounded" and closed the case. Tamara reported to DCSO that she was "concerned about
13 G.W.'s mental state."
14

15 In spring 2018, G.W.'s stepfather, with whom she reported to very close, passed away
16 after suffering from cancer. That summer, G.W. became closer friends with Mr. Jenkins'
17 teenage daughter, Alyssa. G.W. spent hours at the Jenkins' home, having dinner, hanging out
18 with Alyssa, Kim (Mr. Jenkins' partner), David (adult son), Chris (roommate), and Mr. Jenkins.
19 G.W.'s mom and family would come over to the Jenkins for barbeques and the Jenkins family
20 took G.W. and her mother on a rafting trip. Mr. Jenkins allowed G.W. to be an "assistant,"
21

22
23
24
25 ¹ G.W. are the initials of the same complaining party in this instant case in
26 which she is identified by a pseudonym "Kory Collins."

1 along with his daughter Alyssa, during the summer/fall volleyball clinics he coached at the
2 Douglas County Community Center.

3 In late summer 2018, G.W. tried out for the Douglas County High School volleyball
4 team, at the time coached by Marie Foster. G.W. did not make the team.

5 On September 19, 2018, Ashley Gosley made a report to the Douglas County
6 Community Center claiming she, two days prior, noticed a "strange relationship and touchy
7 behavior with Coach Rick and a younger player."

8 Douglas Community Center reported Ashley Gosley's claims to the Douglas County
9 Sheriff's Office (DCSO). On September 27, 2018, DCSO interviewed G.W. who repeatedly
10 denied any allegations of inappropriate touching by Mr. Jenkins.
11

12 After this interview, G.W. reached out to Marie Foster to ask about private lessons in
13 order to help make the high school volleyball team. Marie Foster had a private coaching
14 session with G.W. on October 28, 2018. Marie Foster reported to investigating police that she
15 sat down at the beginning of the lesson with G.W. and told G.W. that she had heard
16 stories/rumors about Rick Jenkins. Marie Foster then proceeded to share details of her own
17 personal sexual abuse with G.W. G.W. allegedly then told Marie Foster that Mr. Jenkins would
18 shove her into the equipment room and grope her. Marie Foster ultimately disclosed to G.W.
19 that she is a mandated reporter and would have to report this allegation.
20

21 On November 1, 2018, DCSO interviewed G.W. again. This time G.W. claimed that
22 Mr. Jenkins would rub her butt which made her feel uncomfortable. She also claimed that he
23 put his hands down the front of her pants and almost touched the top of her vagina. G.W.
24 claimed that this happened in at the Jenkins' home and at the Douglas County Community
25 Center.
26

1 On July 28, 2020, the State noticed its intent to call John Pacult, licensed clinical
2 social worker. "Mr. Pacult will testify as to his training, education, and experience. Mr.
3 Pacult will testify generally regarding grooming; victim dynamics, including but not
4 limited to conduct before, during and after abuse; and offender dynamics, including
5 behavior types and conduct. Mr. Pacult is expected to testify regarding the disclosure of
6 Kory Collins, and delayed disclosure in general. Mr. Pacult is further expected to testify
7 regarding grooming and the conduct of the Defendant in this case."
8

9 ARGUMENT

10 The governing standard for the admissibility of expert testimony is found in NRS 50.275.
11 Under that statute,
12

13 If scientific, technical or other specialized knowledge will assist the
14 trier of fact to understand the evidence or to determine a fact in issue,
15 a witness qualified as an expert by special knowledge, skill,
experience, training or education may testify to matters within the
scope of such knowledge.

16 As the court prescribed in *Hallmark v. Elldridge*, in order to testify as an expert under NRS
17 50.275,

18 the witness "must satisfy the following three requirements: (1) he
19 or she must be qualified in an area of 'scientific, technical or other
20 specialized knowledge' (the qualification requirement); (2) his or
21 her specialized knowledge must 'assist the trier of fact to
22 understand the evidence or to determine a fact in issue' (the
assistance requirement); and (3) his or her testimony must be
limited 'to matters within the scope of [his or her specialized]
knowledge' (the limited scope requirement).

23 124 Nev. 492, 498, 189 P.3d 646, 650 (2008).
24

25 These three requirements ensure that expert testimony is both relevant and reliable, each
26 a necessary prong to admission of expert testimony. Consequently, the district court must act as

1 a "gatekeeper" before admitting expert testimony. See *Daubert v. Merrell Dow Pharms.*, 509
2 U.S. 579, 589 (1993). As a gatekeeper, the district court must analyze the three requirements
3 identified in *Hallmark*: qualifications, assistance, and scope.

4 Regarding these three requirements, the burden of proof falls to the proponent of the
5 expert testimony by a preponderance of the evidence. *Daubert*, 509 U.S. at 592 n.10. While
6 qualifications and scope are important areas of examination, the critical admissibility inquiry
7 centers on *Hallmark*'s assistance prong. Under the assistance prong, an expert's testimony must
8 be "relevant and the product of reliable methodology." 124 Nev. 492, 498, 189 P.3d 646, 650
9 (2008). To analyze methodological reliability, the court in *Hallmark* enumerates a non-
10 exhaustive list of relevant factors to consider, each of which are "accorded varying weights, and
11 may not apply equally in every case." *Id.*

12 Specifically, reliability is assessed based on whether the proffered opinion is:

- 13
14 (1) within a recognized field of expertise; (2) testable and
15 has been tested; (3) published and subjected to peer review;
16 (4) generally accepted in the scientific community (not
always determinative); and (5) based more on particularized
facts rather than assumption, conjecture, or generalization.

17 *Higgs*, 126 Nev. Adv. Op. 1, 222 P.3d at 660.

18
19 In some cases in which principles, theories, reasoning, and methodology are insufficiently
20 transparent or unreliably applied, "[a] court may conclude that there is simply too great an
21 analytical gap between the data and the opinion offered." *Gen. Elec. Co. v. Joiner*, 522 U.S. 136,
22 146 (1997). As the *Joiner* court notes, "[b]ecause expert opinion based on nebulous methodology
23 is unhelpful to the trier of fact, it has no place in courts of law."

24 In the present matter, it is anticipated that the Mr. Pacult will give general testimony about
25 theories and studies regarding "grooming." To defense knowledge, he has not interviewed any
26

1 of the parties and/or complainants, nor has he proffered any kind of report as to his findings and
2 conclusions particular to this case. The State appears to be using Mr. Pacult as a means to
3 impermissibly vouch for the credibility of their witnesses by explaining away inconsistencies in
4 stories and timing of disclosures. This type of general testimony must be excluded. It is
5 unreliable and does not rely on scientific principles and methods. It is based on assumptions,
6 generalizations, and a method by which the proposed expert has no particularized information
7 pertaining to this case.

8
9 **CONCLUSION**

10 Based on the foregoing, Mr. Pacult's testimony should be excluded. Alternatively, a
11 *Hallmark* hearing is requested to determine the admissibility of this evidence, and to establish
12 the proper boundaries of trial testimony.

13 **AFFIRMATION PURSUANT TO NRS 239B.030**

14 The undersigned does hereby affirm that the preceding document does not contain the
15 social security number of any person.

16 DATED this 3rd day of February, 2020.

17
18 THERESA RISTENPART, ESQ.

19 

20 Attorney for Mr. Richard Jenkins
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Chelsea Mazza
Douglas District Attorney's Office
Douglas County District Attorney Marc Jackson
cmazza@douglas.nv.gov

/s/ Lisa Dee
LISA DEE, CP

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Douglas County
District Court Clerk

BESSIE R. WILLIAMS

CLERK

BY *[Signature]* DEPUTY

1 RISTENPART LAW
2 Theresa Ristenpart, Esq.
3 464 South Sierra Street
4 Reno, NV 89501
5 (775) 200-1699
6 Attorney for Mr. Richard Jenkins

7
8 **IN THE NINTH JUDICIAL DISTRICT COURT**

9
10 **STATE OF NEVADA, IN AND FOR THE COUNTY OF DOUGLAS**

11
12 STATE OF NEVADA,

13 Plaintiff,

CASE NO: 19-CR-0188

14 v.

DEPT. NO. II

15 RICHARD JENKINS,

16 Defendant.

17 **MOTION TO COMPEL PRODUCTION OF COMPLETE VIDEO SURVEILLANCE**

18 The Defendant, Richard Jenkins, by and through his counsel, Theresa Ristenpart, Esq.
19 and moves this Court for an order compelling the Douglas County District Attorney's Office to
20 produce the complete video surveillance collected from the Douglas County Community Center.

21 This Motion is based upon the attached Points and Authorities, pleadings, exhibits, and
22 oral arguments if required.

23 **POINTS AND AUTHORITIES**

24 **Statement of Relevant Facts**

25 On September 20, 2018, Douglas County Sheriff's Office (DCSO) Deputy Justin
26 Williams was ordered by DCSO Sgt. Elges to respond to the Douglas County Community

1 Center as there was a report of "a volleyball coach making out with a seventeen-year-old in the
2 corner."¹ DCSO Deputy Williams watches security surveillance of interactions between Mr.
3 Jenkins and the minor female and concludes that there is "nothing against the law" in the
4 interactions he watched. DCSO Deputy Williams instructs the community center employees to
5 find more "damning evidence" if the police are to do anything.

6 Subsequently, the Douglas County District Attorney's office discloses through
7 discovery several clearly cut and manipulated community center video surveillance clips
8 showing brief and disjointed interactions between Mr. Jenkins and G.W. The clips appear to be
9 from different practice days and total only about less than five minutes of several hundred
10 hours of video. Each volleyball practice session would have been on average over two hours.
11 The State has not produced the hours of video surveillance from which these brief video clips
12 would have been cut.
13

14 Argument

15 The State has a duty to disclose evidence, especially exculpatory evidence. In
16 *Mazzan v. Warden*, 116 Nev. 48 at 66-67 (2000), the court noted that "In determining its
17 materiality, the undisclosed evidence must be considered collectively, not item by item."
18 (Citing *Kyles v. Whitely*, 514 U.S. 419 at 439 (1995); "The character of a piece of
19 evidence as favorable will often turn on the context of the existing or potential evidentiary
20 record.")
21

22 Here, the State has not turned over the hours of video surveillance from which these few
23
24

25 ¹ All quotes are taken from DCSO Justin Williams body camera footage finally
26 provided to Defense by the State on July 2, 2020.

1 video clips were cut from and manipulated. This additional video surveillance is critical as (1)
2 DCSO Williams clearly thought that surveillance did not show anything against the law, (2) it
3 puts the few spliced video cuts in perspective, and (3) most likely contains exculpatory
4 evidence such as other people accessing the closet and other interactions between Mr. Jenkins,
5 players, other coaches, parents, and G.W.

6 **CONCLUSION**

7 Mr. Jenkins, by and through his Counsel, respectfully requests that this Court order the
8 production of the complete video surveillance from which the video clips were cut.
9

10 **AFFIRMATION PURSUANT TO NRS 239B.030**

11 The undersigned does hereby affirm that the preceding document does not contain the
12 Social Security Number of any person.

13 DATED this 3rd day of February, 2021.

14 
15 THERESA RISTENPART, ESQ.
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CERTIFICATE OF SERVICE

I certify that on the 3rd day of February, 2021, I hand delivered, e-mailed and sent via USPS mail a true copy of the attached document to:

Chelsea Mazza
Douglas District Attorney's Office
Douglas County District Attorney Marc Jackson
cmazza@douglas.nv.gov

/s/ Lisa Dee
LISA DEE, CP

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BIGLER WILLIAMS
CLERK

SHACHER
CLERK

Case No. 19-CR-0188

Dept. No. II

DA 0037969/18-2152R

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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

**OPPOSITION TO MOTION TO
COMPEL PRODUCTION OF
COMPLETE VIDEO
SURVEILLANCE**

The State of Nevada, by and through Douglas County Deputy District Attorney Chelsea Mazza, hereby files this Opposition to Defendant's Motion to Compel Production of Complete Video Surveillance. This Opposition is based on the attached Memorandum of Points and Authorities, the pleadings and papers on file with the Court, and any testimony adduced or oral arguments presented at a hearing on the matter.

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APP0077

POINTS AND AUTHORITIES

I. STATEMENT OF THE CASE

On November 8, 2018, RICHARD ALEXANDER JENKINS (hereinafter "Defendant") was arrested for offenses which occurred on or between July 1, 2018, and September 25, 2018. Defendant is now charged by way of an Information filed December 20, 2019 (following a preliminary examination), with four counts of Lewdness with a Child Under 16 Years of Age, category B felonies. Defendant entered a not guilty plea to all charges on January 6, 2020. The matter is set for trial on April 20, 2021.

II. STATEMENT OF FACTS

Between July 1, 2018, and September 25, 2018, Defendant developed a relationship with Kory Collins. At the time Kory Collins was a fourteen year old volleyball player and friend of his daughter A.J. Preliminary Examination Transcript ("PET") 94-95; 98 (December 6, 2019). Kory and Defendant would hang out mostly every day of the summer of 2018. *Id.* at 99. Most of their time would be spent at the Douglas County Recreation Center or Defendant's home. *Id.*

On September 24, 2018, the Douglas County Recreation Center reported concerning contact between Defendant and Kory Collins to the Douglas County Sheriff's Office. Subsequently, an investigation ensued by the Douglas County Sheriff's Office and surveillance video was obtained from the Recreation Center. Multiple employees and persons using the Recreation Center facilities had reported close, concerning contact between Defendant and Kory Collins. This reported contact included Defendant and Kory Collins spending time in the equipment closet, in an area known and the squishy room, and an area near the staircase. The contact was also observed on surveillance footage obtained from the Recreation Center. Kory Collins was interviewed by an investigator with the Douglas County Sheriff's Office. Kory came forward with additional information about her relationship with Defendant, and explained that when she was first interviewed she was worried about getting Defendant in trouble and ruining her friendship with A.J.

1 While at the Recreation Center, Defendant and Kory would go to secluded areas. Id. at
2 100-101. Kory and Defendant would go to the equipment room, underneath the staircase, and an
3 area known as the squishy room. Id. at 101. While in the equipment room Defendant would hug
4 Kory for a long time, kiss her on the neck or either cheek, and rub his hand down Kory's back and
5 touch her butt. Id. at 106. While in the squishy room and underneath the staircase the same
6 conduct would occur which made Kory uncomfortable. Id. at 101; 126. Defendant instructed
7 Kory leave the equipment room before him, and to tell people they were checking for flat balls if
8 they were asked what they were doing in the equipment room. Id. at 110; 115. Defendant would
9 touch Kory Collins bottom, above and underneath her clothing while at the Recreation Center.
10 Also while at the Recreation Center, Defendant would slide his hand down the front of Kory
11 Collins' pants touching her upper pelvic area, inside her clothing.

12 When Kory would go to Defendant's home she would spend the night to visit with
13 Defendant and his daughter, A.J. Id. at 102-103. They would watch movies when Kory would
14 come over to visit. Id. at 103. When watching movies, A.J, Defendant and Kory would be
15 present, watching the movies on the couch. Id. Kory described Defendant as sitting in the middle
16 of the couch and her and A.J. on separate sides of Defendant. Id. at 103-104. While on the couch
17 Defendant would have his arm around Kory, and Defendant would slowly move his hands down
18 to the bottom of her back, and put his hands down her pants, touching Kory's bottom. Id. at 104.
19 This would occur both inside and outside Kory's pants. Id. at 104-105. Defendant would also put
20 his hands down the front of Kory's pants while at Defendant's house. Id. at 106.

21 Kory described her contact with Defendant to also include Defendant kissing her neck, the
22 two of them holding hands, laying on his lap, leaning on his shoulder, and hugging for long
23 periods of time. Kory also described an incident where Defendant forcefully moved her hips, by
24 grabbing her by the hips and moving her around during a practice. Kory indicated Defendant
25 would do this when Kory made a mistake during volleyball practice.
26
27
28

///

1 **III. ARGUMENT**

2 “[T]he Constitution is not violated every time the government fails or chooses not to
3 disclose evidence that might prove helpful to the defense.” Kyles v. Whitley, 514 U.S. 419,
4 436-437, 115 S. Ct. 1555, 1567 (1995). Due process “requires less of the prosecution than the
5 ABA Standards for Criminal Justice, which call generally for prosecutorial disclosures of any
6 evidence tending to exculpate or mitigate.” Kyles, 514 U.S. at 437, 115 S. Ct. at 1567. Due
7 Process does not require disclosure of all evidence or information requested by a criminal
8 defendant, or disclosure of inculpatory or neutral information; instead, due process mandates
9 only that the government disclose exculpatory evidence that is “material either to guilt or to
10 punishment.” Brady v. Maryland, 373 U.S. 83, 87, 83 S. Ct. 1194, 1196 (1963); see also
11 United States v. Bagley, 473 U.S. 667, 675, 105 S. Ct. 3375, 3379-3380 (1985) (“The Brady
12 rule is based on the requirement of due process”). The United States Supreme Court has
13 explicitly rejected the argument that the definition of “material” in the due process context
14 “should focus on the impact of the undisclosed evidence on the defendant’s ability to prepare
15 for trial, rather than the materiality of the evidence to the issue of guilt or innocence.” United
16 States v. Agurs, 427 U.S. 97, 113 n.20, 96 S. Ct. 2392, 2402 n.20 (1976).

17 Regarding evidence that the prosecution is required to provide upon the request of a
18 defendant,

19 [t]he prosecuting attorney shall permit the defendant to inspect and to copy or
20 photograph any:

21 (a) Written or recorded statements or confessions made by the
22 defendant, or any written or recorded statements made by a witness the
23 prosecuting attorney intends to call during the case in chief of the State, or
24 copies thereof, within the possession, custody or control of the State, the
existence of which is known, or by the exercise of due diligence may become
known, to the prosecuting attorney;

25 (b) Results or reports of physical or mental examinations, scientific
26 tests or scientific experiments made in connection with the particular case, or
27 copies thereof, within the possession, custody or control of the State, the
28 existence of which is known, or by the exercise of due diligence may become
known, to the prosecuting attorney; and

1 (c) Books, papers, documents, tangible objects, or copies thereof,
2 which the prosecuting attorney intends to introduce during the case in chief of
3 the State and which are within the possession, custody or control of the State,
4 the existence of which is known, or by the exercise of due diligence may
5 become known, to the prosecuting attorney.

6 2. The defendant is not entitled, pursuant to the provisions of this section, to
7 the discovery or inspection of:

8 (a) An internal report, document or memorandum that is prepared by
9 or on behalf of the prosecuting attorney in connection with the investigation
10 or prosecution of the case.

11 (b) A statement, report, book, paper, document, tangible object or any
12 other type of item or information that is privileged or protected from
13 disclosure or inspection pursuant to the Constitution or laws of this state or
14 the Constitution of the United States.

15 3. The provisions of this section are not intended to affect any obligation
16 placed upon the prosecuting attorney by the Constitution of this state or the
17 Constitution of the United States to disclose exculpatory evidence to the
18 defendant.

19 NRS 174.235.

20 "A party shall comply with a request made pursuant to NRS 174.235 or 174.245 not
21 less than 30 days before trial or at such reasonable later time as the court may permit." NRS
22 174.285(2). Other relevant statutes govern the required disclosure of evidence by the
23 defendant, NRS 174.245, protective orders, NRS 174.275, and continuing duties to disclose,
24 NRS 174.285.

25 In addition to Nevada's criminal discovery statutes, due process requires a prosecutor to
26 disclose evidence favorable to the defense if the evidence is material either to guilt or to
27 punishment. Lay v. State, 116 Nev. 1185, 14 P.3d 1256 (2000). This includes evidence that
28 would provide grounds of the defense to attack the reliability, thoroughness, and good faith of
the police investigation or to impeach the credibility of the state's witnesses. Id. However,
even the prescriptions of Brady, Giglio, and their progeny relating to potentially exculpatory
evidence extend only to evidence in the actual or constructive possession of the State. See
State v. Bennett, 119 Nev. 589, 603, 81 P.3d 1, 10 (2003).

Douglas County District Attorney
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1 The State has complied with its discovery obligations as required by Nevada statutes
2 and the Constitutions of the State of Nevada and the United States. Defendant is seeking an
3 order to compel discovery of video surveillance footage from the Douglas County Community
4 Center spanning months. Defendant has not shown it is reasonably likely that the "entirety" of
5 this request is material to his defense." In addition, the State is not in possession of the video
6 surveillance footage, rather it is in the possession of the Douglas County Community Center.

7 Further, the State has provided discovery to Defendant in compliance with NRS
8 174.235 and the Nevada and United States Constitutions. The State has provided Defendant
9 with the entirety of the surveillance footage collected from the Douglas County Community
10 Center. The additional surveillance footage requested does not exist. The State has confirmed
11 with the Douglas County Community Center that the surveillance system stores footage for six
12 to eight months, unless the footage is saved, which has not been done in this case. Defendant
13 has not requested this additional footage until February, 2021, for incidents occurring between
14 July 1, 2018, and September 25, 2018. The State recognizes its continuing duty to disclose
15 discovery and should any outstanding discovery be located, it will be provided to defense in a
16 timely manner pursuant to NRS 174.285. If Defendant is aware of discovery material that
17 *exists* and has not been provided, then Defense should articulate such in its request. There is
18 no reason for this Court to issue and order directing the State to produce and deliver the
19 requested surveillance footage.

20 DATED this 16 day of February, 2021.

21 MARK B. JACKSON
22 DISTRICT ATTORNEY

23 By: Chelsea Mazza

24 Chelsea Mazza
25 Deputy District Attorney
26 1038 Buckeye Road
27 Minden, NV 89423
28 (775) 782-9800

APP0082

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1 Case No. 19-CR-0188

2 Dept. No. II

3 DA 0037969/18-2152R

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5
6 IN THE JUSTICE COURT OF TAHOE TOWNSHIP
7 IN THE COUNTY OF DOUGLAS, STATE OF NEVADA

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

CERTIFICATE OF SERVICE

12 RICHARD ALEXANDER JENKINS,

13 Defendant.
14

15 Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for
16 Douglas County, Nevada, and that I deposited for delivery a true copy of Opposition to Motion
17 to Compel Production of Complete Video Surveillance addressed to:

18 Ristenpart Law
19 Theresa Ristenpart, Esq.
20 464 South Sierra Street
21 Reno, Nevada 89501
theresa@ristenpartlaw.com

- 22 ☐ U.S. Mail
23 ☒ Reno/Carson Messenger
24 ☒ Email

25 DATED this 16 day of February, 2021.
26
27
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APP0083

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Case No. 19-CR-0188

Dept. No. II

DA 0037969/18-2152R

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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

**RESPONSE TO MOTION TO
PRECLUDE TESTIMONY OR FOR
A HALLMARK HEARING – JOHN
PACULT**

The State of Nevada, by and through Douglas County Deputy District Attorney Chelsea Mazza, hereby files this response to Defendant's Motion to Preclude Testimony or for a *Hallmark* Hearing – John Pacult. Defendant moves to exclude the anticipated testimony of John S. Pacult, LCSW, or in the alternative requests an evidentiary hearing to determine the admissibility of the testimony. Although the State opposes Defendant's Motion as there has been no showing that the testimony of John S. Pacult, LCSW, is not admissible under NRS 50.275 or *Hallmark v. Eldridge*, 124 Nev. 492 (2008), due to unavailability, the State no longer intends to call John S. Pacult, LCSW, as an expert witness to testify in this matter.

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APP0084

1 Defendant's Motion is now moot, given the current circumstance. As such, the State
2 respectfully requests the Court deny Defendant's Motion as moot.
3

4 DATED this 11th day of February, 2021.
5

6 MARK B. JACKSON
DISTRICT ATTORNEY

7 By: Chelsea Mazza
8 Chelsea Mazza
9 Deputy District Attorney
10 1038 Buckeye Road
11 Minden, NV 89423
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Case No. 19-CR-0188

Dept. No. II

DA 0037969/18-2152R

This document does not contain personal information of any person

IN THE JUSTICE COURT OF TAHOE TOWNSHIP
IN THE COUNTY OF DOUGLAS, STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for Douglas County, Nevada, and that I deposited for delivery a true copy of Response to Motion to Preclude Testimony or for a Hallmark Hearing – John Pacult, addressed to:

Ristenpart Law
Theresa Ristenpart, Esq.
464 South Sierra Street
Reno, Nevada 89501
theresa@ristenpartlaw.com

- ☐ U.S. Mail
☒ Reno/Carson Messenger
☒ Email

DATED this 16 day of February, 2021.

APP0086
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CERTIFIED
COPY

Case No. 19-CR-0188

Department No. II

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

THE HONORABLE THOMAS W. GREGORY

-oOo-

STATE OF NEVADA,

Plaintiff,

vs.

RICHARD ALEXANDER JENKINS,

Defendant.

TRANSCRIPT OF PROCEEDINGS

MOTIONS HEARING

TUESDAY, MARCH 9, 2021

MINDEN, NEVADA

For the State:

Chelsea Mazza,
Deputy District Attorney

For the Defendant:

Theresa Ristenpart, Esq.

Reported by:

Shellie Loomis, RPR
Nevada CCR #228

CAPITOL REPORTERS (775) 882-5322

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EXHIBITS

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1	168
2	168

1 MINDEN, NEVADA, TUESDAY, MARCH 9, 2021, A.M. SESSION

2 -oOo-

3
4 THE COURT: Good morning, everybody. Court is in
5 session on Case Number 19-CR-188, State of Nevada versus
6 Richard Alexander Jenkins. Show the appearance of Chelsea
7 Mazza on behalf of the State.

8 Good morning, Ms. Maza.

9 MS. MAZZA: Good morning, Your Honor.

10 THE COURT: Theresa Ristenpart is appearing on
11 behalf of the Defendant.

12 Good morning, Ms. Ristenpart.

13 MS. RISTENPART: Good morning, Your Honor.

14 THE COURT: And also appearing is the Defendant,
15 Mr. Jenkins.

16 Good morning, Mr. Jenkins.

17 THE WITNESS: Good morning, Your Honor.

18 THE COURT: We are here today for a pretrial
19 conference and we have several -- I think as many as five
20 motions that are pending. Some of those motions will require
21 witness testimony.

22 And, Ms. Mazza, does the State wish to invoke the
23 Rule of Exclusion?

24 MS. MAZZA: Yes, Your Honor.

CAPITOL REPORTERS (775) 882-5322

1 THE COURT: All right. The Rule of Exclusion has
2 been invoked. That means that while one witness is
3 testifying, other witnesses cannot be in the courtroom. And
4 so, Counsel, at this time, I would ask that you make sure that
5 any witnesses that will be called are removed from the
6 courtroom.

7 All right. We good?

8 MS. RISTENPART: Thank you, Your Honor.

9 THE COURT: Okay. You're welcome. My thought
10 would be to start with the motions that require witness
11 testimony so that we don't have to keep the witnesses waiting,
12 and that would be -- in my mind, the best start would be the
13 Plaintiff's motion to admit Defendant's prior sexual acts.

14 Ms. Mazza, would you be prepared to go forward
15 with that motion?

16 MS. MAZZA: Your Honor, I am prepared to go
17 forward with that motion. If it would please the Court and
18 Defense counsel, I would suggest we call -- or allow the
19 defense motion with regard to false statements to go first so
20 that GW can leave.

21 THE COURT: All right.

22 MS. MAZZA: If defense does not want, we can go
23 with our motion.

24 THE COURT: I'm open to that suggestion.

1 Ms. Ristenpart, what are your thoughts?

2 MS. RISTENPART: Your Honor, just to clarify, you
3 stated five motions, so that would be the motion to recuse the
4 district attorney's office for their conflict, the motion to
5 preclude for hallmark or have a hallmark hearing in regards to
6 the State's alleged witness, expert witness and then also
7 notice for the prior false allegation and the motion regarding
8 prior bad acts; correct?

9 THE COURT: That is correct. There was one other
10 motion that might now be moot and that was the motion
11 regarding the State's expert witness, and Ms. Mazza had
12 indicated that they had decided not to call that witness. So
13 I believe that one's moot.

14 Ms. Mazza, do you agree with that?

15 MS. MAZZA: Yes, Your Honor.

16 THE COURT: Ms. Ristenpart, do you agree with
17 that?

18 MS. RISTENPART: I agree with that also,
19 Your Honor.

20 THE COURT: Okay. So, yes, those are the motions
21 I have pending.

22 MS. RISTENPART: Your Honor, before we proceed
23 forward, I do believe that the motion to recuse the District
24 Attorney's office, even though it doesn't have witnesses,

1 Your Honor, may be appropriate, because if the Court is
2 inclined to recuse, obviously that would make a difference
3 going forward on the other motions at this time. But I'll
4 leave it to the Court's satisfaction.

5 THE COURT: Okay. Well, thank you for that. It
6 is my intention to go forward with the witness motions first.
7 And so, Ms. Ristenpart, do you prefer to go forward with the
8 State's motion to admit prior sex acts or your motion to admit
9 evidence of prior false allegations?

10 MS. RISTENPART: Your Honor, I would ask that we
11 go with the false allegation first.

12 THE COURT: Okay. Very good. Then we'll go
13 forward in that manner.

14 Ms. Ristenpart, how many witnesses do you
15 anticipate for that motion?

16 MS. RISTENPART: Your Honor, depending on GW's --
17 and to clarify the record, is that what we're going to refer
18 to as the complaining witness, is GW going forward today? She
19 indicated at prelim she wanted to go by her real name.

20 THE COURT: All right. Ms. Mazza, what -- it is
21 important for all of us to use the same name.

22 MS. MAZZA: Your Honor, I have no objection to
23 using GW. I think at least some of my witnesses will probably
24 use that or be confused if I use "Courtney Collins."

1 THE COURT: So we will use "GW" then going
2 forward in this case.

3 MS. RISTENPART: So, Your Honor, dependant on
4 GW's testimony to my questions, I would either anticipate just
5 one witness or possibly five witnesses.

6 THE COURT: Okay. And, Ms. Mazza, are you
7 anticipating calling witnesses?

8 MS. MAZZA: No, Your Honor.

9 THE COURT: All right. It just gives me a sense
10 of where we're going with the motion. So by that, what you
11 just stated, my understanding is that you'd be calling -- or
12 my thought is you would be calling GW first?

13 MS. RISTENPART: Correct, Your Honor.

14 THE COURT: Okay. So go ahead and call GW and --

15 MS. RISTENPART: My understanding is she's in the
16 District Attorney's office, Your Honor.

17 THE COURT: Okay. Go ahead and get her over.

18 MS. MAZZA: Your Honor, I'll have her sent over.
19 Thank you.

20 THE COURT: While we're waiting, the Court is in
21 receipt of a stipulation to continue the deadline to submit
22 additional special jury instructions and verdict forms. I
23 have signed an order granting that stipulation and that will
24 be filed with the court clerk.

1 Counsel, the other thing while we're waiting,
2 because the Court will need to assess these witnesses, it
3 would be my preference here that the witness be allowed to
4 remove his or her face mask while testifying.

5 Ms. Mazza, do you have any objection to that?

6 MS. MAZZA: Your Honor, I have no objection to
7 them being in here like that, but I can't speak for how a
8 witness may feel.

9 THE COURT: Okay. Ms. Ristenpart?

10 MS. RISTENPART: No objection, Your Honor. We'd
11 prefer that witnesses do take their masks off.

12 THE COURT: All right. Thank you. Counsel, also
13 if there comes a time when you believe you need to remove your
14 mask to better communicate when you're speaking, that is okay
15 with the Court. It's also fine to leave your mask up.

16 MS. MAZZA: Your Honor, if the bailiff could just
17 go check at our front counter, they should be able to send her
18 over. Thank you.

19 THE COURT: All right. Please step forward and
20 stop right there. Go ahead and raise your right hand, face
21 the court clerk to be sworn.

22
23
24

1 GW,
2 called as a witness on behalf of the
3 DEFENSE, was duly sworn and
4 testified as follows:
5 THE COURT: Thank you. Come on up here and have
6 a seat in the witness stand. Ms. Ristenpart is going to have
7 some questions for you first, then Ms. Mazza will, and then
8 the attorneys might have some follow-up questions after that.
9 THE WITNESS: Okay.
10 THE COURT: Ms. Ristenpart, go ahead.
11 **DIRECT EXAMINATION**
12 BY MS. RISTENPART:
13 Q. GW, would you mind removing your mask since we're
14 six feet apart?
15 A. (Complies.)
16 Q. Thank you.
17 THE COURT: Thank you.
18 MS. RISTENPART: Permission to remove my mask,
19 Your Honor, on direct?
20 THE COURT: Yes, that's granted.
21 MS. RISTENPART: Thank you, Your Honor.
22 BY MS. RISTENPART:
23 Q. Would you please state your acronym for the
24 record?

1 A. What was that?
2 Q. Your initials?
3 A. GMW.
4 Q. And how old are you?
5 A. 16.
6 Q. And who's your mom?
7 A. Tamara Woodbridge.
8 Q. Is your mom dating a man named Gage Marcyes?
9 A. Yes.
10 Q. And how long have they been dating for?
11 A. I'd say about seven years.
12 Q. And does Gage live with you and your mom?
13 A. No.
14 Q. Did that just recently happen?
15 A. Yes.
16 Q. And before -- when did he move out?
17 A. About three months ago, maybe two.
18 Q. Before that, though, he lived with you and your
19 mom?
20 A. Yes.
21 Q. Taking you back to 2016, you made allegations
22 against Gage that he was touching you inappropriately;
23 correct?
24 A. Correct.

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1 MS. MAZZA: Objection, leading.

2 THE COURT: Sustained.

3 BY MS. RISTENPART:

4 Q. Did you make allegations back in 2016 about Gage
5 touching you inappropriately?

6 A. Correct.

7 MS. MAZZA: Objection, leading.

8 THE COURT: Sustained.

9 MS. RISTENPART: Your Honor, permission to treat
10 as a hostile complaining witness.

11 THE COURT: There's been no foundation for that,
12 so that request is denied.

13 BY MS. RISTENPART:

14 Q. Back in 2016, did you make allegations against
15 Gage?

16 A. Yes.

17 Q. What kind of allegations?

18 A. He was touching me inappropriately.

19 Q. Who did you tell that to?

20 A. A teacher.

21 Q. And what exactly did you tell your teacher?

22 A. He was sitting on the edge of my bed and I felt
23 his hand near my butt or on my butt.

24 Q. Doing what?

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1 A. Just sitting there.

2 Q. Is that what you're claiming you told your
3 teacher?

4 A. Yes.

5 Q. Do you remember telling your teacher that Gage
6 would come into your room at night?

7 MS. MAZZA: Objection, leading.

8 MS. RISTENPART: Your Honor, I'm impeaching.

9 THE COURT: Overruled.

10 THE WITNESS: Yes.

11 BY MS. RISTENPART:

12 Q. And do you remember telling your teacher and
13 investigators from the Douglas County Sheriff's Office that
14 Gage would lay in bed with you?

15 A. I don't recall that.

16 Q. Do you remember telling investigators that Gage
17 would put his head on your shoulder?

18 A. I don't recall that.

19 Q. And do you remember telling investigators that
20 one time Gage came in around 1:00 a.m. and stuck his hands
21 under the covers?

22 A. I don't recall that.

23 Q. And do you remember telling investigators that
24 you claim Gage started touching you?

1 A. Yes.

2 MS. MAZZA: Your Honor, I'm going to have to
3 object to that entire line of questioning. Again, it was
4 leading, but there's nothing that has been to impeach. There
5 was nothing that she said she didn't say to investigators,
6 there was only a question posed about what she said to her
7 teachers. And at this point, she's been led this entire way
8 regarding those questions.

9 THE COURT: All right. Well, the testimony is
10 already -- it's in, so Ms. Ristenpart can continue.

11 Go ahead.

12 MS. RISTENPART: Thank you, Your Honor.

13 BY MS. RISTENPART:

14 Q. At some point, you were interviewed by a
15 detective from the Douglas County Sheriff's Office; correct?

16 A. Correct.

17 Q. And you had a long interview with that detective?

18 A. Correct.

19 Q. Have you reviewed your interview with that
20 detective at all?

21 A. Yes.

22 Q. Even with all your meetings with the district
23 attorney sitting here?

24 A. Reviewed once.

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1 Q. You did review it?

2 A. Once.

3 Q. And that was with the district attorney?

4 A. Yeah.

5 Q. When you met with the investigators, what did you
6 tell the investigators about what Gage -- more specifically,
7 how Gage touched you inappropriately?

8 A. He just touched my butt once and then I woke up
9 and realized he was sitting right there in my bed.

10 Q. And that's what you're claiming that's all you
11 told investigators?

12 A. Correct.

13 Q. Do you remember talking to investigators that he
14 started rubbing your back?

15 A. No.

16 Q. Do you remember telling the investigators that he
17 then rubbed your butt?

18 A. Not rubbed.

19 Q. Are you claiming today that he never rubbed your
20 butt?

21 A. Yes.

22 Q. So that allegation you made against Gage back in
23 2016 when you told investigators that he rubbed your butt,
24 that was not true?

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1 A. No, that was not true.

2 Q. What about him coming into your room and sticking
3 his hands under the covers, did that ever happen?

4 A. No.

5 Q. So when you told investigators that, that was not
6 true?

7 A. It was a misunderstanding.

8 Q. When you told the teacher about Gage touching you
9 inappropriately, was that true?

10 A. No.

11 Q. So that allegation --

12 A. Well, I told the teachers that.

13 Q. I'm sorry, go ahead.

14 A. I told the teachers that, but it was a
15 misunderstanding at the moment because I got nervous and
16 stuff.

17 Q. So the allegation that Gage touched you
18 inappropriately back in 2016 was not true?

19 A. No, was not true. It was a misunderstanding.

20 Q. Do you know Kimberly Copeland?

21 A. No.

22 Q. Do you know Kim?

23 A. Oh, yeah.

24 Q. And how do you Kim?

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1 A. It was Rick's girlfriend; right? Was that --

2 Q. (Nodded head.)

3 A. Yeah.

4 Q. And back in 2018, did you spend a lot of time at
5 the Jenkins' home?

6 A. Who?

7 Q. Back in 2018, did you spend a lot of time at the
8 Jenkins' home?

9 A. Yes.

10 Q. And you spent a lot of time with Kim?

11 A. Not exactly, no.

12 Q. You spent a lot of time at the house when Kim was
13 there?

14 MS. MAZZA: Objection, leading.

15 THE COURT: Sustained.

16 BY MS. RISTENPART:

17 Q. In late summer of 2018, did you message Kim on
18 Instagram?

19 MS. MAZZA: Objection, leading.

20 THE COURT: Sustained.

21 BY MS. RISTENPART:

22 Q. Did you ever talk to Kim?

23 A. Yes.

24 Q. Did you ever talk to Kim about Gage raping you?

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1 MS. MAZZA: Objection, leading.

2 THE COURT: Sustained.

3 BY MS. RISTENPART:

4 Q. Did you ever talk to Kim about allegations about
5 Gage?

6 A. No.

7 MS. MAZZA: Your Honor, objection, leading again.

8 THE COURT: I'm going to allow that. Go ahead.

9 And she answered.

10 BY MS. RISTENPART:

11 Q. You're claiming no?

12 A. No.

13 Q. If there was an allegation that Gage raped you;
14 would that be true?

15 A. No.

16 Q. That would be a false allegation?

17 A. That would be a misunderstanding.

18 Q. You keep saying "misunderstanding." Was that the
19 word you practiced with the district attorney?

20 A. No.

21 Q. So you're claiming that you were just
22 misunderstood when you made allegations?

23 A. I misunderstand what he was doing.

24 Q. But just to clarify for the Court, back in 2016

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1 what you told investigators about Gage was not true?

2 A. Was not true.

3 MS. RISTENPART: No further questions at this
4 time.

5 THE COURT: All right. Ms. Mazza?

6 **CROSS-EXAMINATION**

7 BY MS. MAZZA:

8 Q. So, GW, I want to go in a little bit deeper with
9 regard to what you've said in regarding a misunderstanding.
10 And you indicated on direct that you misunderstood how Gage
11 was acting with you; is that correct?

12 A. Correct.

13 Q. And was there a time in your bedroom with Gage
14 that he made you uncomfortable?

15 A. No.

16 Q. At -- so let's take you back to when you were
17 younger, when you made this report as Ms. Ristenpart was
18 talking about when you talked to law enforcement. At that
19 time, did you feel uncomfortable with Gage?

20 A. Yes.

21 Q. And did you -- at that time when you made this
22 report, did you feel uncomfortable with how he was in your
23 room?

24 A. Yes.

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1 Q. Okay. And I'm not asking you about today, I'm
2 asking about when you made this report?

3 A. Right.

4 Q. When you made this report back then, was there
5 conduct between you and Gage in your room?

6 A. What do you mean?

7 Q. Did anything happen between the two of you in
8 your room? Did he lay in your bed?

9 A. No.

10 Q. Did he watch videos with you?

11 A. No.

12 Q. He never was in your room?

13 A. He was in my room, but never watched videos or
14 anything.

15 Q. Okay. But did he tuck you into bed?

16 A. Yes.

17 Q. And say "good night" to you?

18 A. Yes.

19 Q. And that conduct, is that what made you
20 uncomfortable?

21 A. No.

22 Q. Okay. So his actions with you where he would
23 tuck you into bed, would he accidentally touch your bottom?

24 A. I don't believe so, no.

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1 Q. Okay. But his actions made you uncomfortable?
2 A. Just sitting on the bed.
3 Q. His sitting on the bed made you uncomfortable?
4 A. Yes.
5 Q. And so you reported this to law enforcement?
6 A. Right.
7 Q. And now when you look back on it, you're saying
8 it was a misunderstanding; is that correct?
9 A. Correct.
10 Q. Because you misunderstood how he was acting
11 towards you?
12 A. Correct.
13 Q. And so when you say that you reported it to law
14 enforcement, was it a misunderstanding or a lie?
15 A. A misunderstanding.
16 Q. So you were reporting what you believed to be
17 happening to you; is that correct?
18 A. Correct.
19 MS. MAZZA: No further questions.
20 THE COURT: Redirect.
21 **REDIRECT EXAMINATION**
22 BY MS. RISTENPART:
23 Q. GW, you told police who were investigating that
24 Gage rubbed your butt; correct?

1 A. No, I do not recall that.

2 Q. You're claiming today that you never told
3 investigators that?

4 A. I don't recall. I don't remember.

5 Q. You told police that he would come in around
6 1:00 a.m. and stick his hands under your cover; correct?

7 A. I don't remember. I don't recall.

8 Q. Did you ever tell law enforcement that it was
9 just a, quote, "misunderstanding" about what happened with
10 Gage?

11 A. No, I never really spoke to them after.

12 Q. But any allegation you made about Gage touching
13 you inappropriately, that was false; correct?

14 A. Correct.

15 MS. RISTENPART: No further questions.

16 THE COURT: Recross?

17 MS. MAZZA: Your Honor, just briefly.

18 **RECROSS-EXAMINATION**

19 BY MS. MAZZA:

20 Q. When were you questioned by Ms. Ristenpart, she
21 asked you if you watched your interview; is that correct?

22 Did you actually watch your interview with her
23 today?

24 A. No.

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1 Q. Did you actually read a transcript of it?
2 A. Yes.
3 Q. The transcript of your interview?
4 A. What's a transcript?
5 Q. Sorry. Word for word, what you were saying in
6 your interview, written out?
7 A. No.
8 Q. Did you talk about it with me?
9 A. Yes.
10 Q. But you never watched it?
11 A. No.
12 MS. MAZZA: Your Honor, no further questions.
13 THE COURT: Is this witness going to be needed
14 for any of the other motions?
15 MS. MAZZA: No, Your Honor.
16 MS. RISTENPART: Your Honor, I'd ask that we just
17 hold her while we're arguing this motion because I think
18 there's some impeachment issues.
19 THE COURT: Okay. Very good. All right. I'm
20 going to go ahead and excuse you at this time. You can go
21 ahead and leave the courtroom, but you need to remain in the
22 courthouse. You might be subject to being recalled to the
23 stand.
24 THE WITNESS: Okay.

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1 THE COURT: Please do not discuss your testimony
2 with anyone except for the attorneys in this case or their
3 investigators until I've made a decision in this case.

4 THE WITNESS: Yes, sir.

5 THE COURT: Thank you. Ms. Ristenpart.

6 MS. RISTENPART: Thank you, Your Honor.

7 THE COURT: Do you have other witnesses you'd
8 like to call?

9 MS. RISTENPART: Your Honor, in making a very
10 complete record here, I feel like I just have to bring in some
11 additional witnesses because now we're running into an
12 impeachment issue in regards to "I don't recall" and "don't
13 remember," and also refreshing recollection.

14 So I would call at this point, Your Honor,
15 Detective Love from the Douglas County Sheriff's Office.

16 THE COURT: All right.

17 MS. RISTENPART: He's also sitting outside.

18 THE BAILIFF: Who did you call?

19 MS. RISTENPART: Detective Love.

20 THE COURT: Investigator Love, please raise your
21 right hand, face the court clerk to be sworn.

22

23

24

1 INVESTIGATOR LELAND LOVE,
2 called as a witness on behalf of the
3 DEFENSE, was duly sworn and
4 testified as follows:
5 THE COURT: Thank you, sir. Come on up to the
6 witness stand, please.

7 MS. RISTENPART: With the Court's indulgence,
8 Your Honor.

9 **DIRECT EXAMINATION**

10 BY MS. RISTENPART:

11 Q. Detective, would you please state and spell your
12 name for the record?

13 A. Investigator Leland Love, last name is L-O-V-E.

14 THE COURT: Investigator -- sorry, sorry,
15 Ms. Ristenpart. Would you go ahead and remove the mask,
16 please? Thank you.

17 THE WITNESS: Okay.

18 BY MS. RISTENPART:

19 Q. Detective Love, where do you work?

20 A. Douglas County Sheriff's Office.

21 Q. And how long have you worked there for?

22 A. 21-plus years.

23 Q. Taking you back to 2016, did you have a reason to
24 investigate an allegation regarding a minor named GW?

1 A. Honestly, I can't recall that far back.

2 Q. Did you have an allegation made from a minor back
3 in 2016 about her mom's boyfriend, Gage Marcyes, touching her
4 inappropriately?

5 MS. MAZZA: Objection, leading.

6 THE COURT: Overruled.

7 THE WITNESS: Pretty much same answer. I don't
8 recall cases from that far back with that detail.

9 BY MS. RISTENPART:

10 Q. Would looking at your report refresh your memory?

11 A. It most likely would, yes.

12 MS. RISTENPART: May I approach, Your Honor?

13 THE COURT: You may. If you're going to show it
14 to the witness, I will have that -- ask that it be marked
15 first as an exhibit.

16 MS. RISTENPART: Yeah. May I approach?

17 THE COURT: You may.

18 THE WITNESS: Do I need to put the mask back on?

19 THE COURT: You do not.

20 MS. RISTENPART: Your Honor, I'm going to have
21 two items marked, the first being Detective Love's report and
22 then also a handwritten statement.

23 THE COURT: Okay. Let's do his report first.
24 That'll be Defendants's Exhibit A and then the handwritten

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1 statement will be Defense Exhibit B. And at this time, they
2 are marked just for -- they are marked, but not admitted.

3 MS. MAZZA: And, Your Honor, with regard to using
4 those exhibits for refreshing, I don't know that we've
5 established what we're using to refresh his memory. Is there
6 a certain portion or the entirety of the report? I don't know
7 that it would be proper for him to review the entire report.

8 THE COURT: Well, I'm going to let Ms. Ristenpart
9 proceed and we'll see where she goes with it. But my
10 understanding she's just using it to refresh recollection.

11 Ms. Ristenpart, if you can at least identify what
12 it is that you're showing the investigator and help him
13 identify whatever it is he's looking at before we have him
14 refresh his recollection.

15 MS. RISTENPART: Okay. For the record, I'm
16 looking at Defense Exhibit A, which is a report, instant
17 report 16-SO-11541, which was re-authored by Detective Love
18 back in 2016. I am referring to the second page of his
19 report -- excuse me, page 5 of his report where he starts his
20 narrative in regards to his follow-up investigation.

21 May I approach?

22 THE COURT: You may.

23 MS. MAZZA: Your Honor, I'm going to object to
24 him reading the entire report. That's not the purpose of

1 refreshing recollection. If he reviews it and it brings up
2 things he remembers, then he can answer Ms. Ristenpart's
3 questions. But if he reviews his entire report, then he's
4 just going to be testifying from that report.

5 THE COURT: Well, he testified that he didn't
6 remember anything about the incident. So I'm going to allow
7 him to review his report to see if that refreshes his
8 recollection about the investigation.

9 Ms. Ristenpart, when the witness is done reading,
10 I would ask that you lay a foundation through him that this
11 is, in fact, his report.

12 MS. RISTENPART: I will, Your Honor.

13 BY MS. RISTENPART:

14 Q. Are you finished reading?

15 A. I am.

16 Q. Does that refresh your memory?

17 A. Unfortunately, it does not. I don't recall this
18 at all.

19 Q. Do you remember having a recent conversation in
20 2018 with Detective Chrzanowski about your investigation in
21 this case?

22 A. I remember talking -- I remember the call. I
23 recall, I believe, doing some interviews at the middle school,
24 but I don't recall any of this. I recall going to a residence

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1 on a high school and conducting an interview, I think it was
2 with one of the girls, but I don't recall the contents of that
3 interview.

4 MS. RISTENPART: May I approach, Your Honor?

5 THE COURT: You may.

6 BY MS. RISTENPART:

7 Q. And what I handed to you, is this your report?

8 A. Yes.

9 Q. Starting at page 5 of this exhibit because
10 there's others documents attached to it?

11 A. Okay. Okay. Yes.

12 Q. Would you like to look at it to confirm that?

13 A. Yes, please.

14 MS. RISTENPART: May I approach, Your Honor?

15 THE COURT: You may.

16 THE WITNESS: Yes, this is my report.

17 BY MS. RISTENPART:

18 Q. And is that the report you authored in regards to
19 an allegation of lewdness against a Gage Marcyes?

20 A. I can only say yes in reading it that it's my
21 words. That's in my form. I don't know recall writing it to
22 be honest.

23 Q. At the conclusion of your investigation, what was
24 your conclusion?

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1 A. That it was unfounded.

2 Q. And what do you mean by "unfounded"?

3 A. That --

4 MS. MAZZA: Your Honor, I'm going to object here.
5 Detective Love has already indicated that he does not recall
6 this, so now this question is simply going to be him
7 testifying from the report. He indicated that that report did
8 not refresh his recollection, so --

9 THE COURT: Sustained.

10 BY MS. RISTENPART:

11 Q. Just generally, what does it mean when you
12 unfound?

13 A. Generally, it means that I don't have conclusive
14 evidence to prove that the crime has been committed.

15 MS. RISTENPART: No further questions. Thanks.

16 THE COURT: Ms. Mazza, any cross-examination?

17 MS. MAZZA: Yes. Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 BY MS. MAZZA:

20 Q. Detective Love, when you say there's not
21 conclusive evidence to prove a crime, does it mean that a
22 crime didn't occur?

23 A. No.

24 Q. Does it mean that someone lied or does it mean

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1 that you don't have evidence to prove it to have an arrest in
2 the case?

3 A. The second. I don't know have enough evidence to
4 prove that the -- that there's enough for an arrest.

5 MS. MAZZA: Thank you. No further questions.

6 **REDIRECT EXAMINATION**

7 BY MS. RISTENPART:

8 Q. Detective, is there a difference between
9 inconclusive versus unfounded?

10 A. I think there's -- I think there's a fine line
11 between the two, but yes, there is a difference between the
12 two.

13 Q. And what's the difference if someone reports that
14 the allegations are unfounded?

15 A. In my view, unfounded would be there's absolutely
16 no evidence to prove something occurred. Inconclusive would
17 be that there's an allegation, but there's no physical
18 evidence that I can reproduce to prove that something had
19 occurred, whether the crime had occurred.

20 Q. So, Detective, if you use the word "unfounded,"
21 that would be different in regards to the allegations;
22 correct?

23 A. I'm sorry. I don't understand the question.

24 Q. If you use the word "unfounded" in regards to

1 your investigation, that would mean that there was not
2 evidence?

3 A. That means I could not provide evidence, yes.

4 Q. And do you remember what you concluded on this
5 case?

6 A. After reading, it says "unfounded."

7 MS. MAZZA: Objection, Your Honor, I'd ask to
8 strike that.

9 THE COURT: Sustained.

10 MS. RISTENPART: Your Honor, the purpose of
11 refreshing memory is if he remembers, to remember what he
12 found on this.

13 THE COURT: And he stated he did not remember.

14 MS. RISTENPART: But he -- refreshing the memory
15 after refreshing it, he remembers what he found.

16 THE COURT: He does not. He's testifying what he
17 read from the report. He made -- said specifically he did not
18 recall.

19 MS. MAZZA: And, Your Honor, just to make the
20 record clear, I believe Detective Love said specifically the
21 report did not refresh his recollection.

22 THE COURT: That is correct.

23 MS. RISTENPART: No further questions.

24 THE COURT: Ms. Mazza, any follow up?

1 MS. MAZZA: No, Your Honor. Thank you.

2 THE COURT: Is this witness going to be needed
3 for further testimony?

4 MS. RISTENPART: No, you're excused.

5 THE WITNESS: Thank you.

6 THE COURT: Ms. Mazza?

7 MS. MAZZA: No, Your Honor. Thank you.

8 THE COURT: All right. Investigator Love, thank
9 you, you may be excused.

10 THE WITNESS: Thank you, Judge.

11 THE COURT: And the exhibits -- please hand the
12 exhibits back to the Court Clerk.

13 MS. RISTENPART: I have them.

14 THE COURT: Oh, great.

15 MS. RISTENPART: Your Honor, I'm keep all of them
16 for the next one. Thank you.

17 THE COURT: All right.

18 MS. RISTENPART: State -- or excuse me, the
19 defense would call Detective Chrzanowski who I also believe is
20 right outside.

21 THE BAILIFF: I'll have to check because I didn't
22 see her last time. Your Honor, evidently she was not aware of
23 her court appearance, so Detective Love is going to go
24 downstairs and have her show up.

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1 THE COURT: Is she under subpoena?
2 MS. RISTENPART: She is, Your Honor.
3 THE COURT: Are there other witnesses you can
4 take or is it --
5 MS. RISTENPART: Your Honor, I would call Gage
6 Marcyes.
7 THE COURT: Okay. Gage Marcyes.
8 MS. MAZZA: I will -- if you can go to our front
9 counter, he's in our office.
10 THE BAILIFF: Okay. He's on his way now,
11 Your Honor.
12 THE COURT: Thank you. Good morning, sir. I'm
13 going to have you stop right there, go ahead and raise your
14 right hand and face the court clerk to be sworn.
15 GAGE MARCYES,
16 called as a witness on behalf of the
17 DEFENSE, was duly sworn and
18 testified as follows:
19 THE COURT: Thank you. Please come on up to the
20 witness stand. All right. Sir, if you would please remove
21 your mask and state your name and spell your last name for us.
22 THE WITNESS: Gage Marcyes, M-A-R-C-Y-E-S.
23 THE COURT: Thank you, sir. Ms. Ristenpart is
24 going to have some questions for you first and then Ms. Mazza

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1 will many have some questions, and then they might have some
2 follow up questions after that.

3 Ms. Ristenpart, go ahead.

4 MS. RISTENPART: Thank you, Your Honor.

5 **DIRECT EXAMINATION**

6 BY MS. RISTENPART:

7 Q. Mr. -- is it Marcyes?

8 A. Marcyes.

9 Q. Marcyes. Do you date -- are you dating GW's
10 mother, Tamara?

11 A. We're -- I don't -- we're seeing each other, I
12 guess we're hanging out. I don't know what you consider
13 dating.

14 Q. Did you previously date her?

15 A. Yeah.

16 Q. And do you actually live with her?

17 A. Uh-huh.

18 Q. And how long have you known Tamara and GW?

19 A. Probably six to seven years.

20 Q. Taking you back to 2016, where were you living?

21 A. How many years ago was that? '16, '17, with
22 Tammy most likely.

23 Q. Was anyone else living there?

24 A. The three of us.

1 Q. And who would be "the three of us"?

2 A. Me Tammy and GW.

3 Q. And I would just -- for the record and we'll just
4 refer to her as GW, her initials.

5 A. All right. Sorry.

6 MS. MAZZA: Your Honor, just for the entire
7 hearing, if we can ask the court reporter to strike any
8 reference to the actual name and put "GW."

9 THE WITNESS: Sorry.

10 MS. MAZZA: I think that might be a common
11 occurrence and it be understood --

12 THE COURT: For the purpose of the record, we
13 need to all make attempts to refer to the child by "GW." If
14 there are instances where somebody mistakenly uses her name,
15 the record should reflect just the initials. Thank you. All
16 right. Go ahead. That's okay.

17 BY MS. RISTENPART:

18 Q. Back in 2016, were you made aware if there was an
19 allegation GW made against you?

20 A. Yes.

21 Q. And what was the nature of that allegation?

22 A. That she felt I touched her when I was covering
23 her with a blanket.

24 Q. And specifically, what was the allegation? Where

1 did you touch?

2 MS. MAZZA: Objection, hearsay.

3 THE COURT: Sustained.

4 MS. RISTENPART: Your Honor, this is pursuant to
5 case law and Martin, because GW claims she can't recall making
6 these allegations, I can use outside evidence to show the
7 Court what the nature of the allegation was.

8 THE COURT: Ms. Mazza?

9 MS. MAZZA: If I could respond. There's been no
10 establishment that Mr. Marcyes was the person that this was
11 told to. So to use hearsay statement like that for
12 impeachment, he would have actually had to have been the
13 person it was told to. So there's been no foundation laid.

14 THE COURT: Ms. Ristenpart?

15 MS. RISTENPART: Your Honor, that's not the way
16 the case law is written. He has understanding of what the
17 allegation was and was interviewed by Douglas County Sheriff's
18 Office in regards to the allegation.

19 THE COURT: What is the case you're relying on?

20 MS. RISTENPART: I believe, Your Honor, it's
21 *Martin versus State* that if a witness claims they cannot
22 recall or do not remember, that you can use outside resources
23 to then bring in the nature of the allegation once you've
24 confronted them if they can't remember.

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1 THE COURT: What is the citation?

2 MS. RISTENPART: Your Honor, I don't know have
3 that off the top of my head. I can look it up for you.

4 THE COURT: All right. Please do so.

5 MS. RISTENPART: Right now, Your Honor?

6 THE COURT: Yes, please. Hold on. What's the
7 problem?

8 THE BAILIFF: Your Honor, he was turning around,
9 talking to people in the audience. I tried to tell him that
10 we can't do -- have that, but --

11 THE COURT: That is correct. It's just court
12 protocol, no turning around, having conversations. We're here
13 for court today.

14 THE WITNESS: Sorry, Your Honor.

15 THE COURT: It's okay. Thank you, Deputy
16 Niskikida.

17 THE BAILIFF: You're welcome, Your Honor.

18 THE COURT: Ms. Ristenpart, is the case specific
19 to a sex offense case?

20 MS. RISTENPART: Your Honor, the case is in
21 regards to -- not being able to recall, but Your Honor, I
22 think I said Martin, it may be Crowley. I'm just refreshing
23 my memory, Your Honor.

24 THE COURT: Okay. Take a minute. I'm searching

1 it as well and there's quite a few cases with Martin in that.

2 MS. RISTENPART: With the title, I know.

3 THE COURT: I'm seeing a Crowley case that does
4 involve the claims of a sex offense. I don't know if it's the
5 case you're referring to or not. It's 120 Nevada 30.

6 MS. RISTENPART: I'm reading it right now,
7 Your Honor, and the prior inconsistent statements portion.

8 THE COURT: Is this the case you were referring
9 to?

10 MS. RISTENPART: If I could just refresh, make
11 sure I'm not citing it incorrectly. Your Honor, it is. If
12 the Court would turn to the prior inconsistent statements,
13 starting with Crowley's wife testified about a conversation
14 she had with an investigator. She claimed that she could not
15 remember saying anything like that. The State then called the
16 investigator as a witness.

17 THE COURT: Ms. Ristenpart, why don't you just
18 give me a minute to -- I'll just read it and then, Ms. Mazza,
19 do you have access to it as well?

20 MS. MAZZA: Your Honor, I do, and I've used
21 Crowley and I understand what the argument is. But there's
22 been no showing that he actually had a conversation with GW.

23 THE COURT: Let me read the case. Okay. I've
24 had an opportunity to read the case. Ms. Ristenpart, you can

1 if ahead and make your argument and then I'll give Ms. Mazza a
2 chance to respond.

3 MS. RISTENPART: Your Honor, as we heard, GW
4 claims that she could not remember the nature or the specifics
5 of her allegation as she told investigating officers back in
6 2016. And when questioned about her allegation of rubbing the
7 butt by Gage, she claimed she could not remember that.

8 Pursuant to Crowley, Your Honor, it just says
9 prior inconsistent statements are pursued to be a denial of
10 making them and, therefore, we can use exculpatory -- or
11 excuse me, outside evidence to impeach that person when they
12 claim that they cannot remember.

13 The State's trying to make a convoluted argument
14 relying upon Detective Love, even though after reviewing his
15 report, claims he doesn't have any independent memory of this
16 investigation, though then clarified he does have some hazy
17 memories of talking to a minor and also to responding to a
18 house to then say, well, therefore, because GW made that
19 statement to investigators, it's hearsay because the
20 investigator told Gage what had been the allegation.

21 That's not what Crowley stands for, Your Honor.
22 It's prior inconsistent statements. It doesn't matter who it
23 was said to, and the fact is, is that he, I'm presuming, based
24 upon questioning would have knowledge that GW made a very

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1 specific allegation of sexually inappropriate touching that
2 was false. And that's the nature of -- Your Honor, of the
3 question line and also what Crowley stands for and
4 therefore --

5 THE COURT: The allegation, though, wasn't to
6 him. The allegation was to police officers or a teacher. So
7 I think that's the concern Ms. Mazza has, but we'll find out
8 here in a minute.

9 Go ahead, Ms. Ristenpart.

10 MS. RISTENPART: But what also Crowley stands for
11 is a prior inconsistent statement, and therefore, it would
12 come in based upon his knowledge of what occurred. I'm not
13 bringing this in for the truth of the matter asserted.

14 I'm not saying that Gage rubbed GW's butt. I'm
15 using it as a prior inconsistent statement and, therefore, it
16 should come in through Gage -- well, we have Detective
17 Chrzanowski also.

18 THE COURT: Okay. Ms. Mazza, your response?

19 MS. MAZZA: Your Honor, my response is exactly
20 what Ms. Ristenpart said, it's a prior inconsistent statement.
21 He has no statement that he can tell us about GW or there's
22 been no foundation laid thereof.

23 Crowley goes along the lines with NRS 51.035,
24 which defines hearsay and then within it defines inconsistent

1 statements and consistent statements and when they can be
2 used, and they can be used in the circumstance when you're
3 using them for impeachment. But if the person was the person
4 that it was actually said to.

5 In this case, what Ms. Ristenpart is asking for
6 is hearsay within hearsay. So that would be a statement that
7 the investigator made to him from GW. That is not what
8 Crowley stands for.

9 What it stands for is impeachment with a
10 statement, and in this case, we're talking about a statement
11 from GW that, A, we don't know if it exists and there's been
12 no foundation laid.

13 And B, I don't believe it would be appropriate to
14 use it through another person in this circumstance. That's
15 absolutely not what Crowley talks about.

16 So I don't believe that it's appropriate to ask
17 him generally what he thinks the statement from GW was -- I
18 apologize, when there has been no showing that he talked to GW
19 about her statement to law enforcement.

20 THE COURT: All right. Thank you, counsel. The
21 Court agrees with the State. The objection is sustained. Go
22 ahead, Ms. Ristenpart.

23 MS. RISTENPART: Your Honor, just for the record,
24 I just find the State's argument to be so disingenuous when

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1 they know and they have a transcript of GW's allegation and
2 interview and reviewed it with GW before walking in to court
3 today, and now is trying to claim and hide behind this Court
4 that GW didn't make this statement. I just -- that is so
5 disingenuous by the District Attorney's office.

6 MS. MAZZA: Your Honor, if I could just respond.

7 THE COURT: No, the objection's been sustained
8 and we're going to move forward.

9 Go ahead, Ms. Ristenpart.

10 BY MS. RISTENPART:

11 Q. Did you ever touch GW inappropriately?

12 A. No.

13 Q. Did you ever rub GW's butt?

14 A. No.

15 Q. Did you ever go into GW's room at 1 o'clock in
16 the morning and get under the covers with her?

17 A. No.

18 MS. MAZZA: Objection, leading, Your Honor. I
19 move to strike all those questions.

20 THE COURT: The last question was leading and the
21 objection is sustained.

22 BY MS. RISTENPART:

23 Q. When you heard that GW was making allegations
24 against you, what was your reaction?

1 A. I didn't understand why.

2 THE COURT: Ms. Ristenpart, I'm thinking a little
3 bit more on that last objection, and I think it is appropriate
4 for you to be able to ask him if he has ever done these types
5 of things. So I am going to allow that and you can ask
6 further questions on that, if you would like.

7 MS. RISTENPART: Thank you, Your Honor.

8 BY MS. RISTENPART:

9 Q. Did you ever go into GW's room at 1:00 in the
10 morning and get under the covers with her?

11 A. No.

12 Q. Did you ever rub GW's back to her butt?

13 A. No.

14 Q. Did you ever rub GW's butt?

15 A. No.

16 Q. Did you ever rape GW?

17 A. No.

18 MS. RISTENPART: No further questions.

19 THE COURT: All right. Thank you.

20 Ms. Mazza, cross-examination?

21 MS. MAZZA: Thank you.

22 **CROSS-EXAMINATION**

23 BY MS. MAZZA:

24 Q. Mr. Marcyes, you did meet with law enforcement

1 regarding this incident; is that correct?

2 A. Yes.

3 Q. And you spoke with Investigator Love; is that
4 correct?

5 A. I don't remember who, but somebody, yes.

6 Q. Okay. And you told Investigator Love that you
7 did go into GW's room at one point; is that correct?

8 A. Yes.

9 Q. And what did you do when you went in there?

10 A. I went and covered her up.

11 Q. Covered her up with what?

12 A. With a blanket.

13 Q. Was she sleeping?

14 A. Yes.

15 Q. All right. And when you spoke to Investigator
16 Love -- I apologize. When you spoke to an investigator, did
17 they talk to you about your conduct being misinterpreted?

18 A. I don't remember.

19 Q. Okay.

20 MS. MAZZA: Your Honor, I have no further
21 questions.

22 THE COURT: Thank you. Ms. Ristenpart?

23 MS. RISTENPART: No further questions at this
24 time.

1 THE COURT: All right. May this witness be
2 excused?

3 MS. RISTENPART: From Defense, yes.

4 THE COURT: Ms. Mazza?

5 MS. MAZZA: Yes, Your Honor.

6 THE COURT: All right.

7 MS. MAZZA: Yes.

8 THE COURT: Mr. Marcyes, thank you for coming in.
9 You are excused. Please do not discuss your testimony with
10 anyone except the attorneys in this case or the investigators
11 until I've reached a decision. Thank you, sir. You are
12 excused.

13 Deputy Niskikida, would you check on Investigator
14 Chrzanowski.

15 THE BAILIFF: Sorry, Your Honor. When I went out
16 the second time, she had just come up and you had already
17 called this witness. So I don't know, I told her to check in
18 with the DA's office, and I don't know if she's there at the
19 DA's office or if she went back down to the detective division
20 down there.

21 THE COURT: All right. Could you see if she's
22 out in the hallway?

23 THE BAILIFF: Yes, I will, Your Honor.

24 THE COURT: Thank you.

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1 MS. MAZZA: Your Honor, I think I know her number
2 if I could text her.

3 THE COURT: Okay.

4 MS. MAZZA: I might -- I don't know.

5 THE BAILIFF: Your Honor, she's up here as well.
6 We'll get her.

7 THE COURT: Please step forward, raise your right
8 hand, face the court clerk to be sworn.

9 DETECTIVE NADINE CHRZANOWSKI,
10 called as a witness on behalf of the
11 DEFENSE, was duly sworn and
12 testified as follows:

13 THE COURT: Thank you. Please come on up to the
14 witness stand. Please state your name and spell your last
15 name.

16 THE WITNESS: Nadine Chrzanowski, C-H-R like
17 Robert, Z like zebra, A-N-O-W-S-K-I.

18 THE COURT: Thank you. Go ahead, Ms. Ristenpart.

19 **DIRECT EXAMINATION**

20 BY MS. RISTENPART:

21 Q. Detective Chrzanowski, if you feel comfortable,
22 please remove your mask.

23 A. Oh, thank you.

24 Q. Detective, where do you work?

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1 A. The Douglas County Sheriff's Office.
2 Q. And how long have you worked there for?
3 A. Since November 25th of 2002.
4 Q. And back in 2018, were you the lead detective
5 investigating allegations against Richard Jenkins?
6 A. Yes.
7 Q. As part of your investigation, did you also look
8 into prior allegations made by who we refer to as "GW"?
9 A. I'm not sure who "GW" is.
10 THE COURT: GW is the complaining person.
11 THE WITNESS: Okay.
12 THE COURT: We're using her initials.
13 THE WITNESS: Okay. Can you repeat your
14 question?
15 THE COURT: Thank you.
16 BY MS. RISTENPART:
17 Q. As part of your investigation in this case, did
18 you look up reports and documents regarding prior allegations
19 made by GW?
20 A. Yes, I did.
21 Q. And what did you find when you looked up those?
22 Why were you looking those up? That was two questions. What
23 did you find? We'll start with that.
24 A. I believe I found one prior case involving some

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1 allegations of inappropriate contact between GW and her
2 step-father or mom's boyfriend. I don't recall the
3 relationship.

4 Q. And what was the nature of the allegations
5 against the mom's boyfriend?

6 A. I don't recall specifically the allegations. I
7 believe they involved inappropriate sexualized touching.

8 Q. To what area was the nature?

9 A. I don't recall. I'd have to review the report.

10 MS. RISTENPART: May I approach, Your Honor?

11 THE COURT: You may.

12 BY MS. RISTENPART:

13 Q. Would looking at your report help refresh your
14 memory as just indicated?

15 A. Yes, ma'am, it would.

16 MS. RISTENPART: I'm showing Exhibit Number A,
17 Your Honor.

18 THE WITNESS: Would you like me to put my mask
19 back on when you come over here or --

20 BY MS. RISTENPART:

21 Q. I'm fine if you're okay.

22 A. Okay.

23 MS. MAZZA: And, Your Honor, I just want to make
24 the record clear. I believe Ms. Ristenpart, she said she's

1 showing Detective Chrzanowski her report, but Exhibit A is the
2 report for Detective Love.

3 MS. RISTENPART: That's actually incorrect,
4 Your Honor. Page 6 of 7 is Detective Chrzanowski's
5 supplemental of looking at other reports.

6 MS. MAZZA: Okay. I just want to make clear what
7 we're looking at.

8 THE COURT: Okay. Thank you.

9 BY MS. RISTENPART:

10 Q. And I'm referring you to page 6 of 7.

11 A. Okay. Thank you.

12 Q. And I direct you towards the end of the page
13 here.

14 A. I'm sorry. Can I ask, is these whited out
15 because their names? Is that --

16 Q. That's because defense has redacted copies of
17 your reports from the prosecution?

18 MS. MAZZA: Your Honor, and I am not sure what
19 exactly she's looking at. If I could see that, I --

20 THE COURT: Why don't you approach?

21 MS. MAZZA: I thought I knew what that exhibit
22 was, but --

23 MS. RISTENPART: May I mark this, Your Honor? I
24 apologize. May I approach?

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1 THE COURT: You may.

2 MS. RISTENPART: Have this marked as C. Thank
3 you.

4 (Exhibit C marked for identification.)

5 MS. MAZZA: And I apologize, Ms. Ristenpart.
6 That's Supplement 1, you said; is that correct?

7 MS. RISTENPART: I'll have to check the date on
8 it.

9 MS. MAZZA: Okay. Thank you.

10 MS. RISTENPART: Your Honor, I'm showing Exhibit
11 Number C, which is a report dated 18 -- excuse me, the report
12 incident 18-SO-3796. May I approach?

13 THE COURT: You may.

14 BY MS. RISTENPART:

15 Q. Do you recognize this report that's marked C?

16 A. It looks like it was initially a case taken by
17 school resource officer Deputy John Meyer that was forwarded
18 to investigations and then went to the supplemental. So the
19 only report I did was the back page, the page on the top right
20 says page 6 of 7.

21 Q. And do you recognize that report as something
22 that you authored?

23 A. Can I take one second just to peruse through?

24 Q. Yeah.

1 A. Thank you. Yes, I recognize this report.

2 Q. Does that refresh your memory, having looked at
3 your report?

4 A. Yes, somewhat. It's difficult to read, I'm
5 sorry.

6 Q. In regards specifically to your follow-up
7 investigation?

8 A. Yes.

9 MS. RISTENPART: May I approach, Your Honor?

10 THE COURT: You may.

11 BY MS. RISTENPART:

12 Q. As part of your follow-up investigation to this
13 investigation, you looked at a prior allegation made by GW;
14 correct?

15 A. Yes.

16 Q. And, in fact, you looked at the report regarding
17 that prior allegation; correct?

18 A. Yes.

19 Q. And based upon the report, your understanding is
20 that GW, back in 2016, made some allegations against her mom's
21 boyfriend?

22 A. Yes.

23 Q. And that it was for sexually inappropriate
24 touching?

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1 A. And behavior, behavior and touching.

2 Q. And I asked you if you remembered exactly what
3 the allegation was of where GW was touched. Does this refresh
4 your memory?

5 A. Yes.

6 Q. And where was that that the -- GW claimed that
7 she had been touched by Gage?

8 A. She -- GW reported prior that Gage had pantsed
9 her, which is a term commonly referred to pulling someone
10 pants down, exposing their buttocks and/or genitals and also
11 touching her buttocks.

12 Q. Now, in your review of those prior allegations,
13 did you come to -- well, did you see that there had been some
14 conclusion as to the allegations back in 2016 and the
15 investigation?

16 A. Based on the report that I read, the detective at
17 the time determined the case to be unsubstantiated, which
18 generally means there was not enough evidence to indicate that
19 a crime had been committed.

20 Q. And you used the word "unsubstantiated." Would
21 unfounded be the word?

22 A. Sometimes those terms are used interchangeably.
23 Unsubstantiated means I can't substantiate one way or the
24 other. There's not evidence to determine whether it happened

1 or whether it did not happen.

2 Unfounded would mean that there's evidence for me
3 to determine that this did not occur, period. So I don't know
4 what terminology the detective would have used.

5 Unsubstantiated would generally mean there wasn't
6 evidence one way or the other. Unfounded would mean there's
7 evidence to say that this did not happen.

8 Q. Do you remember what the nature of the
9 investigation in 2016, how the case was concluded?

10 A. I don't.

11 Q. Would looking at your supplemental report refresh
12 your memory?

13 A. It might. I don't know if it's in there.

14 MS. RISTENPART: May I approach?

15 BY MS. RISTENPART:

16 Q. Showing you Exhibit C?

17 A. I documented in this report based --

18 Q. I'm sorry, Detective. Does that refresh your
19 memory?

20 A. I'm sorry, yes. I apologize.

21 Q. And what was the result of the 2016
22 investigation?

23 A. Based on my report, I reported and documented
24 that after reviewing that case, it appeared that the

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1 allegations were unfounded.

2 Q. Was there also an allegation of Gage raping GW?

3 A. I don't recall. Are you referring to the report
4 given to Deputy Meyer or the report that was investigated by
5 Investigator Love?

6 Q. Just generally, was there an allegation made by
7 GW about raping?

8 A. I don't know.

9 MS. RISTENPART: No further questions.

10 THE COURT: Ms. Mazza.

11 MS. MAZZA: Thank you.

12 **CROSS-EXAMINATION**

13 BY MS. MAZZA:

14 Q. Investigator Chrzanowski, you investigated the
15 case involving GW and Richard Jenkins; is that correct?

16 A. That's correct.

17 Q. You did not investigate the case involving GW and
18 Gage Marcyes; is that correct?

19 A. No, I did not.

20 Q. You didn't interview anyone in that correct; is
21 that correct, in the Gage Marcyes case?

22 A. No, I did not.

23 Q. You had nothing to do with that case in 2016;
24 correct?

1 A. Correct.

2 Q. You didn't interview GW in 2016; is that correct?

3 A. No.

4 Q. You did not interview Tamara Woodbridge in 2016;
5 is that correct?

6 A. That's correct.

7 Q. Simply your involvement in that 2016 case was
8 that you have read the report; correct?

9 A. Yeah, I had -- to be very clear, I had nothing to
10 do with the 2016 case. I had no involvement in it. I simply
11 reviewed it as part of my investigation in 2018.

12 MS. MAZZA: Thank you. No further questions,
13 Your Honor.

14 THE COURT: Thank you. Redirect?

15 **REDIRECT EXAMINATION**

16 BY MS. RISTENPART:

17 Q. Based upon your review, Detective, did you reopen
18 an investigation into allegations made by GW in 2016 against
19 Gage Marcyes?

20 A. No.

21 Q. The statute of limitations would still apply for
22 any kind of sexual act; right?

23 A. I'm sorry. Can you ask your question again?

24 Q. The statute of limitations would still apply to

1 any kind of allegation GW made against Gage; correct?

2 MS. MAZZA: Your Honor, I'm going to object to
3 that, asking her to draw a legal conclusion.

4 THE COURT: Sustained.

5 MS. RISTENPART: Your Honor, based upon her
6 experience and knowledge, I'm assuming she would know the
7 statute of limitations for a sex offense.

8 THE COURT: The objection is sustained.

9 MS. RISTENPART: No further questions.

10 THE COURT: Any recross?

11 MS. MAZZA: Your Honor, and defense may object to
12 this, but I do want to make the record clear with regard to
13 the GW confusion, if I may ask?

14 BY MS. MAZZA:

15 Q. Investigator Chrzanowski, with regard to the 2018
16 case, was the victim in that case given a pseudonym?

17 A. Yes.

18 Q. And that was what?

19 A. Courtney Collins.

20 Q. All right. And the initials of that victim would
21 have been?

22 MS. RISTENPART: Objection to the use of the word
23 "victim."

24 MS. MAZZA: I apologize.

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1 BY MS. MAZZA:

2 Q. The initials of the person involved in making the
3 allegations in the 2018 case, were those GW?

4 A. Yes.

5 MS. MAZZA: Nothing further. Thank you.

6 THE COURT: All right. Thank you. May this
7 witness be excused, Ms. Ristenpart?

8 MS. RISTENPART: Your Honor, I would just ask to
9 hold her briefly.

10 THE COURT: Okay.

11 MS. RISTENPART: I'll go through the rest of the
12 witnesses.

13 THE COURT: All right. Investigator Chrzanowski,
14 you're going to be held subject to recall, if you could just
15 remain out in the hallway for a few minutes.

16 Please do not discuss your testimony with anyone
17 except for the attorneys in this case or their investigators
18 until I have reached a decision.

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: Do you still have the exhibits in
21 front of you?

22 THE WITNESS: No, I do not.

23 THE COURT: Okay. Do you still have use for
24 those exhibits, Ms. Ristenpart?

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1 MS. RISTENPART: I do, Your Honor. May I
2 approach?

3 THE WITNESS: Oh, I don't have -- I said, no, I
4 do not.

5 MS. RISTENPART: Oh, you -- oh, thank you.

6 THE COURT: I'm asking -- I thought you still had
7 them. Have they been returned to the court clerk?

8 MS. RISTENPART: I did, Your Honor.

9 THE COURT: Okay. Let's go ahead and get those
10 returned and, Investigator Chrzanowski, you can go ahead and
11 be excused.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Okay. Ms. Ristenpart, other
14 witnesses that you would like to introduce for this issue?

15 MS. RISTENPART: Your Honor, I apologize, with
16 the Court's indulgence.

17 THE COURT: Take your time.

18 MS. RISTENPART: Your Honor, we would call Tamara
19 Woodbridge.

20 THE COURT: All right.

21 MS. RISTENPART: I believe is still at the
22 District Attorney's office, also.

23 THE COURT: And, Ms. Ristenpart, if you reach a
24 point where you would like to excuse Investigator Chrzanowski,

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1 please let us know that.

2 MS. RISTENPART: I will, Your Honor.

3 THE COURT: Otherwise, we'll have her held.

4 MS. RISTENPART: Of course.

5 THE BAILIFF: She's on her way now, Your Honor.

6 THE COURT: Thank you. Please raise your right
7 hand, face the court clerk to be sworn. Right here, ma'am,
8 right in front of me.

9 THE CLERK: Right here.

10 TAMARA WOODBRIDGE,
11 called as a witness on behalf of the
12 DEFENSE, was duly sworn and
13 testified as follows:

14 THE COURT: All right. Come on up to the witness
15 stand here, please. Please state your name and spell your
16 last name.

17 THE WITNESS: Tamara Woodbridge,
18 W-O-O-D-B-R-I-D-G-E.

19 THE COURT: Thank you. Ms. Ristenpart, you may
20 go forward.

21 **DIRECT EXAMINATION**

22 BY MS. RISTENPART:

23 Q. Ms. Woodbridge, you can remove your mask if
24 that's easier.

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1 A. Thank you.

2 Q. Ms. Woodbridge, who is your daughter?

3 A. GW.

4 Q. And going forward, we'll just refer to her as her
5 initials, GW?

6 A. Okay.

7 Q. Back in 2016, did your daughter, GW, ever have a
8 conversation with you about Gage touching her?

9 A. Yes.

10 Q. And what did GW tell you about what she claimed
11 happened?

12 MS. MAZZA: Your Honor, I'm going to object as
13 this is hearsay.

14 THE COURT: Ms. Ristenpart?

15 MS. RISTENPART: Your Honor, specifically under
16 Crowley, I've laid the foundation. She had a direct
17 conversation with GW about her allegations and this is a prior
18 inconsistent statement.

19 THE COURT: The objection is overruled. Proceed.

20 THE WITNESS: Can you repeat the question,
21 please?

22 BY MS. RISTENPART:

23 Q. Of course. Back in 2016, did you have a
24 conversation with GW, your daughter, about something that may

1 have happened with Gage?

2 MS. MAZZA: Your Honor, I apologize. I'm going
3 to ask to make a record quickly with regard to my objection.

4 I do object because I don't believe Defense
5 counsel asked GW when she was testifying whether or not GW had
6 a conversation with her mother. I believe she was questioned
7 regarding conversations with law enforcement. I don't know
8 that there's an inconsistent statement here.

9 THE COURT: All right. Ms. Ristenpart, do you
10 have a different perspective?

11 MS. RISTENPART: Of course, Your Honor. This is
12 a prior inconsistent statement. I'm going to presume based
13 upon my knowledge of the reports and also what GW claimed back
14 in 2016, and there is indication that there was a conversation
15 between GW and her mom as her mom was well aware of the nature
16 of the investigation.

17 THE COURT: So Ms. -- what Ms. Mazza is stating
18 is that you didn't ask GW if she had a conversation with her
19 mom. I think that's the nature of the objection.

20 MS. RISTENPART: But she's kind of conflating
21 Crowley, Your Honor. She's trying to say that I had to ask --
22 if I asked GW that and GW said, no, I had not had a
23 conversation, then I'd be calling Ms. Woodbridge to then
24 impeach by a prior inconsistent statement or action that there

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1 was a conversation.

2 I'm simply laying the foundation that there was a
3 conversation and that GW directly spoke to mom about the
4 allegations.

5 THE COURT: All right. The objection is noted.
6 You can still go forward. Go ahead.

7 MS. RISTENPART: Thank you.

8 THE WITNESS: Yes.

9 BY MS. RISTENPART:

10 Q. You did have a conversation with your daughter,
11 GW?

12 A. Yes.

13 Q. Okay. And what did she tell you about -- what
14 did she allege about what happened with Gage?

15 A. That she thought that he touched her butt when he
16 was covering her.

17 Q. Now, when you said "touched butt," you made a
18 rubbing motion with your hand?

19 A. Just -- yeah, that's what she did, just -- that's
20 what she thought.

21 Q. What did you think when you heard this allegation
22 by GW?

23 A. I thought that we needed to figure it out.

24 Q. And were you able to figure it out?

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1 A. Yes.

2 Q. And how did that happen?

3 A. We talked and we made sure that GW didn't feel
4 uncomfortable.

5 Q. And the way that this allegation came to light
6 was GW told her school teacher; correct?

7 A. I don't recall.

8 Q. Was law enforcement involved in the
9 investigation?

10 A. Yes.

11 MS. RISTENPART: No further questions.

12 THE COURT: All right. Cross-examination.

13 **CROSS-EXAMINATION**

14 BY MS. MAZZA:

15 Q. Ms. Woodbridge, you indicated to Defense counsel
16 that when GW had this conversation with you, you had a family
17 discussion; is that correct?

18 A. Yes.

19 Q. And at the time back in 2016, would you say you,
20 GW and Gage Marcyes were like a family?

21 A. Yes.

22 Q. And so you're describing the three of you talked
23 about it; is that correct?

24 A. Yes.

1 MS. MAZZA: And, Your Honor, I apologize. I made
2 the mistake and I believe I said the wrong name if it could be
3 GW. I apologize.

4 BY MS. MAZZA:

5 Q. And so it was concerning enough to you to have a
6 conversation as a family; is that correct?

7 A. Absolutely.

8 MS. MAZZA: Nothing further, Your Honor. Thank
9 you.

10 THE COURT: All right. Redirect?

11 **REDIRECT EXAMINATION**

12 BY MS. RISTENPART:

13 Q. Based upon your family meeting and your
14 conversation, did you ever have any evidence that Gage rubbed
15 GW's butt?

16 A. No.

17 MS. RISTENPART: No further questions,
18 Your Honor. Thank you.

19 THE COURT: Recross?

20 MS. MAZZA: No, Your Honor.

21 THE COURT: May this witness be excused?

22 MS. RISTENPART: Yes, Your Honor.

23 THE COURT: Ms. Mazza?

24 MS. MAZZA: Your Honor, yes, as to this motion.

1 I wonder if we might be able -- I just would have probably a
2 handful of questions with regard to my motion. That way, she
3 doesn't have to come back this afternoon.

4 THE COURT: I'm open to that. Ms. Ristenpart,
5 how about you?

6 MS. RISTENPART: Your Honor, unfortunately I
7 don't know the other witnesses she's calling and her motion is
8 kind of --

9 THE COURT: That's quite all right.

10 MS. RISTENPART: So I would be objecting to that.

11 THE COURT: Okay.

12 MS. RISTENPART: Thank you.

13 THE COURT: So ma'am, you need to remain. You
14 might be called back to the stand as it regards other motions
15 that are pending before the Court. So I'll have you remain
16 outside the courtroom.

17 Please do not discuss your testimony with anyone
18 except for the attorneys in this case or the investigators
19 until I've reached a decision. You can go ahead and exit the
20 courtroom, and I would ask you to go ahead and pull up your
21 mask at this time as well. Thank you.

22 Okay. Ms. Ristenpart, other witnesses that you
23 would like to call as to this motion?

24 MS. RISTENPART: Your Honor, I would call

1 Kimberly Copeland.

2 THE COURT: Okay.

3 MS. RISTENPART: Thank you. She's right outside.
4 Thank you.

5 THE COURT: Please raise your right hand and face
6 the court clerk to be sworn. Right here.

7 Kimberly COPELAND,
8 called as a witness on behalf of the
9 DEFENSE, was duly sworn and
10 testified as follows:

11 THE COURT: Thank you. Come on up to the witness
12 stand here. You may remove your mask. Please state your name
13 and spell your last name.

14 THE WITNESS: Kimberly Copeland. Copeland,
15 C-O-P-E-L-A-N-D.

16 THE COURT: Ms. Ristenpart.

17 **DIRECT EXAMINATION**

18 BY MS. RISTENPART:

19 Q. Ms. Copeland, do you know Rick Jenkins?

20 A. Yes, I do.

21 Q. And how long have you known Rick Jenkins for?

22 A. About four years, I believe. Three and a half,
23 four years.

24 Q. And how do you know Rick?

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1 A. He's my boyfriend.
2 Q. Do you live with Mr. Jenkins?
3 A. Yes, I do.
4 Q. And how long have you lived with Mr. Jenkins?
5 A. Three years.
6 Q. Who else lives there besides you and Mr. Jenkins?
7 A. His daughter, Alyssa, my son, Ryan, and our
8 roommate, Chris.
9 Q. Do you know an individual with the initials GW?
10 A. Yes.
11 Q. And when did you first meet GW?
12 A. I believe it was the spring of 2018.
13 Q. At some point, did GW start coming over to your
14 family home more and more often?
15 A. Yes.
16 Q. When was that?
17 A. I would say shortly after I met her, spring,
18 early summer.
19 Q. And is GW around the same age as Mr. Jenkins'
20 daughter, Alyssa?
21 A. I think she's a little bit younger by a year or
22 two.
23 Q. How often would you say that GW was over at your
24 house?

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1 A. A couple times a week. It was pretty often.
2 Q. Did you interact with GW?
3 A. Yes.
4 Q. Did you talk with GW?
5 A. Yes.
6 Q. Over the summer, from spring to summer as she
7 came over to your house more and more often, did you feel that
8 you and GW became closer?
9 A. Yes.
10 Q. To each other?
11 A. Yes.
12 Q. Do you know where GW lived?
13 A. Yes.
14 Q. Do you know who she lived with at the home?
15 A. Yes.
16 Q. And who was that?
17 A. It was her mom and I believe her mom's boyfriend,
18 Gage.
19 Q. Did you ever meet her mother?
20 A. Yes.
21 Q. Did her mother come over to the house also?
22 A. Yes.
23 Q. Did you ever meet Gage?
24 A. Yes.

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1 Q. Now, as you and GW became closer, did you guys
2 communicate frequently with each other?

3 A. Yes.

4 Q. And how would you communicate with each other?

5 A. If she was at the house, we would sit on the
6 couch and talk to each other, or she would occasionally
7 message me on different social media sites.

8 Q. Did you ever -- excuse me, I'm going to back up.
9 Did GW ever communicate with you about Gage?

10 A. Yes.

11 Q. And specifically about an allegation against
12 Gage?

13 A. Yes.

14 Q. How -- when did that and how did that come about?

15 A. I believe that happened late August, early
16 September. She had -- we were chatting on a social media site
17 and she had mentioned it. She had mentioned that he had raped
18 her.

19 Q. So you were messaging each other --

20 A. Um-hum.

21 Q. -- on a social media and GW claimed that Gage had
22 raped her?

23 A. Yes.

24 Q. What did you do when GW told you that Gage had

1 raped her?

2 A. I asked her what she meant. I asked her, did he
3 touch you, what happened? And she said, well, he pantsed me.
4 And I said, but he didn't -- did he touch you and she said no.

5 Q. What did you do in response to that information?

6 A. I asked her if she wanted to talk to her mom
7 about it and she was adamant that she did not want to talk to
8 her mom. I told her that I would go with her to talk to her
9 mom about it because she was very upset about this. She
10 refused.

11 Around that time is when she made the false
12 allegations against Rick. Knowing that they were false
13 allegations, I just thought then her allegations about Gage
14 raping her were probably false, too.

15 Q. And, in fact, when you actually questioned GW,
16 she -- was she using the word "rape" incorrectly?

17 A. Yes.

18 Q. Did you ask specifically, did he touch you here
19 or here or do anything?

20 A. I don't recall. I may -- I mean, it's been three
21 years, so I don't recall the specifics of our conversation
22 exactly. But I know I did ask her several times if she was
23 touched. She did mention that when he pantsed her, that he
24 would be able to see her pubic region.

1 MS. RISTENPART: No further questions. Thank
2 you.

3 THE COURT: Ms. Mazza, do you have questions?

4 MS. MAZZA: Thank you, Your Honor.

5 **CROSS-EXAMINATION**

6 BY MS. MAZZA:

7 Q. Ms. Copeland; is that correct?

8 A. Yes.

9 Q. So I just want to go over when you talked to GW,
10 she indicated the word "rape," but also indicated she was
11 pantsed; is that correct?

12 A. Yes.

13 Q. All right. And you discussed mentions of false
14 allegations, different things being false. Were you present
15 when Gage and GW were together as this described pantsing?

16 A. No.

17 Q. Were you present in GW's room with Gage at a time
18 when he was putting her to bed ever?

19 A. No.

20 Q. And then just with regard to Mr. Jenkins, you
21 indicated he's your boyfriend; that's correct?

22 A. Yes.

23 Q. And you guys have been dating, I believe you said
24 three years; correct?

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1 A. I believe almost four years.

2 Q. All right.

3 A. I think it'll be four years in September.

4 Q. It's a long time to be with someone, so you love
5 him, I would assume?

6 A. Yeah.

7 Q. And you don't want to see anything bad happen to
8 him; is that correct?

9 A. No.

10 MS. MAZZA: No further questions, Your Honor.
11 Thank you.

12 THE COURT: Any redirect?

13 MS. RISTENPART: No further questions. Thank
14 you.

15 THE WITNESS: Thank you.

16 THE COURT: May this witness be excused?

17 MS. RISTENPART: Yes, Your Honor.

18 MS. MAZZA: Yes, Your Honor.

19 THE COURT: All right. Ma'am, thank you. You
20 are excused. You will need to exit the courtroom. Please do
21 not speak or discuss your testimony with anyone except for the
22 attorneys in this case or the investigators until I've reached
23 a decision.

24 THE WITNESS: Okay.

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1 THE COURT: Thank you. All right.
2 Ms. Ristenpart, any other witnesses?
3 MS. RISTENPART: Your Honor, at this time, I'm
4 prepared to argue, so no further witnesses.
5 THE COURT: May Investigator Chrzanowski be
6 released?
7 MS. RISTENPART: Yes, Your Honor. We also kept
8 GW under -- excuse me, subpoena.
9 THE COURT: Yes.
10 MS. RISTENPART: I'm blanking on the word. And,
11 Your Honor, I would release her at this time.
12 THE COURT: Okay. From all -- for the rest of
13 the day or just from this motion?
14 MS. RISTENPART: No, Your Honor, based upon the
15 prior bad act, I'd ask to keep her just for this motion
16 purpose.
17 THE COURT: Okay. Is she needed later,
18 Ms. Mazza?
19 MS. MAZZA: No, Your Honor.
20 THE COURT: But you might call her later?
21 MS. RISTENPART: For inconsistent statements.
22 THE COURT: Okay. So GW does need to remain.
23 Investigator Chrzanowski can be released.
24 Ms. Mazza?

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1 MS. MAZZA: Actually, Your Honor, if I could
2 recall Investigator Chrzanowski.

3 THE COURT: You may.

4 MS. MAZZA: Or the State can call her at this
5 time?

6 THE COURT: Yes, you may do that.

7 MS. RISTENPART: Your Honor, may I approach and
8 get Exhibit C?

9 THE COURT: Absolutely.

10 MS. RISTENPART: Thank you.

11 THE COURT: Investigator Chrzanowski, you remain
12 under oath. Please come on up to the witness stand and once
13 you're up there, you can remove your mask.

14 INVESTIGATOR NADINE CHRZANOWSKI,
15 called as a witness on behalf of the
16 STATE, was previously duly sworn and
17 testified as follows:

18 **DIRECT EXAMINATION**

19 BY MS. MAZZA:

20 Q. Investigator Chrzanowski --

21 MS. MAZZA: Your Honor, if I may?

22 THE COURT: You may.

23 MS. MAZZA: Thank you.

24

1 BY MS. MAZZA:

2 Q. I just have a few brief questions that I didn't
3 cover previously with regard to the -- your going in, looking
4 into the prior instances involving GW and Gage. What brought
5 that about, if you recall?

6 A. It's just something I do in every investigation.
7 I -- any person that's involved in my investigation, I look
8 back into the past history.

9 Q. Okay. Was there an instance that involved the
10 Defendant's daughter making a report?

11 MS. RISTENPART: Objection, leading.

12 THE COURT: Sustained.

13 BY MS. MAZZA:

14 Q. Did the Defendant's daughter have any part in --

15 MS. RISTENPART: Objection, leading.

16 THE COURT: So, Ms. Mazza, I'm wondering -- of
17 course, I don't know where this might go, but is it pertinent
18 to the motion that's pending?

19 MS. MAZZA: Your Honor, I believe it is because
20 now I'm -- I believe the defense has completed their motion
21 with two different reports, their motion with regard to --
22 with regard to the 2016 report that GW made, but now they've
23 brought in this pantsing report and this pantsing report,
24 which Ms. Copeland reported or testified about was completely

1 separate and in 2018.

2 This pantsing report was also reported by the
3 Defendant's daughter to the school, causing Investigator
4 Chrzanowski to get -- look back into different things
5 involving Gage.

6 THE COURT: All right. Go ahead.

7 MS. RISTENPART: Your Honor, if I could just --

8 THE COURT: You may.

9 MS. RISTENPART: -- may reply?

10 THE COURT: Sure.

11 MS. RISTENPART: Pursuant to *Efrain M. versus*
12 *State*, 107 Nevada 947, decided in 1991, Miller does discuss
13 timeliness requirements and suggest the evidentiary hearing
14 may take place during trial.

15 In addition, Miller does not require the
16 Defendant prescribe the specific allegations in the notice of
17 intent to introduce intrinsic evidence.

18 That being said, Your Honor, the State has been
19 well aware of these allegations because they're all in the
20 police reports provided from the State to Defense.

21 So the allegation that I'm conflating my motion,
22 that's actually legally inaccurate because I can bring
23 anything in the time of --

24 THE COURT: But the pantsing incident is part of

1 your motion; right? That's part of the allegations you are
2 hoping to introduce at trial?

3 MS. RISTENPART: It's part of the entire notice
4 of prior false allegations, correct.

5 THE COURT: Okay. So, Ms. Mazza, you may
6 continue.

7 MS. MAZZA: Which is what I agree with and why
8 I'm calling Investigator Chrzanowski.

9 THE COURT: All right.

10 BY MS. MAZZA:

11 Q. Just to go back to what I was asking, was the
12 Defendant's daughter involved in making a report?

13 A. Yes.

14 Q. And how did that happen?

15 A. The supplemental report of mine that we spoke
16 about earlier came about from a report filed by the
17 Defendant's daughter to a school resource officer, Deputy John
18 Meyer.

19 Q. And that report by the Defendant's daughter was
20 regarding --

21 MS. RISTENPART: Objection, hearsay.

22 MS. MAZZA: I said who was it regarding.

23 THE COURT: Go ahead.

24 THE WITNESS: I'm sorry. She interrupted. Can

1 you please repeat your question?

2 BY MS. MAZZA:

3 Q. The report that the Defendant's daughter -- was
4 her name Alyssa?

5 A. Yes.

6 Q. The report that she made, who was it regarding?

7 A. GW.

8 Q. And a report of anyone else?

9 A. It involved allegations with Gage Marcyes.

10 Q. And that was a report that Alyssa made when?

11 A. In -- I believe it was 2018.

12 Q. After the case involving Richard Jenkins and GW
13 had begun?

14 A. That's correct.

15 MS. MAZZA: Your Honor, I have no further
16 questions. Thank you.

17 THE COURT: All right. Thank you.
18 Cross-examination?

19 **CROSS-EXAMINATION**

20 BY MS. RISTENPART:

21 Q. Detective, based upon that report, did your
22 office do any investigation into GW's claims against Gage in
23 2018?

24 A. So that is what prompted my involvement. So when

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1 the -- I received the report, I reviewed the case from 2016
2 involving the other detective. I determined that the
3 allegations being brought forth by Alyssa had been documented
4 and investigated in that case, and so therefore, nothing
5 further was done on that particular part of the case. And
6 then I moved forward with my investigation regarding
7 Mr. Jenkins.

8 Q. And the allegation in 2018 was that Gage raped
9 GW?

10 A. I don't recall.

11 Q. Would looking at your report refresh your memory?

12 A. Yes.

13 MS. RISTENPART: May I approach with Exhibit C,
14 Your Honor, page 6 again?

15 THE COURT: Yes, you may.

16 THE WITNESS: Okay.

17 BY MS. RISTENPART:

18 Q. Does that refresh your memory?

19 A. Yes.

20 MS. RISTENPART: May I approach?

21 THE COURT: Yes.

22 BY MS. RISTENPART:

23 Q. Was there an allegation made in 2018 by GW that
24 Gage raped her?

1 A. No.

2 Q. What was the allegation?

3 A. The allegation was brought forth by Alyssa
4 Jenkins. It was brought forth when she reported that there
5 was an alleged recorded conversation between her and GW where
6 GW made a statement that Gage shouldn't rape his want-to-be
7 daughter. That was the extent of the allegation, was that
8 hearsay conversation between two girls.

9 Q. Did you ever ask GW if she had made that
10 statement about Gage?

11 A. No, not that I recall.

12 Q. Why not?

13 A. I don't recall. That was three years ago. I
14 don't recall.

15 Q. So you never followed up on a potential rape
16 investigation?

17 A. Again, as I documented in my report, I believed
18 any allegations regarding Gage Marcyes had already been
19 investigate by a prior detective up to and including any
20 sexual inappropriate contact and sexual assault.

21 Q. And your finding was that any allegation against
22 Gage made by GW was unfounded?

23 A. That was not my finding, that was the prior
24 detective's finding.

1 MS. RISTENPART: No further questions,
2 Your Honor.

3 THE COURT: All right. Ms. Mazza, any other
4 questions?

5 MS. MAZZA: Your Honor, just one brief question
6 to get this all straight.

7 BY MS. MAZZA:

8 Q. So GW was not the party that reported this to the
9 school officer; correct?

10 A. That's correct, she was not.

11 Q. Who was it?

12 A. Alyssa Jenkins.

13 MS. MAZZA: Nothing further, Your Honor. Thank
14 you.

15 THE COURT: All right. Anything else?

16 MS. RISTENPART: Nothing further, Your Honor.

17 THE COURT: May this witness be excused?

18 MS. MAZZA: Yes, Your Honor.

19 THE COURT: Ms. Ristenpart?

20 MS. RISTENPART: Your Honor, she interviewed some
21 of the prior bad act witnesses, so I'd ask if I could just get
22 her contact information or she be near the area if I need call
23 her.

24 THE COURT: Absolutely, or -- so there's other

1 motions pending that will require your testimony. Most likely
2 we will be taking up that motion next, but if you would like
3 to just remain here if that's fine, or if you would like to go
4 about your way as long as we have contact information
5 available, that's also suitable.

6 THE WITNESS: Thank you. I will be at my desk
7 and be available by my work cellphone.

8 THE COURT: Okay. Very good. All right. Thank
9 you.

10 THE WITNESS: Thank you.

11 THE COURT: You are released. Have the exhibits
12 been returned to the Court Clerk?

13 MS. RISTENPART: May I approach?

14 THE COURT: Ms. Ristenpart, any other witnesses?

15 MS. RISTENPART: Not at this time, Your Honor.

16 THE COURT: Ms. Mazza, any other witnesses?

17 MS. MAZZA: Not at this time.

18 THE COURT: All right. Let's go ahead with
19 argument then. Ms. Ristenpart, since you are the moving
20 party, you can go first.

21 MS. RISTENPART: Thank you, Your Honor. So we're
22 looking at allegations made by GW in 2016 in regards to
23 specifically her mom's boyfriend at the time, Gage Marcyes,
24 inappropriately sexually touched her and also rubbed her back

1 and butt.

2 Your Honor, pursuant to the case law, as the
3 Court is well aware, the defense must show by a preponderance
4 that, one, the accusations was made, two, the accusations were
5 false, and three, that this evidence is more probative than
6 prejudicial.

7 In regards to the accusation was made,
8 Your Honor, I believe through other witnesses as GW claims
9 even after reviewing her own transcript of her interview with
10 Douglas County Sheriff's Office, that she can't recall making
11 specific allegations and most specifically the rubbing of the
12 butt.

13 In regards to other witnesses, specifically her
14 mother, Tamara Woodbridge, who did testify very accurately in
15 my opinion, Your Honor, that GW -- excuse me, GW did have a
16 conversation with her where she made the allegations directly
17 to her mom that Gage rubbed her butt and actually made a hand
18 motion of rubbing, stating that's what GW did when she made
19 that allegation against Gage.

20 In regards to Your Honor, the fact that the
21 accusations were false, you actually heard from the
22 complaining witness herself, GW, that if that was an
23 allegation, it was not true, that, in fact, a blanket
24 statement that there was never any inappropriate touching made

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1 by Gage, sexual or inappropriate touching at all. So she,
2 herself, stated that any of those accusations and allegations
3 were false.

4 Not only that, Your Honor, but you did have
5 testimony by Gage Marcyes who clearly stated that any kind of
6 allegation that -- of going into the room, reaching under the
7 covers and rubbing her butt was false.

8 Then also, Your Honor, you have the police
9 officers and their investigation who believe that the claims
10 and allegations by GW in 2016 were unfounded. I know there's
11 a slight line between unsubstantiated and unfounded. They
12 clearly found that this report was unfounded and closed their
13 investigation.

14 Also, you have her mother, Tamara Woodbridge, who
15 testified that there was no evidence to support GW's
16 allegation.

17 Now, of course the question is: Is the evidence
18 more probative than prejudicial? In regards to the case law
19 surrounding prior false allegations, as this court is well
20 aware, the Supreme Court has carved out a very specific niche
21 when it is down to credibility of a complaining witness.

22 Here that question is even more critical because
23 there is no physical evidence. There's no confession. There
24 is just one individual making an allegation, which oddly

1 mirrors exactly what she claimed in 2016, that Mr. Jenkins
2 rubbed her butt, which is exactly what she's claiming against
3 Gage.

4 The situation here, Your Honor, based upon case
5 law is that we may ask questions in regards to the false
6 allegations, and she -- again, GW herself stated clear to this
7 court that if that was the allegation and specifically the
8 allegation that she was sexually inappropriately touched by
9 Gage was false and was not true.

10 So when the court is looking at and weighing the
11 probative versus the prejudicial, there is such probative
12 nature of this evidence. The fact that it goes directly
13 towards GW's credibility, the fact that it is similar in
14 allegation to Mr. Jenkins and also the fact that there is --
15 it directly questions her going forward or her credibility as
16 of 2016, which was found unfounded and found to be false and
17 that is why it's so probative in this particular case,
18 Your Honor, where it is all down to credibility.

19 So with that, Your Honor, we're asking for the
20 admission of the prior false allegations by GW against Gage
21 from the 2016. Thank you.

22 THE COURT: Ms. Ristenpart, in the probative
23 versus prejudicial value analysis, you've given me your
24 thoughts about the probative part of it. Do you sense any

1 prejudice from introduction of this evidence?

2 MS. RISTENPART: Your Honor, there's always going
3 to be the blanket prejudice that the -- what the State will
4 harp on, I'm sure, is that we are questioning the voracity of
5 a complaining witness. But the Supreme Court, again, has
6 carefully analyzed that in prior rulings such as *Miller versus*
7 *State*, *Efrain M. versus State* and ruled that a complaining
8 witness can be specifically asked about prior false
9 allegations and that's carved out of the blanket exemption of
10 asking about prior sexual experiences and things like that.

11 Because of that and because of the Supreme
12 Court's analysis, they are really focusing on it's because
13 credibility is such a key issue in these cases, and so
14 therefore, the prejudice, yes, I will be asking her about
15 making a false allegation.

16 But that prejudice is slight compared to the
17 probative value and that's why the Supreme Court case law has
18 erred on the side of allowing in these false allegations,
19 especially in this particular case, which I'm, again, stating
20 very particular is when there's no corroborative physical
21 evidence and, in fact, no other evidence except for her
22 claims.

23 Thank you.

24 THE COURT: Ms. Ristenpart, your motion kind of

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1 cast a broad net, of course we haven't had the evidentiary
2 hearing yet and kind of see how things develop. There was
3 some discussion or testimony of different allegations beyond
4 the rubbing. But it sounds like in your closing argument,
5 that's what you are now focusing on.

6 After hearing things, your focus is on an
7 allegation of inappropriately rubbing the buttocks and that's
8 the allegation you're asking me to -- that you want to be able
9 to present to the jury; is that right.

10 MS. RISTENPART: Correct, Your Honor. I think
11 that has been proven by all three by a preponderance of the
12 evidence. In regards to the confusion over pantsing and the
13 sex assault or the rape allegation, when I asked GW that
14 question, did you ever make an allegation that Gage raped you,
15 she denied it.

16 So, therefore, I called Ms. Copeland as a prior
17 inconsistent statement, because Ms. Copeland had that direct
18 conversation with GW. I also asked Gage specifically, did you
19 ever rape GW, to which he denied.

20 In regards to that portion, Your Honor, I'm
21 asking the Court to consider that it has been proven by a
22 preponderance of the evidence based upon Ms. Copeland's
23 testimony and also the fact that Detective Chrzanowski
24 testified that she got a report in 2018 and that she did

1 not -- she lumped it with the 2016, which was then declared
2 unfounded.

3 So as to the allegation was made, I have shown
4 that by the prior inconsistent statement through Ms. Copeland
5 and also through Detective Chrzanowski.

6 In regards to whether or not it was false, I
7 believe I've shown that through specifically GW because she
8 declared if there was an allegation, that would have been
9 false. And also of course the other issue as to Detective
10 Chrzanowski following up on that and finding it to be
11 unfounded.

12 THE COURT: Okay. So just so I'm clear, the
13 rubbing is one aspect, but you are also asking to be able to
14 introduce evidence regarding an allegation that the child made
15 to the child's mom, and what specifically is -- was the
16 allegation there that you're referring to?

17 MS. RISTENPART: I'm referring to the testimony
18 by Ms. Copeland stating that there was some social media
19 messages where GW claimed that Gage had raped her.

20 THE WITNESS: Okay.

21 MS. RISTENPART: And then upon more questioning,
22 it came down to maybe a pantsing situation where the pubic
23 hair could have been seen and that Detective Chrzanowski got
24 that report and followed up on it and determined it to be

1 similar to the 2016, unfounded.

2 THE COURT: So you are asking to be able to
3 introduce that evidence as well?

4 MS. RISTENPART: I am, Your Honor, because I
5 anticipate the State will be arguing that there's just a big
6 misunderstanding and misconstruing, and so therefore, it's not
7 a false allegation, I'm using air quotes. And I think it's
8 critical because her use of these terminologies, rubbing the
9 butt and also raping, when it's a specifically false
10 allegation against Gage is highly probative. So thank you.

11 THE COURT: Okay. All right. Thank you.
12 Ms. Mazza, go ahead.

13 MS. MAZZA: Thank you, Your Honor. I will rely
14 upon our opposition which we filed in this case, and I would
15 ask that you consider that as well, as well as the testimony
16 that was here today.

17 As stated by Ms. Ristenpart, the factors are very
18 clear in this case. The accusation or accusations were, in
19 fact, made, but the accusation or accusations were, in fact,
20 false and that the evidence is more probative than
21 prejudicial.

22 In this case, we have what sounds like sort of
23 three separate instances that the defense would like to get
24 in, and I'll just start with the reports from 2016 regarding

1 Gage Marcyes. In that, I think that the testimony was very
2 clear here today that the State -- that the defense has not
3 met their burden of a preponderance of the evidence.

4 Ultimately, when GW was questioned here today,
5 she really didn't remember anything. What she indicated
6 that -- was that anything she believed back then was
7 misunderstood.

8 And I asked her about her definition of that and
9 she indicated that she believed what happened, him coming into
10 her room, tucking her in made her uncomfortable. That does
11 not make her report false. That does not make her statements
12 to her mother false or her statements to the school false.

13 What it makes is that she had an instance with
14 Gage Marcyes that made her uncomfortable and she came forward
15 and indicated that it made her uncomfortable.

16 In addition to that, Mr. Marcyes testified here
17 today and admitted he would go into GW's room and tuck her
18 into bed and move the covers over when they were off of her.
19 He, himself, said that here today.

20 And then you have GW who indicated she
21 misunderstood how things happened back then and ultimately she
22 didn't remember.

23 So now we're asking -- Defense is asking you to
24 allow GW to be questioned about something she couldn't even

1 really testify about here today and for that to be false when
2 it wasn't indicated that it was false, rather she indicated
3 something made her feel uncomfortable.

4 In addition to that, the State believes that
5 factor number three is not met on that issue as well, whether
6 it be more probative than prejudicial. I believe in this case
7 it would absolutely be more prejudicial.

8 As you heard from Defense counsel just now, they
9 stated the factor -- the facts are very similar. The facts
10 are nothing alike.

11 In this case, we have GW who's come forward and
12 indicated that the Defendant took her into secluded areas, put
13 his hands down her pants and touched her private areas, not
14 simply that he rubbed her butt. And for the defense to be
15 able to argue that is simply to confuse the jury.

16 The facts are not similar whatsoever. This is an
17 instance where he came in to move her covers, nothing similar
18 to where she's in a secluded area with the Defendant.

19 In addition to that, Your Honor, the State
20 believes the other instance of the reporting of the pantsing
21 and the reporting of the rape, I'll just include those
22 together with my argument, but those two are not reported by
23 GW.

24 Although they may be something that she talked

1 about Alyssa Jenkins or Ms. Copeland, we don't have GW
2 indicating that. She indicated she did not report he had ever
3 raped her.

4 In fact, we also have the information here today
5 that Ms. Copeland is very biased for the information that
6 she's giving here today. That does not meet a preponderance
7 of the evidence to show that it was false.

8 Ms. Copeland indicated she loves the Defendant,
9 she doesn't want to see anything bad happen to him. And then
10 the reports from Alyssa Jenkins regarding the rape or the
11 pantsing to the school are also very biased.

12 You heard from Investigator Chrzanowski that this
13 report came after Mr. Jenkins had been arrested and after this
14 case was pending after Ms. -- after GW had been interviewed
15 regarding this case. So that puts a bias all -- over all of
16 this and does not meet the factors in this case to have a jury
17 hear this information.

18 And I'd also like to go back to the fact that
19 this would have been -- GW would have been 11 years old. Her
20 definitions of things or her confusion of things is very
21 understandable for the fact that she was 11 years old.

22 Your Honor, I believe that this defense really
23 has not met their burden in finding that this was false.
24 Although GW indicated she understood at the time, that doesn't

1 mean it was false and the unfounded versus the other
2 inconsistencies or whatever the sheriff's office believes that
3 to be, ultimately Detective Love said there's not enough
4 evidence to prove it. That does not mean something has not
5 happened.

6 I think multiple times in my career or other
7 prosecutor's careers, there's many cases that you believe
8 something happened, but you can't prove. That doesn't mean it
9 didn't happen and it doesn't mean that the person who reported
10 it is a liar or making a false statement.

11 In addition to that, Defense argued that
12 Chrzanowski founded -- looked and found that everything was
13 unfounded. Investigator Chrzanowski indicated that she
14 specifically looked at the report from 2016 and went off of
15 that decision. She made no decision that it was unfounded or
16 anything like that. She went off of the report from back
17 then.

18 So ultimately, Your Honor, the State would ask
19 that you deny defense motion here today. We don't believe
20 that the factors have been met in this case.

21 THE COURT: Ms. Mazza, I'm going to ask you the
22 same thing I did Ms. Ristenpart. In the analysis of prejudice
23 versus probative, of course defense wants me to focus on the
24 probative and you want me to focus on the prejudice.

1 But just like I asked her, what about the
2 probative aspect? I want to you to focus a little bit on --
3 or I asked her about the prejudice. I'd like you to tell me
4 your thoughts about the probative value of a false allegation
5 in this case, if that's proven.

6 MS. MAZZA: Well, Your Honor, I think I touched
7 on what I believe the prejudice is. I think it's very
8 confusing to the jury in this case and also for the defense to
9 in any way argue that they're similar. They're very different
10 circumstances, very, very different. I also think that
11 there -- the probative value does not exist in this case.
12 They have the ability to cross-examine GW extensively in this
13 case.

14 Your Honor has already argument regarding the
15 Marie foster issues and all of that. There is extensive
16 issues that the defense has to cross-examine GW on in this
17 case, and I think that there is no probative value of adding
18 this into the case.

19 I think it's only confusing and I think you heard
20 testimony here today that really no one can testify about it
21 because they don't remember because it was from back in 2016.
22 The investigator cannot testify about any of it. Mr. Marcyes,
23 he didn't remember most of it as well.

24 GW herself also didn't remember most of it as

1 well. She indicated "I don't recall" several times. I think
2 all of that means that it's very prejudicial to put this
3 before the jury and confuse them with this information when no
4 one really can assertively testify to what happened back in
5 2016.

6 THE COURT: Ms. Mazza, the allegations you are
7 going forward in in your Information are from 2018. Do you
8 have the same concerns with that evidence as you do of the
9 evidence that Ms. Ristenpart would like to present?

10 MS. MAZZA: No, Your Honor. I mean, I believe
11 that this is an instance that is burned in every witness'
12 memory because of how impactful it's been to them. I believe
13 that GW will never forget what's happened in this case. I
14 believe her family won't either.

15 I don't believe that those same issues exist here
16 because I think that the -- like GW stated when she testified,
17 the 2016 issue was misunderstood.

18 THE COURT: All right. Thank you.

19 Ms. Ristenpart, you may rebut.

20 MS. RISTENPART: Thank you, Your Honor. I'm
21 going to work backwards from kind of her last statements and
22 the Court's inquiries.

23 Obviously, the fact that this allegation against
24 Mr. Jenkins came up in 2018, it's much closer in time to her

1 allegations against Gage in 2016, which weighs on the side of
2 it being more probative, Your Honor.

3 In addition, the last statements that the State
4 made that this is so prejudicial because it would just lead to
5 confusion in front of the jury, Your Honor, I would refer you
6 to *Abbott versus State*, which, of course, says that the highly
7 probative nature of the complaining witness' credibility
8 concerning sexual assault charges is alleged victim's prior
9 fabricated accusations of sexual abuse or sexual assault.

10 Now, the State keeps trying to say and argue that
11 it hasn't been proven by a preponderance of the evidence. I
12 think the very fact for the 2016 rubbing the butt allegation
13 that Tamara Woodbridge is really where the Court should look
14 who had a direct conversation with GW and GW made that
15 allegation directly to her mother.

16 The State says, well, the 2018 of the rape wasn't
17 reported to police. That's not actually the case law and/or
18 what is the litmus test. It's just the mere fact that there
19 was an allegation was made, and that has been proven by
20 testimony by Ms. Copeland and also through Detective
21 Chrzanowski that there was an allegation GW made that Gage
22 raped her.

23 Now, for the State to say, well, it hasn't been
24 proven because it's all just a clear misunderstanding now in

1 2021 after I have met with this witness and shown her
2 testimony and she's declaring a misunderstanding.

3 That, again, is not the case law. Back in 2016
4 GW -- excuse me, GW made an allegation. In 2018, she made an
5 allegation and those allegations were false by GW's own
6 admission and also by the testimony of the other witnesses who
7 GW made all those allegations to and also by Gage, himself,
8 who declared those to be false.

9 With all of that, Your Honor, I think the defense
10 has gone well beyond preponderance of the evidence,
11 specifically because you could always go back to GW denying
12 and stating that any allegation like that would be false.

13 So with that, Your Honor, we've gone well beyond
14 proving beyond a preponderance of the evidence the fact that
15 the State claims, well, you shouldn't consider testimony by
16 Ms. Copeland because clearly she has a bias.

17 Every witness has a bias, Your Honor. Detectives
18 who walk in here who work for the Douglas County Sheriff's
19 Office who share the same building as the District Attorney's
20 office and work together on a daily basis have a bias.

21 The fact is, is that those are cross-examination
22 questions for witnesses. That doesn't diminish the strength
23 of what they're telling you and also the testimony clearly
24 that GW -- excuse me, GW made an allegation that Gage rubbed

1 her butt and that Gage also raped her.

2 With that, Your Honor, we're asking for admission
3 of that evidence. Thank you.

4 THE COURT: All right. Thank you, counsel.
5 Looking at the time, it's 11:05. I'd like to take a recess
6 here and then use the time as we can up until the noon hour.
7 I don't want to inconvenience witnesses more than we need to,
8 so one way we could go about this is after -- you could go
9 ahead and release your witnesses now and have them come back
10 after lunch, and between now and noon we can handle some of
11 the other motions that are just argument.

12 I think there are at least some of those that are
13 just simply argument at this stage. Let me ask if counsel
14 agrees with that. Are there some motions that are just simply
15 argument?

16 MS. RISTENPART: Your Honor, I think the motion
17 for recuse is argument. We've already submitted and ruled on
18 the hallmark issue. The last was the motion to compel
19 discovery of evidence.

20 And to be fair, Your Honor, my reply brought up
21 new issues based upon the State's reply and so I was going to
22 ask the Court if you wanted to have additional briefing on the
23 matter and also set it for a specific motion hearing based
24 upon that as I don't know if the Court would be help -- or

1 additionally helped by witnesses on that matter.

2 THE COURT: Okay. So, again, my thought here to
3 utilize our time the best is to spend between now and noon on
4 motions that do not require witness testimony. That way, we
5 could let the witnesses go, get some lunch, get fed and come
6 back for after recess or after lunch.

7 MS. MAZZA, would you be okay with that?

8 MS. MAZZA: Yes, Your Honor.

9 THE COURT: Ms. Ristenpart, are you good with
10 that?

11 MS. RISTENPART: Yes, Your Honor.

12 THE COURT: Let's just take a moment. Counsel,
13 you go ahead and release witnesses. When would you -- we can
14 resume either at 1:00 or 1:30, either is fine with the Court.
15 I do want to make sure we finish today what we started doing.
16 And so, counsel, you best know what testimony we still have
17 left to hear today. Usually we would resume at 1:30, but if
18 you want to resume at 1:00, that's fine.

19 MS. RISTENPART: With the Court's indulgence.

20 THE COURT: Yes, take your time.

21 MS. RISTENPART: Your Honor, after consultation
22 we'd ask the Court to reconvene at 1:00.

23 THE COURT: We can do that. So go ahead and tell
24 your witnesses to come back at 1:00 and then we will go ahead

1 and take a ten-minute recess now and then we'll reconvene --
2 well, at about 11:20, we'll reconvene to take up some of these
3 other issues. All right. Thank you.

4 MS. MAZZA: Thank you.

5 THE COURT: Court's in recess.

6 (Recess.)

7 THE COURT: The Court is back in session on
8 Case Number 19-CR-188. I show the appearance of counsel for
9 the State, counsel for the Defendant. Also appearing is the
10 Defendant.

11 At this stage, I would like to take up the motion
12 to recuse the DA's office, which the parties have indicated is
13 now reduced to argument.

14 The parties did a nice job in briefings that
15 issue and, of course, I've read and considered those and will
16 consider them when I decide the motion. So I don't want you
17 to feel like you need to repeat everything you placed in your
18 motion.

19 Nonetheless, I do want to extend you the courtesy
20 of arguing your positions and I might have some questions for
21 you. Ms. Ristenpart, you are the moving party, so you may go
22 first.

23 MS. RISTENPART: Your Honor, as the Court
24 indicated, defense did pretty thoroughly brief this in our

1 motion and also in our reply. I would just like to sum up,
2 Your Honor, the fact that even in its reply, I don't believe
3 that the District Attorney's office has completely been
4 truthful with this court.

5 If the Court remembers way back when -- oh, gosh,
6 it must be a year from now, we had a motion hearing in regard
7 to Marie Foster's specific Human Resources records and also
8 the reasons as to why she was fired from the Douglas County
9 School District for being sexually inappropriate with
10 students.

11 When we're talking about that, I also brought up
12 to the court that actively Marie Foster's child had an open
13 case for open and gross lewdness with the Douglas County
14 District Attorney's office and that has still not, to this
15 day, been disclosed fully to defense in regards to that.

16 I remember Ms. Mazza claiming a year ago that she
17 didn't have any knowledge of that, but then even in their
18 reply to this, they haven't fully disclosed the District
19 Attorney's connections to Marie Foster who -- and I've harped
20 on this a lot, Your Honor, but Marie Foster is a critical
21 prosecutor witness, because as the Court is aware, GW strongly
22 denied any kind of inappropriate touching or sexual touching
23 by Mr. Jenkins.

24 And then after meeting privately with Marie

1 Foster because she wanted to play on Marie Foster's volleyball
2 team, and Marie Foster disclosing her own sexual abuse to GW,
3 then Marie Foster somehow has an allegation allegedly made by
4 GW that Mr. Jenkins groped her -- excuse me, shoved her into a
5 closet and groped her. And that's what then Detective
6 Chrzanowski goes back to reinterview GW after this and GW
7 makes some claims.

8 So for that portion of it, coupled with the fact
9 that they knew well ahead of even getting the school records,
10 I would surmise, because of a connection between Mark Jackson,
11 the District Attorney, his daughter, Talyn Jackson who played
12 for Marie Foster's volleyball team, and also the connection
13 that they are family -- their families know each other, the
14 prosecution in their response didn't even go into, you know,
15 this was a casual relationship, we knew each other solely
16 through sports.

17 The fact is, is they don't even define the
18 relationship and, in fact, look to appear to minimize it when
19 that on top of which when they knew Talyn Jackson was
20 questioned by the Douglas County School District in regards to
21 their open investigation into Marie Foster's actions and
22 inappropriate behavior and sexual comments to students and the
23 reason why she got fired. They had all that knowledge and
24 they knew Talyn Jackson was a witness.

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1 They never disclosed that to the Court during
2 their arguments and then also falsely argued before the Court
3 that the reason they wanted the names redacted so defense
4 wouldn't know these witnesses that the school district
5 interviewed is because they were all juveniles, and that was
6 absolutely false, Your Honor.

7 At the time Talyn Jackson was interviewed, she
8 was an adult. She was not a juvenile and her name would not
9 have been protected by any confidential or juvenile records.

10 So that series of events just show a duplicity by
11 the District Attorney's office, and I know the State is going
12 to stand up and say, well, Mark Jackson's not the one
13 prosecuting this case, so therefore, I am and I can -- we can
14 screen him off from these proceedings to minimize any
15 potential conflict going forward.

16 But, Your Honor, it has been three years since
17 the inception of this case and Mr. Jenkins' arrest and they
18 haven't shown the Court that they've done anything like that.
19 And it's unbelievable to think that a deputy district attorney
20 is not reporting to her boss, Mark Jackson, what's going on in
21 court and cases.

22 So with all of that, Your Honor, because it was
23 never disclosed to defense, this connection between Mark
24 Jackson, his family and Marie Foster, a critical witness in

1 this case, and the fact that Talyn Jackson was a witness to
2 someone critical and that they actively tried to ask the Court
3 to hide that from defense by redacting it, claiming that she
4 was a juvenile.

5 And then also furthering that, Your Honor, is
6 that there's just been a complete lack of transparency with
7 this court as to the nature of the relationship, whether or
8 not Mark Jackson would be screened off and every argument they
9 have going forward regarding Talyn Jackson as a potential
10 impeachment witness or Marie Foster in evidence, is this
11 coming from an evidentiary legal standpoint or because of
12 their personal bias and conflict that has stemmed from their
13 actions in this case in regards to all this evidence.

14 So, Your Honor, I don't take this lightly. I
15 understand that this is a huge request that I'm asking for
16 this court to consider to recuse the District Attorney's
17 office.

18 But in light of this specific allegation and
19 case, and the fact that it involved the critical witness for
20 the State and also the District Attorney's daughter, it is
21 just -- and the fact it was never disclosed, touched upon,
22 brought up to this court and then falsely argued as to reasons
23 why they don't want to disclose that, the overwhelming
24 perception and assumption is that there is so much of a

1 conflict that they can't be fair and impartial in their
2 prosecution of Mr. Jenkins.

3 So we're asking the Court to recuse the District
4 Attorney's office so that he can have his right to a fair
5 trial and also a fair and unbiased prosecution.

6 Thank you.

7 THE COURT: Ms. Ristenpart, just some questions.
8 Since this court released Ms. Jackson's name to you, has the
9 defense team contacted her?

10 MS. RISTENPART: We have not, Your Honor, because
11 we are going to proceed forward just going into strategy,
12 Your Honor, in regards to Marie Foster.

13 THE COURT: I don't need you to go into strategy.

14 MS. RISTENPART: Yeah, right.

15 THE COURT: I'm just trying to -- I'm trying to
16 figure out what role Ms. Jackson would have in this trial, if
17 any.

18 Have you subpoenaed Ms. Jackson.

19 MS. RISTENPART: We haven't, Your Honor. Not for
20 trial. I know that she's out of state currently is my
21 understanding.

22 THE COURT: Right.

23 MS. RISTENPART: And also when we tracked her
24 down, it appears that she's out of state.

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1 THE COURT: What do you envision her role being
2 at trial?

3 MS. RISTENPART: Your Honor, if Marie Foster
4 denies making sexually inappropriate comments to students,
5 because that is part of the basis and also her bias in her
6 discussing her own sexual abuse specifically with GW and other
7 students, if she denies any of that, then my first inclination
8 would be call Talyn Jackson to directly refute that, because
9 if the court remembers, Talyn Jackson was the one who told the
10 Douglas County School District that Marie Foster had talked
11 about drinking pineapple juice to make oral sex taste better
12 and that was inappropriate and that was part of their
13 investigation. So she would be called as a prior consistent
14 impeachment witness.

15 THE COURT: If it is demonstrated that
16 Mr. Jackson has some kind of conflict of interest with the
17 case, how would that -- and it regards Ms. Jackson potentially
18 being a witness, how would that prejudice your client in any
19 way in his right to a fair trial?

20 MS. RISTENPART: So, Your Honor, I think it
21 comes -- and what I'm arguing is that it comes from a biased
22 motive. They are going to argue tooth and nail that Marie
23 Foster is not relevant and the fact that she was fired for
24 making sexually inappropriate comments.

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1 As I explained to the Court, we still haven't
2 even got to a real answer as to the depth of this relationship
3 between Mark Jackson and Marie Foster, whether they hung out
4 on a daily basis, whether they were at each other's homes.

5 And so it goes further than just protecting Talyn
6 Jackson. Are these -- is the State making arguments of
7 legality and based in law as to Marie Foster and my cross --
8 my -- what you can anticipate will be my very, very
9 argumentative cross-examination with Marie Foster.

10 THE COURT: So that sounds, though, like you
11 think Mr. Jackson has a conflict of interest as it regards
12 Marie Foster. That's a little different than what you're
13 saying in your motion and so I -- again, I'm trying to figure
14 out the way you present the motion is that the State really
15 doesn't want Ms. Jackson to come in and testify and kind of
16 protecting her from having to do that.

17 And then I assume, to take that further, if she
18 was called in as a witness for you, that they might not
19 cross-examine her as hard. And I'm trying to figure out how
20 that prejudices Mr. Jenkins at all.

21 You've now kind of gone a different direction and
22 you're talking about Mr. Jackson having a conflict with Marie
23 Foster. That's the first time I've heard of that allegation.
24 And so you're going to have to tell me a little bit more about

1 why you think he has a conflict with her.

2 So I'm just kind of telling you my concerns with
3 the motion and asking you questions and hopefully you'll
4 respond to those.

5 MS. RISTENPART: Sure. Of course, Your Honor.
6 Let me respond first to the issue with Talyn Jackson and the
7 conflict as her father is the district attorney prosecuting
8 Mr. Jenkins seeps into what I would perceive to be a conflict
9 in regards to Marie Foster, and that's because based upon the
10 State's reply where they don't lay out exactly the nature of
11 the relationship or the extent of the relationship, and
12 also -- and I did not argue this in the motion, you're
13 absolutely correct, Your Honor, in regards to Marie Foster
14 having her own lewdness -- son's lewdness case with the
15 District Attorney's office.

16 Regarding the seeping through, the fact is is
17 that even if their opposition, the State is arguing, well,
18 that's even if Talyn Jackson would be a witness in this case.
19 And that's, of course, for the Court to consider, but I'm
20 arguing that their use of trying to argue that things are
21 inapplicable or not -- or should not be admitted as evidence
22 comes from a conflicted biased point of view. And that being
23 that Mark Jackson's daughter, Talyn, would potentially be
24 called as a witness.

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1 And if the Court's concern is, well, maybe they
2 won't even cross him as hard, I'm even looking at the steps
3 before that, that they'll be arguing that Talyn Jackson should
4 not be a witness because of their conflict.

5 And so that is setting up a ripe issue in regards
6 to the District Attorney's office not arguing this from a
7 legitimate legal standpoint because of their conflict and the
8 nature of it.

9 That then seeps also into Marie Foster because of
10 the fact that they will, I would anticipate, try to protect
11 their critical witness and that if they're arguing -- if
12 they're going to argue that I can't ask her whether she was
13 fired for being sexually inappropriate arguments is because
14 they don't want me to then be able to call Talyn Jackson as a
15 witness.

16 And that's how I'm -- they kind of play into each
17 other, Your Honor, and I don't know if I'm clearing that up
18 for the Court, so --

19 THE COURT: No, I think you are. But I'm still
20 left with this: What evidence do you have that Mr. Jackson
21 has a conflict of interest as it regards Marie Foster?

22 MS. RISTENPART: The conflict, Your Honor, I
23 think is the fact that they -- the District Attorney's office,
24 without even jurisdiction or authority, filed a motion to not

1 release Marie Foster's HR records to us.

2 And if the Court remembers that argument, the
3 State argued, well, Marie Foster reached out to us and wrote
4 this letter saying that she didn't want her records to be
5 released.

6 And so I do suspect and presume that there is
7 much more relationship between the District Attorney's office
8 and Marie Foster than that just being a witness coming in off
9 the street.

10 THE COURT: Okay. All right. Thank you.

11 MS. RISTENPART: Thank you.

12 THE COURT: Ms. Mazza?

13 MS. MAZZA: Your Honor, I think there is a lot of
14 different grounds that have been covered by Ms. Ristenpart
15 with regard to this motion, including things not within that
16 motion. But ultimately I would ask that you rely upon our
17 opposition in this case. I think it lays out very clearly the
18 conflict that does not exist in this case. It also, in our
19 opinion, lays out very clearly that we don't believe
20 Ms. Jackson's testimony would even be admissible in this case.

21 Ultimately, it seems that it comes down to the
22 defense that we oppose the release of those employment
23 records, and ultimately we decided to oppose that because they
24 were not our records to release and they were records that are

1 sensitive.

2 And it was our decision that the Court was in the
3 best position to decide if those should be released, and it
4 was our decision that rather than putting that on us if it
5 were released inappropriately, we put it on the Court.

6 We believe that it was -- the Court was in the
7 best position to decide and review those records. It has
8 nothing to do with any relationship with regard to Marie
9 Foster, this office or Mr. Jackson. There is no outline of
10 the relationship between Mr. Jackson and Marie Foster in our
11 opposition or Talyn Jackson and Marie Foster in our opposition
12 because there is none. There is no relationship.

13 Marie Foster may have been an assistant coach on
14 a team that Talyn Jackson was on, but that is it. She may
15 have been present for try-outs, but that is it. She is not a
16 confidant of Talyn Jackson, she's not the head coach of Talyn
17 Jackson and I indicated that in our opposition. She was not
18 the coach and she's not close to her and she's not close to
19 their family. So that's not something I had to outline
20 because there is no relationship that exists in our
21 opposition.

22 And ultimately this seems like a very absurd
23 request because there is no prejudice to the defendant in
24 this. If anything, the prejudice is to us because she is a

1 witness, Ms. Jackson, that would impeach a potential witness
2 we could call.

3 I disagree with the defense that saying Marie
4 Foster is an essential witness to our case. I don't agree
5 with that, but if anything, this could be someone that could
6 impeach a witness that we may call that. That is not
7 prejudice to him, it's prejudice to the State. So I'm not
8 quite seeing the connection of how this conflict would make
9 the State biased to the Defendant or make the Defendant in any
10 way have an unfair or impartial trial.

11 When it comes down to it, I don't even know Talyn
12 Jackson. I've never met her. I don't know anything about
13 her. I would have no problem cross-examining her with regard
14 to any testimony she would give, which I don't think would be
15 admissible in this case, Your Honor.

16 The State was never hiding or misleading or in
17 any way trying to skew the Court of review of the records in
18 this case. Defense did not make clear that they were asking
19 specifically for Talyn Jackson. I believe that if that -- I
20 don't know Talyn Jackson. I don't know her date of birth.

21 I don't know any information about her and so my
22 position was the school district redacted those records for a
23 reason. And my position was that they were juveniles, they
24 were students, and the decision to redact those records had

1 nothing to do with our office.

2 The decision to redact those records was the
3 school district. The school district decided to redact all
4 those records, take out the names that they believe were
5 students or believe were juveniles. That was not our office's
6 decision.

7 And Defense came in here and asked about having
8 it unredacted and I made my objection based upon that, based
9 upon the fact that the school district redacted them, and our
10 office does routinely redact juvenile names and that was our
11 position with regard to that. It had nothing to do
12 Ms. Jackson being named within those reports.

13 Ultimately, Your Honor, these were not our
14 records to release and that was our decision with regard
15 that -- to that. These are the school district records. We
16 do not represent the school district.

17 They have their own counsel and we made the
18 decision that those records were not something that we wanted
19 to release without Your Honor's review. And that is why we
20 made -- did the motion work that we did with regard to that.

21 I really am not seeing any prejudice, I'm not
22 seeing any connection to Marie Foster that makes this have a
23 prejudice or have a conflict. I also have no idea what this
24 case is about that Ms. Ristenpart talks about her son.

1 We also -- I also -- we don't know anything about
2 that. And I also don't think that's in any way relevant or in
3 any way something that I would release to the defense. It's
4 not a conflict. Many people have family members that have
5 cases, but it's not a conflict of interest when our office
6 prosecutes it and I'm not prosecuting it myself.

7 In addition to that, Your Honor, I believe that
8 the case that we cited in our opposition is very on point with
9 regard to the issues here, the eight -- excuse me, Your Honor,
10 the State of Nevada versus the 8th Judicial District Court of
11 the State of Nevada and Zogheib, Z-O-G-H-E-I-B. As we cited
12 in that motion, I believe that is on point with regard to the
13 conflict in this case.

14 In that case, the district attorney himself in
15 Clark County had actually represented a Defendant, had
16 actually had conversations with regard to a Defendant's case
17 that was pending and that was not found to be a conflict of
18 interest because he could be screened off of the case and
19 because he was not the attorney prosecuting the case.

20 In this case, Mr. Jackson is not prosecuting this
21 case, I am. Mr. Jackson is not a part of the this case, I am.
22 I am the prosecuting attorney in this case. So I don't
23 believe there's been any conflict shown and I don't believe
24 there's been anything that shows that our office should be

1 disqualified for simply wanting to protect employment records
2 with regard to this case and with regard to Marie Foster.

3 THE COURT: Ms. Mazza, does -- do you intend to
4 call Ms. Jackson as a witness?

5 MS. MAZZA: No, Your Honor.

6 THE COURT: Okay. And at the time you were
7 making your decisions regarding the release of records and
8 ultimately decided to give those to the Court for the Court's
9 review, were you aware at that time of the relationship
10 between Mr. Jackson and Ms. Jackson?

11 MS. MAZZA: Was I aware when I originally got the
12 records, yes.

13 THE COURT: Yes. So you were aware at that time
14 that you saw Ms. Jackson's name in the reports and you knew at
15 that time that she is Mark Jackson's daughter?

16 MS. MAZZA: Yes.

17 THE COURT: Okay.

18 MS. MAZZA: I had made the decision that those
19 were, in my opinion, classified documents before having any
20 information with regard to Ms. Jackson being in them, and I
21 know defense goes into a long argument about -- I did in this
22 case intend and tried to stipulate to the release of those
23 documents with defense, but I didn't hear back from defense
24 for about a month. And so I made the decision to follow

1 through with the motions that I did, having nothing to do with
2 Talyn Jackson.

3 THE COURT: Did you have any discussions with
4 Mr. Jackson regarding Talyn Jackson and the release of those
5 records?

6 MS. MAZZA: No.

7 THE COURT: Did he in any way impinge upon you or
8 infringe upon your decision making in how to proceed with the
9 documents?

10 MS. MAZZA: No, Your Honor. My decision in that
11 was I've dealt with the same type of records before in
12 previous cases, and I've made the same actions of having the
13 Court decide disclosure with regard to employment records.

14 THE COURT: Okay. And you've indicated you are
15 the assigned prosecutor, but of course you do work for
16 Mr. Jackson. What efforts can or have already been made to
17 screen Mr. Jackson off from the case?

18 MS. MAZZA: Your Honor, as far as specific
19 blocking of him in our computer system, I don't believe that
20 has happened. It can happen. He can be blocked from
21 reviewing the case in our prosecutor program. Any efforts --
22 he really isn't involved in the case. If I do have questions
23 about the case, I go to my chief, which is Eric Levin, not to
24 the DA himself.

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1 THE COURT: Have you had any discussion with
2 Mr. Jackson specifically regarding Ms. Jackson's involvement
3 in this case?

4 MS. MAZZA: I have told him about this motion
5 pending, yes.

6 THE COURT: Okay. Prior to telling him about the
7 pending motion, had the two of you had any conversation about
8 her involvement in the case?

9 MS. MAZZA: No.

10 THE COURT: And you've already hit on this, but I
11 just want to make sure and you also put it into your brief and
12 opposition.

13 MS. MAZZA: (Nodded head.)

14 THE COURT: The relationship between Mr. Jackson
15 and Marie Foster, if any, is limited to what you've disclosed
16 here today and what you put in your brief?

17 MS. MAZZA: Yes.

18 THE COURT: Okay. Okay. Thank you.

19 MS. MAZZA: Thank you, Your Honor.

20 THE COURT: Ms. Ristenpart, you may rebut.

21 MS. RISTENPART: Thank you, Your Honor. This
22 begs the question, Ms. Mazza just told the Court that she's
23 not had any conversation with Mark Jackson about his family's
24 relationship with Marie Foster.

1 How would she know that information unless she
2 had a conversation with Mark Jackson.

3 THE COURT: I think she said she's brought this
4 motion to Mr. Jackson's attention, and I'm guessing that's
5 when it happened.

6 Ms. Mazza, am I right --

7 MS. MAZZA: Yes.

8 THE COURT: -- in that assumption?

9 MS. MAZZA: Yes, that is correct, Your Honor.

10 THE COURT: Okay. Go ahead.

11 MS. RISTENPART: Also, Your Honor, the State
12 continually uses the plural word "we," when we're making
13 decisions, when my office is making decision, which of course,
14 as we all know Mark Jackson is the district attorney and
15 everyone works for Mr. Jackson coupled with they work
16 underneath his bar license as the Court is well aware.

17 With that, Your Honor, the State makes this whole
18 claim as to, well, I was willing to stipulate to releasing the
19 records, but I didn't hear a response back for a month.

20 If the Court remembers, I put in all those emails
21 in regards to my communications with Ms. Mazza and that Ms.
22 Mazza is not telling the full story of that, that there was a
23 stipulation proposed and that we went back to actually put the
24 stipulation together.

1 She then said my office has said something
2 different, and that's where the fight over the redacted copies
3 came in and how we are now to motion the Court if we wanted to
4 receive an unredacted copy for these witnesses and their names
5 regarding Marie Foster.

6 In truth, Your Honor, we still haven't heard from
7 the State, who did Marie Foster contact to say I don't want my
8 records released and district attorney put that motion in for
9 me? They are still not telling us the full story of how this
10 all came to fruition.

11 Yes, Ms. Mazza is standing here and claiming,
12 well, that was my decision. I decided that I'm -- it's an HR
13 record for someone who's not employed in their office and also
14 has nothing to do with her case except for being a critical
15 witness in this. Yes, we'll quibble over critical versus not
16 critical.

17 But they're still not giving this Court the full
18 extent of the nature of the interactions between their office
19 and Marie Foster and also the fact of the conflict, which has
20 risen from if they had just disclosed that in the beginning,
21 hey, we saw this name, I knew of the connection, I'm going to
22 bring it to the Court for guidance, which is what we're
23 supposed to do when we have a potential conflict, has now
24 ripened into an actual conflict because of their actions in

1 trying so hard for Defense not to get that information.

2 THE COURT: Ms. Ristenpart, if you held -- in
3 this or any other case, if you had a piece of evidence that
4 the State knew you had and they were requesting it, and you
5 were uncertain whether you should give it or not, how would
6 you proceed?

7 MS. RISTENPART: Your Honor, I would ask for the
8 State to motion for it if they wanted something that was
9 defense attorney work product essentially. But that's far
10 different -- it's kind of hard for me to answer that
11 hypothetically because if it's attorney work product or
12 something along those lines, it's a very different story and
13 mechanism.

14 If it was something I had received from an
15 outside agency, knowing defense had subpoenaed that
16 information, circumvented it, grabbed the papers so defense --
17 Douglas County School District gave that information to the
18 State, but refused to give it to defense despite our subpoena
19 and that's what started this process of us defense fighting so
20 hard to get that information in those records.

21 So that's a critical step of difference in this.
22 If I hadn't subpoenaed the documents, we may be in a little
23 different situation. But we had and there was active steps
24 taken by the State to -- they had the information and they're

1 not going to share it with us.

2 So that was a very long lawyer answer of saying
3 in this particular case, if I had been the State, I would have
4 released that because there was no privilege, there was
5 nothing -- they didn't owe Marie Foster any kind of connection
6 and they didn't have any reason to hide Mr. Jackson's
7 daughter's name from us. So with that, Your Honor, they
8 should have turned it over.

9 THE COURT: Okay. All right. Thank you.

10 Ms. Mazza, what decisions in this case has
11 Mr. Jackson directly made?

12 MS. MAZZA: Your Honor, since I have been on this
13 case in 2019, none that I'm aware of.

14 THE COURT: Okay. And what --

15 MS. MAZZA: I did not originally charge this
16 case. So as far as that, I don't know.

17 THE COURT: And of decisions you've made, which
18 of those decisions were directed by Mr. Jackson for you to
19 make?

20 MS. MAZZA: None.

21 THE COURT: Okay. Thank you.

22 All right. Thank you for your argument on that
23 motion. We still have ten minutes. Is that -- would that be
24 sufficient time to deal with any of these other pending

1 motions? We have -- let's take a look what else we have here.
2 So let's talk about the video.

3 So, Ms. Ristenpart, as you indicated, your reply
4 definitely morphed and went into a different direction and you
5 are right that what you're asking for in the reply is not
6 before the Court today. But we still might be able to get a
7 little bit of direction as it regards the video.

8 If there's an agreement, Ms. Mazza says we don't
9 have anything else, we've given you what we have. If there's
10 agreement with that, then I think that the course -- my course
11 would be to deny your motion. But that doesn't mean you
12 couldn't bring a motion that's more like what you're looking
13 for in the reply.

14 I take it that at the time you filed your motion,
15 you didn't know what all the State had or didn't have, and now
16 Ms. Mazza has told you we don't have anything else. If you're
17 good with her representation, it kind of seems to me like that
18 motion, again, would be subject to being denied and you could
19 bring -- you believe maybe some evidence was destroyed or not
20 preserved or however, you know, you would like to couch that.

21 That's kind of my thought, but if you would like
22 to -- if you disagree with the representations and want to
23 present evidence that they're inaccurate representations, then
24 we can do that today and you can present evidence of that.

1 That's just kind of how I see that where we're at
2 with the video. Are you comfortable with the representations
3 that Ms. Mazza's office doesn't have anything other than what
4 they've given you?

5 MS. RISTENPART: Your Honor, I am comfortable
6 with that.

7 THE COURT: Okay.

8 MS. RISTENPART: And I did preface this, I do
9 think that this may be grounds for a new motion based upon --

10 THE COURT: Okay.

11 MS. RISTENPART: -- now this admission that
12 there's no other evidence.

13 THE COURT: So would you agree then with
14 agreement that they don't have anything else, that the motion
15 in front of me right now should be denied? That doesn't mean,
16 though, you couldn't bring a motion that's geared more towards
17 what you put in your reply brief.

18 MS. RISTENPART: Correct. And, Your Honor, for
19 the specific request, a motion to compel the additional video
20 surveillance, I would ask the Court rule that there is no --
21 they responded that there is no additional evidence and that
22 defense is subject to renew their argument in a new briefing,
23 if so desired, regarding the additional destroyed and lack of
24 preserved evidence.

1 THE COURT: Okay. Ms. Mazza, would you be good
2 with that course?

3 MS. MAZZA: Yes, Your Honor.

4 THE COURT: So the motion regarding the video
5 will be denied and I'll enter a written order to that effect.
6 But to be clear, that would not mean that the defense could
7 not bring a separate motion if they desired regarding issues
8 raised in the reply brief. Great. Okay. And let's see.
9 We've already discussed the hallmark hearing motion. We're
10 going to do prior bad acts this afternoon. We've heard the
11 motion to recuse the DA's office.

12 So we're in pretty good shape here. I think
13 we're -- I think that's it and until we hear the prior bad act
14 motions.

15 Am I missing any motions?

16 MS. MAZZA: No, Your Honor.

17 MS. RISTENPART: Not at this time, Your Honor.

18 THE COURT: Okay. Excellent. So we'll come back
19 then at 1:00 and we'll take up at that time the prior bad
20 acts.

21 Ms. Mazza, how many witnesses are you
22 anticipating?

23 MS. MAZZA: Your Honor, I would say maybe five to
24 six, depending upon a conversation I may have with Defense

1 counsel. It may be less.

2 THE COURT: Okay. And, Ms. Ristenpart, right now
3 are you anticipating witnesses or don't know?

4 MS. RISTENPART: Your Honor, it would be based
5 upon the testimony, but I still do have GW and Detective
6 Chrzanowski under subpoena.

7 THE COURT: Okay. Very good. When we do come
8 back at 1:00, just so we can well use our time, the Rule of
9 Exclusion is still in place. So, counsel, please make sure
10 that witnesses are outside of the courtroom so we can start
11 right away at 1 o'clock.

12 MS. RISTENPART: And, Your Honor, if a witness
13 has already been excused from subpoena, I usually am okay if
14 they sit in in the courtroom. Is that the Court's preference
15 here also?

16 THE COURT: It's a good discussion and I know I
17 already told one of the witnesses who was excused to exit the
18 courtroom. My reason for doing that is we're not at trial
19 here and these witnesses that are testifying today that have
20 been excluded from the courtroom might appear again at trial.

21 And so I see benefit when the Rule of Exclusion
22 has been invoked, even if the witness is excused today, that
23 they be excused from the courtroom because we don't want them
24 hearing what other witnesses are saying about the same -- all

1 the reasons we have the Rule of Exclusion.

2 So that's my position, but if counsel wants to
3 take another position, certainly to clarify my position, any
4 witnesses that will be called this afternoon or have been
5 called this morning already that have been excluded from the
6 courtroom, my thought is they not be in the courtroom this
7 afternoon.

8 Ms. Ristenpart, go ahead if you would like to go
9 a different direction?

10 MS. RISTENPART: Your Honor, the only witness I'd
11 be asking for consideration of the Court is Kimberly Copeland.
12 She was called this morning for a very specific reason in
13 regards to the prior false allegation testimony. She does not
14 have any testimony about the prior bad acts, which will be the
15 State's motion and burden, and is already frankly aware of
16 them because she's seen the pleadings.

17 THE COURT: Would she be testifying -- at trial,
18 would she be testifying to other matters than what she was
19 called for this morning?

20 MS. RISTENPART: Your Honor, it depends on the
21 court's ruling, but --

22 THE COURT: Outside of that, though.

23 MS. RISTENPART: Right. I'm actually
24 contemplating, sitting here, thinking. I couldn't tell the

1 Court whether or not she would be called.

2 THE COURT: Fair enough. And that kind of makes
3 me think let's be cautious here. I know she wants to be in
4 the courtroom and all of that, but I think we need to preserve
5 the sanctity of the trial ultimately, and I think the best way
6 to do that is to excuse and exclude witnesses.

7 Ms. Mazza, what are your thoughts about that?

8 MS. MAZZA: Your Honor, I would have to agree
9 with that. I just think the potential for what Ms. Copeland
10 could testify about with regard to -- she just testified that
11 she has knowledge of the relationship between Mr. Jenkins and
12 GW, and that's what most of the testimony this afternoon will
13 be. So I don't want to skew her testimony.

14 THE COURT: All right.

15 MS. MAZZA: In any way.

16 THE COURT: So I'm going to stand by what I've
17 said, and thank you, though, for the questions. It's a good
18 discussion to have. We'll be back at 1 o'clock. Thank you.

19 Court's in recess.

20 (Recess.)

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1 MINDEN, NEVADA, TUESDAY, MARCH 9, 2021, A.M. SESSION

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3
4 THE COURT: The Court is back in session on Case
5 Number 19-CR-188. Show the appearance of counsel for the
6 State, counsel for the Defendant. Also appearing is the
7 Defendant.

8 We are about now to take up the State's motion
9 for introduction of uncharged acts.

10 Ms. Mazza, who is your first witness?

11 MS. MAZZA: Your Honor, the State would like to
12 call Tamara Woodbridge and she is over at our office.

13 THE BAILIFF: I'm sorry, Tamara Woodbridge?

14 MS. MAZZA: Woodbridge, yeah.

15 And, Your Honor, there is an order that my motion
16 goes in with regard to different witnesses. I'm going to be
17 taking people out of order because different people have
18 things to get to this afternoon, so it won't quite be in that
19 order. And it is more witnesses than I had previously
20 indicated.

21 THE COURT: Okay. Thank you for alerting me.

22 Ms. Woodbridge, I am going to have you resworn,
23 so go ahead and raise your right hand and face the court
24 clerk.

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1 TAMARA WOODBRIDGE,
2 called as a witness on behalf of the
3 STATE, was previously duly sworn and
4 testified as follows:

5 THE COURT: Come on back up to the witness stand.
6 Ms. Mazza, you may proceed.

7 MS. MAZZA: Thank you.

8 **DIRECT EXAMINATION**

9 BY MS. MAZZA:

10 Q. Ma'am, we already went through all of this, but
11 it's a new issue that we're on now, so I'll probably be asking
12 you some similar questions. But if you could just state your
13 name and spell your last name?

14 A. Tamara Woodbridge, W-O-O-D-B-R-I-D-G-E.

15 Q. And you were previously asked, but can you
16 answer, are you the mother of GW?

17 A. Yes.

18 Q. And I'd like to take you back to 2018, around the
19 summer time. Were there any -- was there any conduct between
20 Mr. Jenkins and GW that you were alerted to that caused you
21 concern or any conduct you observed?

22 A. Yes. I had the principal call me --

23 MS. RISTENPART: Objection, hearsay.

24 THE COURT: The question didn't ask for hearsay,

1 but the response sounded like she was going to get into
2 hearsay. So the objection is sustained, and ma'am, listen to
3 the question and just try to answer the question as succinctly
4 as possible.

5 Ms. Mazza, if you could restate, please.

6 MS. MAZZA: Yes, I can rephrase.

7 BY MS. MAZZA:

8 Q. Did someone contact you about concerns?

9 A. Yes.

10 Q. And based upon that contact, what did you do?

11 A. I spoke with Rick.

12 Q. Okay. And what was the conversation regarding?

13 A. That I had been called, contacted about it and
14 that I just didn't feel that it was right and that I didn't
15 want GW riding -- or GW riding with him anymore and traveling,
16 you know, to and from practices and such.

17 Q. And did you have a conversation with GW and
18 Mr. Jenkins?

19 A. Yes.

20 Q. And in that conversation, what did you indicate?

21 A. AJ was there as well and I spoke to all three of
22 them and asked if anything was wrong or different or out of
23 place or if the allegations were true, and they all denied it
24 and I just felt that I had to trust them at that time.

1 Q. And based upon this, were you concerned for the
2 interactions between GW and Mr. Jenkins?

3 A. They seemed a little too close in my opinion,
4 yes.

5 Q. And these observations, was there ever any
6 observations regarding GW and Mr. Jenkins outside of what the
7 principal contacted you about?

8 A. Yes.

9 Q. And what was that?

10 A. Gage had seen --

11 MS. RISTENPART: Objection, hearsay.

12 THE COURT: So, again, the question didn't call
13 for hearsay, but it sounded like you were about to say --

14 THE WITNESS: Okay.

15 THE COURT: -- what somebody else told you and
16 that is objectionable.

17 THE WITNESS: I apologize.

18 THE COURT: That's okay. That's quite all right.
19 That's how it's supposed to work. If there's an objection,
20 just stop and let me tell you whether you can proceed or not.
21 Okay?

22 THE WITNESS: Okay.

23 THE COURT: Go ahead, Ms. Mazza.

24

1 BY MS. MAZZA:

2 Q. And that's probably my fault, it was a bad
3 question. So let me reask you this in a different way.

4 Was there another incident that you ended up
5 talking to GW about or Mr. Jenkins?

6 A. I spoke to Mr. Jenkins multiple times.

7 Q. And was that speaking to him multiple times in
8 regard to conduct you had been informed of?

9 A. Yes.

10 MS. MAZZA: Your Honor, I have no further
11 questions.

12 THE COURT: All right. Ms. Ristenpart,
13 cross-examination.

14 **CROSS-EXAMINATION**

15 BY MS. RISTENPART:

16 Q. Ms. Woodbridge, you, yourself, never personally
17 observed any inappropriate conduct between Mr. Jenkins and
18 your daughter; correct?

19 A. Correct.

20 Q. And after even talking to or hearing some other
21 people make some claims, you still allowed GW to be around
22 Mr. Jenkins; right?

23 A. Supervised.

24 Q. But you allowed her to help out the clinic;

1 right?

2 A. Yes.

3 Q. And also you allowed her to hang out with AJ,
4 Mr. Jenkins' daughter?

5 A. They were best friends, yes.

6 Q. And truthfully, GW was going through a hard time
7 that summer; right?

8 A. Absolutely.

9 Q. She had just lost her step-father?

10 A. Um-hum.

11 Q. To cancer?

12 A. Yes.

13 Q. And you had also described GW as -- she's a very
14 friendly teenager?

15 A. She has a big heart, yes.

16 Q. And you also described GW as being touchy and
17 clingy?

18 A. Somewhat, yes.

19 Q. And that GW hangs onto people?

20 A. Yes.

21 Q. And you would describe GW as being, frankly, over
22 zealous in her approach to some people?

23 A. I couldn't say.

24 MS. RISTENPART: No further questions,

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1 Your Honor. Thank you.

2 THE COURT: Redirect?

3 **REDIRECT EXAMINATION**

4 BY MS. MAZZA:

5 Q. Ms. Woodbridge, when you spoke with Mr. Jenkins
6 and GW, did you talk to them about hugging each other?

7 A. Yes.

8 Q. And what did you indicate?

9 A. That I wasn't comfortable with it.

10 Q. At some point, was there a suggestion that they
11 not have any physical contact?

12 A. Yes, absolutely.

13 MS. MAZZA: No further questions, Your Honor.

14 Thank you.

15 THE COURT: All right. Recross?

16 **RECROSS-EXAMINATION**

17 BY MS. RISTENPART:

18 Q. You stated that it was a suggestion that there
19 not be any further physical contact?

20 A. Yes.

21 Q. But GW is a clingy teenager; correct?

22 A. I really -- I don't know. That sounds like a
23 pretty general question to me.

24 Q. Do you remember describing GW -- excuse me, GW to

1 investigators when you were interviewed?

2 A. That she cares about somebody, yes.

3 Q. So to clarify your response, GW can be clingy if
4 she cares about someone; right?

5 A. Yes.

6 Q. And by "clingy," I mean physically clingy;
7 correct?

8 A. I don't know.

9 Q. Did you describe GW as being physically clingy to
10 the detectives?

11 A. I don't recall.

12 Q. You've met with the prosecutor before today;
13 haven't you?

14 A. Yes.

15 Q. And gone over your testimony?

16 A. Yes.

17 MS. RISTENPART: No further questions,
18 Your Honor. Thank you.

19 THE COURT: Okay. Ms. Mazza, did you have any
20 follow up?

21 MS. MAZZA: Your Honor, just one question to
22 confirm.

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FURTHER REDIRECT EXAMINATION

BY MS. MAZZA:

Q. You didn't watch an interview or anything like that with my office, did you?

A. No, I did not. I was only told what to expect in court.

MS. MAZZA: Nothing further, Your Honor. Thank you.

THE COURT: Ms. Ristenpart, any follow up?

MS. RISTENPART: Nothing based on that.

THE COURT: May this witness be excused?

MS. MAZZA: Yes, Your Honor.

THE COURT: All right. Ms. Ristenpart?

MS. RISTENPART: Yes, Your Honor.

THE COURT: All right. Ms. Woodbridge, you are excused for today. Please do not discuss your testimony with anyone except for the prosecutor and the defense attorney in this case and/or their investigators.

THE WITNESS: Okay. Thank you.

THE COURT: All right. Thank you.

MS. MAZZA: And, Your Honor, before she leaves, with regard to GW, I believe defense may have asked that she remain subject to recall.

At this time, if Ms. Woodbridge is leaving, I

1 would ask that we allow GW to leave with her. If GW becomes
2 relevant to be called, I have their cell phone numbers and
3 they could be back quickly. I think it's the first day back
4 at school and we picked a bad day for all of the students here
5 today. But I have their numbers, I'm sure they can get back
6 here quickly.

7 THE COURT: Ms. Ristenpart, have you made a
8 decision yet whether you would need to be calling GW back to
9 the stand?

10 MS. RISTENPART: Your Honor, I can't until I hear
11 from proposed State's witnesses, and though, of course, I do
12 respect and always try to want to accommodate a witness, there
13 is still the motion to exclude.

14 I don't feel comfortable releasing someone to
15 someone who's already testified to go home and then come back,
16 Your Honor.

17 THE COURT: Okay.

18 MS. RISTENPART: I think that that's frankly
19 improper, also given how it works with our witnesses.

20 THE COURT: All right.

21 MS. RISTENPART: Also.

22 THE COURT: So you're going to have to remain if
23 you -- are you GW's transport today?

24 THE WITNESS: I am.

1 THE COURT: All right. So you'll have to remain
2 with her and I do -- my admonishment also goes toward you and
3 her can't talk about the testimony; okay?
4 THE WITNESS: Yes, sir.
5 THE COURT: Okay. It's okay to talk about other
6 things, but you can't talk about this testimony.
7 THE WITNESS: Okay.
8 THE COURT: All right. Thank you very much.
9 THE WITNESS: Thank you.
10 THE COURT: Ms. Mazza, your next witness.
11 MS. MAZZA: Your Honor, the State would next call
12 BG, another juvenile.
13 THE BAILIFF: Your Honor, she's on her way down.
14 It's going to take a few seconds.
15 THE COURT: Okay. Thank you. All right. You
16 can stop right there for a moment. Please raise your right
17 hand and face the court clerk to be sworn. Yes.
18 BG,
19 called as a witness on behalf of the
20 STATE, was duly sworn and
21 testified as follows:
22 THE COURT: All right. Thank you. You can come
23 on up here to the witness stand, right over here. Go ahead
24 and have a seat. May we refer to you by the initials BG

1 today?

2 THE WITNESS: Yes, sir.

3 THE COURT: Okay. Thank you very much. The
4 attorneys here are going to have some questions for you and
5 when they're done, then you might be released; okay?

6 THE WITNESS: Yes, sir.

7 THE COURT: All right. Ms. Mazza, go ahead.

8 MS. RISTENPART: Your Honor, before we begin, I
9 did notice someone else walked in with BG. I just want to
10 make sure it's not a witness, then be called.

11 THE COURT: All right.

12 MS. MAZZA: No witnesses, Your Honor. Thank you.

13 THE COURT: All right. Thank you. Let's
14 proceed.

15 **DIRECT EXAMINATION**

16 BY MS. MAZZA:

17 Q. So this morning, I'm going to refer to you by
18 your initials or this afternoon now.

19 A. Yes, ma'am.

20 Q. Can you tell me what your initials are?

21 A. BG.

22 Q. All right. BG, if you are comfortable, would you
23 be okay to remove your mask this afternoon?

24 A. Yes, ma'am.

1 Q. Okay. As long as you're okay with that?

2 A. Yes, ma'am.

3 Q. All right. So I'd like to direct your attention

4 back to a couple of years ago. Do you have any experience in

5 playing volleyball?

6 A. Yes, ma'am.

7 Q. All right. Can you tell me about what teams

8 you've played on or who you played for?

9 A. I played with Douglas and I played with NNJ.

10 Q. Okay. And I'm going to ask you to speak up just

11 a little bit.

12 A. Yes, ma'am. I'm sorry.

13 Q. I know if -- it can be really nervous being in

14 here, but we need the Court Reporter to hear everything you're

15 saying.

16 A. Yes, ma'am.

17 Q. Okay? So you said you played for Douglas and

18 who?

19 A. NNJ.

20 Q. What is that?

21 A. Northern Nevada Junior volleyball.

22 Q. Okay. When you played for that, who did you play

23 for or who was your coach?

24 A. Her name was Coach Marie.

1 Q. Okay. And did you ever play for or with Richard
2 Jenkins?
3 A. Yes, ma'am.
4 Q. Okay. Was he your coach?
5 A. Yes, ma'am.
6 Q. All right. And do you see him in the courtroom
7 here today?
8 A. Yes, ma'am.
9 Q. Okay. And when you played for him, did you ever
10 volunteer for any of his other teams?
11 A. Yes, ma'am.
12 Q. Can you tell me about that experience?
13 A. I volunteered for one of his -- some team that he
14 coached and I was just helping coach the kids through
15 Pau-Wa-Lu.
16 Q. Okay. Through Pau-Wa-Lu?
17 A. Yes, ma'am.
18 Q. And when you say "kids," do you mean people that
19 were younger than you at the time?
20 A. Yes, ma'am.
21 Q. All right. And when were you there, was
22 Mr. Jenkins there?
23 A. Yes, ma'am.
24 Q. Did you ever have any occurrences when he was

1 present involving him that made you feel uncomfortable?

2 A. Yes, ma'am.

3 Q. What was that?

4 A. Once -- well, there were two incidents. One time

5 me and -- do I say her initials or --

6 Q. If you have a friend who's under 18, we'd like it

7 if you said her initials, yeah.

8 A. Okay. I don't know if she's under 18.

9 Q. Okay. You can say her name.

10 A. Okay. Me and Meadow, we were wearing white NNJ

11 shirts that we had to wear for practice and they were kind of

12 like see-through, so you could see our bras underneath and

13 Rick -- sorry, can I say his name?

14 Q. Yes.

15 A. Okay. He made a comment on our bras and like how

16 they were different colors from each other and how mine was

17 gray with pink straps and her was pink was gray straps, and

18 that made me pretty uncomfortable because I didn't want him

19 looking there, you know?

20 Q. Okay.

21 A. And then another incident --

22 Q. I'm going to stop you right there.

23 A. Okay.

24 Q. I'll ask you questions so that we keep --

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1 A. Yes, ma'am.

2 Q. -- on track. So is that the only instance that

3 made you uncomfortable with Mr. Jenkins?

4 A. No, ma'am.

5 Q. Was there another one?

6 A. Yes, ma'am.

7 Q. And what happened then?

8 A. We were -- I forgot the exact event, but we were

9 playing volleyball and he was throwing balls at us and it was

10 often at our butts and it was very uncomfortable.

11 Q. And when you say "our," was it another player --

12 A. Me and --

13 Q. -- with you?

14 A. A few of the -- a few of the girls.

15 Q. All around your age, too?

16 A. Yes, ma'am.

17 Q. All right. And now I want to change your

18 instances that we're discussing and talk about, do you know

19 another player by -- with the initials of GW?

20 A. Yes, ma'am.

21 Q. Did she play with you?

22 A. I didn't play on a team with her, but I have

23 played with her with Rick present.

24 Q. With Rick present?

1 A. Yes.

2 Q. And was there ever an occasion that you observed

3 the two of them interact?

4 A. Yes, ma'am.

5 Q. And what did you observe?

6 A. I observed Rick very -- talking to her very

7 closely to her face and him touching her a lot and just being

8 inappropriate with her and it was awkward.

9 Q. And would you say they were physically touching?

10 A. Yes, ma'am.

11 Q. Can you describe how they were touching?

12 A. He would often touch her shoulder or her hand,

13 like they would hold hands or he would put his arm around her,

14 yeah.

15 Q. Would you say they were hugging at any time?

16 A. Yes, ma'am.

17 Q. How did this observation make you feel?

18 A. Uncomfortable.

19 Q. Was Mr. Jenkins acting that same way with all of

20 the other players?

21 A. Not that I noticed, no.

22 Q. Not that you saw?

23 A. No, ma'am.

24 Q. And would you say that this observation was

1 awkward?

2 A. Yes, ma'am.

3 Q. Can you describe -- were their faces near each
4 other?

5 A. Yes, ma'am.

6 Q. And how is that?

7 A. Rick would often lean in close to her and she
8 wouldn't move her face. She just kind of let him talk to her
9 while his face was like super close to hers.

10 Q. And was he doing that with any other players at
11 the time?

12 A. No, ma'am.

13 MS. MAZZA: Your Honor, I have no further
14 questions. Thank you.

15 THE COURT: Thank you. Ms. Ristenpart,
16 cross-examination.

17 MS. RISTENPART: Thank you.

18 **CROSS-EXAMINATION**

19 BY MS. RISTENPART:

20 Q. BG, let's talk about your first claim as to the
21 sports bra and the uniform shirt; right?

22 A. Yes, ma'am.

23 Q. You actually -- it was a uniform shirt that you
24 and Meadow were wearing?

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1 A. Yes, ma'am.

2 Q. And it was a white shirt that was a little bit
3 see-through?

4 A. It was more than a little bit see-through.

5 Q. It was super see-through?

6 A. Yes, ma'am.

7 Q. And you were wearing -- you personally were
8 wearing a very bright-colored sports bra underneath; right?

9 A. It was gray with the bright pink straps.

10 Q. And your friend, Meadow, was wearing a sports bra
11 with the opposite colors; correct?

12 A. Yes, ma'am.

13 Q. So it had hot pink and then gray straps?

14 A. Yes, ma'am.

15 Q. And you could see your sports bra through these
16 very see-through uniform shirts from both the front and the
17 back; correct?

18 A. Yes, ma'am.

19 Q. And this comment was made in front of other
20 people; correct?

21 A. Yes, ma'am.

22 Q. In fact, the entire team?

23 A. Not the entire time, no, ma'am.

24 Q. But several other people were standing around and

1 heard this; right?

2 A. Yes, ma'am.

3 Q. And when Mr. Jenkins made this comment, it was

4 very flippant like, oh, look, you guys have the same color,

5 but different; right?

6 A. Something like that, yes, ma'am.

7 Q. So -- and when I say the word "flippant," I meant

8 it was kind of a joke; right?

9 A. No, ma'am.

10 Q. You didn't take it as a joke?

11 A. No, ma'am.

12 Q. Is what you're saying?

13 A. (Shakes head.)

14 Q. Was there any other comment after he made that

15 initial comment as to the opposing colors?

16 A. No, ma'am.

17 Q. Never said anything about -- anything else about

18 the sports bras?

19 A. No, ma'am.

20 Q. How did Meadow react?

21 A. I don't remember exactly. She just kind of -- I

22 think she laughed it off.

23 Q. So Meadow's reaction was to laugh?

24 A. Yes, ma'am.

1 Q. And how did the other players who were around
2 you, how did they react?
3 A. I don't know, ma'am.
4 Q. But you remember there being laughter after the
5 comment; right?
6 A. No, ma'am, only from Meadow.
7 Q. Now, in regards to your other statement that
8 Mr. Jenkins would throw volleyballs at the players' butts?
9 A. Yes, ma'am.
10 Q. He threw it at several different players; right?
11 A. Yes, ma'am.
12 Q. And was it for a reason, meaning like someone
13 wasn't paying attention, and so then Coach Jenkins would throw
14 a ball at them for them to pay attention?
15 A. No, ma'am, it was just random.
16 Q. You're claiming it was just random?
17 A. Yes, ma'am.
18 Q. Do you actually know that or are you just saying
19 that it was random?
20 A. It was random ma'am.
21 Q. Do you know what Coach Jenkins was thinking when
22 he threw the balls?
23 A. No, ma'am.
24 Q. So you're just speculating then?

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1 A. Yes, ma'am.

2 Q. And when these balls were thrown, it was usually
3 towards their back or their butt; correct?

4 A. Yes, ma'am.

5 Q. Never towards their chest area?

6 A. No, ma'am.

7 Q. Never towards their head; right?

8 A. (Shakes head.)

9 Q. Correct?

10 A. No.

11 Q. Never towards their vagina; right?

12 A. No, ma'am.

13 Q. Do you need a break?

14 A. Yes.

15 MS. MAZZA: Your Honor, can we take a break?

16 THE COURT: Yes.

17 MS. MAZZA: I can call another witness and see if
18 she --

19 THE COURT: Yes, we'll go ahead and take a break.
20 BG, you can exit the courtroom for a moment. Hold on. Please
21 don't discuss your testimony, though, with anybody; okay?

22 THE WITNESS: Yes, sir.

23 THE COURT: All right. Thank you.

24 MS. RISTENPART: And just for the record,

1 Your Honor, I did notice BG started to turn red and cry and
2 that's why I asked if --

3 THE COURT: Okay.

4 MS. RISTENPART: -- she wanted a break.

5 THE COURT: Very good.

6 MS. MAZZA: Your Honor, at this time, the State
7 would like to call Nicholas Lonnegren. I can go grab him if
8 the bailiff is busy. I believe he's right outside.

9 THE COURT: Okay. Great.

10 MS. MAZZA: Thank you. I apologize, Your Honor.
11 The citations are also going on, so it's a little crowded out
12 there. But he's on his way from the other side over there.

13 THE COURT: Okay. Thank you. We'll just wait
14 for a moment. All right. Sir, if you stop there a moment.
15 Go ahead and raise your right hand, face the court clerk here
16 to be sworn.

17 NICHOLAS LONNEGREN,
18 called as a witness on behalf of the
19 STATE, was duly sworn and
20 testified as follows:

21 THE COURT: Come on up here to the witness stand.
22 All right. Go ahead and remove your mask, please. And can
23 you state your name and spell your last name?

24 THE WITNESS: Nicholas Lonnegren,

1 L-O-N-N-E-G-R-E-N.

2 THE COURT: Thank you. Go ahead, Ms. Mazza.

3 DIRECT EXAMINATION

4 BY MS. MAZZA:

5 Q. Mr. Lonnegren, I'm going to kind of take you back
6 to testimony you gave previously at a prelim -- preliminary
7 hearing in this matter. But can you tell us how you're
8 employed?

9 A. I'm self-employed through sports specific
10 training, personal training.

11 Q. Okay. Do you have any contract or occasion to be
12 at the Douglas County community center?

13 A. I'm one of the personal trainers over there. I'm
14 there probably four to eight hours a day, weekdays.

15 Q. Okay. And taking you back to 2018, were you also
16 working there?

17 A. Yes.

18 Q. In that same capacity?

19 A. Yes.

20 Q. Okay. At the time, taking you -- again, taking
21 you back to 2018, around the summer, did you know anyone by
22 the name of Richard Jenkins?

23 A. Yes.

24 Q. And how did you know him?

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1 A. I knew him through volleyball, playing myself and
2 coaching.

3 Q. And how long had you known him?

4 A. I've known -- probably met him about when I was
5 17, 18; about 15, 16 years.

6 Q. Okay. And then going back to, like I said,
7 September of 2018, were you dating anyone?

8 A. Yes.

9 Q. And who was that?

10 A. Ashley Gosney.

11 Q. And during that time, again, back in 2018, did
12 you and Ms. Gosney have occasion to discuss Mr. Jenkins?

13 A. Yes.

14 Q. And why was that?

15 A. Just for my -- she's my wife now, but Ashley said
16 she saw something.

17 Q. And I'm going to stop you right there.

18 A. Oh.

19 Q. Without saying what Ms. Gosney told you or
20 anything like that --

21 A. Oh, okay.

22 Q. -- can you just tell us what the conversation was
23 regarding?

24 A. It was regarding a coach and a young girl.

1 Q. Okay.

2 A. On a specific night.

3 Q. And who was that coach?

4 A. Rick Jenkins.

5 Q. And when you're speaking with her, or around that

6 time, had you noticed, you observed anything uncomfortable

7 about Mr. Jenkins and a player?

8 A. Yes.

9 Q. And what was that?

10 A. Just what I presumed to be inappropriate behavior

11 between a coach and a player or an athlete.

12 Q. Okay. Can you describe for us what you mean by

13 "inappropriate behavior"?

14 A. Touching, just more handsy than needs to be, more

15 attention given in that kind of a sense to an athlete or a

16 player.

17 Q. Would you describe it as normal touching between

18 a coach and a volleyball player?

19 A. No.

20 Q. Normal touching between a father and daughter?

21 A. No.

22 Q. And if you don't know, that's okay, but do you

23 know the first initial of the player who it was?

24 A. G.

1 Q. G. And do you by chance know her last name
2 initial?

3 A. I do not.

4 Q. Okay. So did you observe them only on the
5 volleyball court or where did you observe them?

6 A. Yes, on the volleyball court at the Douglas
7 County rec center.

8 Q. Okay. And when you say "touchy," can you just
9 describe a little more for us what you mean by that?

10 A. Like rubbing shoulder, rubbing back, lying down
11 or sitting next to each other, lying on the lap of one of the
12 other.

13 Q. Okay. Did you do anything when you saw this?

14 A. I didn't do nothing physically, no.

15 Q. Sorry. After talking with Ms. Gosney or talking
16 with your wife about this, or seeing this, did you report it
17 to anyone?

18 A. I discussed it with individuals, but I never
19 reported anything.

20 Q. And by saying "individuals," would that be the
21 administration at the community center?

22 A. No, individuals I work with and friends, family.

23 Q. Okay. Did you have occasion to find out that
24 Ms. Gosney actually reported it?

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1 A. I've -- wait, could you repeat that? I'm sorry.
2 Q. Did you learn that this was actually reported to
3 the community center?
4 A. Yes.
5 Q. Was that by Ms. Gosney?
6 A. Yes.
7 Q. After you guys talked?
8 A. Yes.
9 Q. Okay. And the observations you made of the
10 female you described as "G" and Mr. Jenkins, did you see him
11 acting that way with other athletes?
12 A. No.
13 Q. At the time, were you aware that Mr. Jenkins had
14 a daughter?
15 A. Yes.
16 Q. Was he acting the same way with her?
17 A. No.
18 MS. MAZZA: If I could just have one moment,
19 Your Honor.
20 THE COURT: Take your time.
21 BY MS. MAZZA:
22 Q. So when you saw these interactions between G and
23 Mr. Jenkins where were they all located?
24 A. On the west court at the Douglas County rec

1 center in the -- I believe what they call the squishy room. I
2 call it the half moon.

3 Q. Okay. Is it kind of a secluded area from the
4 courts?

5 A. It's off -- yeah, it's off -- yeah, it's off from
6 the courts, yes.

7 Q. Okay. And then when you saw this, did you ever
8 wonder about cameras inside the area?

9 A. Oh, yes.

10 Q. What did you do based upon that?

11 A. I just wondered what was going -- like where the
12 cameras were located and what's going to be shown on the
13 cameras.

14 Q. Did you ask the community center about that?

15 A. No.

16 MS. MAZZA: Your Honor, I have no further
17 questions. Thank you.

18 THE COURT: Ms. Ristenpart, go ahead.

19 MS. RISTENPART: Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 BY MS. RISTENPART:

22 Q. You stated that you're a personal trainer at the
23 Douglas County community center?

24 A. Yes.

1 Q. You're also a coach; correct?
2 A. Yes.
3 Q. That makes you a mandatory reporter; correct?
4 A. Through what I do independent, I've -- no.
5 Q. Through your employment at the Douglas County
6 community center?
7 A. I'm not employed through Douglas County.
8 Q. And to clarify, you never made a report about any
9 of this alleged inappropriate touching?
10 A. No.
11 Q. That you claimed you observed?
12 A. No.
13 Q. Now, you stated and testified for the State that
14 you observed what you described as inappropriate touching.
15 When was it?
16 A. That would be the summer of 2018.
17 Q. And we didn't really clarify, but you claim you
18 saw Mr. Jenkins touching G?
19 A. Correct.
20 Q. Rubbing her shoulders or having an arm around her
21 shoulders?
22 A. Rubbing shoulders and back, and back and neck --
23 head area.
24 Q. But nothing in the sexual region; correct?

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1 A. No.

2 Q. Never rubbing butt?

3 A. No.

4 Q. Never rubbing the front area?

5 A. No.

6 Q. Never touching breasts, anything like that?

7 A. No.

8 Q. And to be fair, sir, you also saw G touch

9 Mr. Jenkins a lot; right?

10 A. I wouldn't say touch, no.

11 Q. Would cling be a better word?

12 A. Yes.

13 Q. Like clinging on him?

14 A. Yes.

15 Q. Hanging on his arms?

16 A. Yes.

17 Q. Grabbing his hand, trying to hold it?

18 A. Yes.

19 Q. Actually grabbing Mr. Jenkins around the neck to

20 like try to get him to go somewhere with her?

21 A. I've never seen that action, no.

22 Q. And you just testified for the State that it

23 didn't seem to you to be like a father/daughter relationship;

24 right?

1 A. I don't -- I didn't see it that way, no.
2 Q. But you don't really know anything about
3 Mr. Jenkins and G's relationship; right?
4 A. No.
5 Q. In fact, you never even had a conversation with
6 G?
7 A. No.
8 Q. You don't anything about her?
9 A. Nope.
10 Q. Where she comes from, her family life?
11 A. Nope.
12 Q. And you have no idea what the nature of their
13 relationship is; correct?
14 A. As far as it was player/coach.
15 Q. And are you even sure if Mr. Jenkins was her
16 coach?
17 A. Just from the observations that I see, yes.
18 Q. But you don't know whether or not she was
19 actually on his team that summer; correct?
20 A. I would presume because Rick Jenkins and another
21 coach had a team together and she was a part of that team.
22 Q. But you're just presuming that, you actually
23 don't know?
24 A. Well, then I would say, yes, she was a part of

1 that team and he was a coach.

2 Q. And do you know anything about G being best
3 friends with Mr. Jenkins' daughter, AJ?

4 A. No.

5 Q. And do you know anything about G volunteering to
6 be a clinic assistant for the summer?

7 A. No.

8 Q. For Mr. Jenkins?

9 A. (Shakes head.)

10 MS. RISTENPART: No further questions,
11 Your Honor. Thank you.

12 THE COURT: You're welcome. Ms. Mazza, any
13 redirect?

14 MS. MAZZA: No, thank you, Your Honor.

15 THE COURT: Ms. Mazza, may this witness be
16 excused?

17 MS. MAZZA: Yes, Your Honor.

18 THE COURT: Ms. Ristenpart?

19 MS. RISTENPART: Yes, Your Honor.

20 THE COURT: All right. Sir, thank you for coming
21 in. You are excused. Please do not discuss your testimony
22 with anyone except the attorneys or their investigators.
23 Thank you.

24 THE WITNESS: Thank you.

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1 MS. MAZZA: Your Honor, the State would call next
2 Erica Janicki.

3 THE COURT: All right. Thank you.

4 THE BAILIFF: I don't know where she could be. I
5 called her name down that hallway and nobody answered. I
6 asked her assistant over there.

7 MS. MAZZA: Okay. If you could just go for BG
8 again. She's ready to go.

9 THE BAILIFF: BG?

10 MS. MAZZA: Um-hum.

11 THE COURT: Ms. Mazza, if you'd like to go check
12 and come back in, that's fine.

13 MS. MAZZA: Okay. Thank you.

14 THE COURT: All right. Ma'am, just step forward
15 and then stop right there, raise your right hand, face the
16 clerk to be sworn.

17 ERICA JANICKI,
18 called as a witness on behalf of the
19 STATE, was duly sworn and
20 testified as follows:

21 THE COURT: Thank you. Come on up to the witness
22 stand over here. Please go ahead and remove your mask, make
23 yourself comfortable.

24 THE WITNESS: Okay.

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1 THE COURT: Can you state your name and spell
2 your last name?

3 THE WITNESS: Erica Janicki, J-A-N-I-C-K-I.

4 THE COURT: Okay. Go ahead, Ms. Mazza.

5 MS. MAZZA: Thank you.

6 **DIRECT EXAMINATION**

7 BY MS. MAZZA:

8 Q. Ms. Janicki, do you have a daughter?

9 A. I do.

10 Q. What are the initials of her name?

11 A. BG.

12 Q. All right. And taking you back to the summer of
13 2018, was BG involved in any sports?

14 A. Yes.

15 Q. What was that?

16 A. Volleyball.

17 Q. And through her participation in volleyball, did
18 you have the occasion to meet Richard Jenkins?

19 A. Yes.

20 Q. Was he her coach?

21 A. Yes.

22 Q. And then I'd like to direct your attention
23 specifically to July 30th, 2018. Did you observe Mr. Jenkins
24 with another volleyball player?

1 A. Yes.

2 Q. And where was that?

3 A. At --

4 MS. RISTENPART: Objection to the description
5 "another volleyball player." I don't think it's been
6 established that Mr. Jenkins actually was, in fact, ever GW's
7 coach.

8 MS. MAZZA: I don't think I asked if she was
9 coached by Mr. Jenkins. I just said another volleyball
10 player.

11 THE COURT: All right. Go ahead.

12 BY MS. MAZZA:

13 Q. Did you see Mr. Jenkins?

14 A. Yes.

15 Q. Where did you see him?

16 A. At Katie's Restaurant.

17 Q. Who was he with without -- if it is a juvenile,
18 if you could just use their initials?

19 A. AJ and GW, I think you said.

20 Q. Okay. So did her first name start with G?

21 A. Yes.

22 Q. And AJ, would that be Mr. Jenkins' daughter?

23 A. Yes.

24 Q. Can you describe the interaction between G and

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IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ALEXANDER JENKINS,

Appellant.

v.

STATE OF NEVADA,

Respondent.

Case No. 83465

APPELLANT'S APPENDIX
VOLUME II

**APPEAL FROM JUDGMENT OF CONVICTION AND
SENTENCING**

NINTH JUDICIAL DISTRICT
STATE OF NEVADA

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1 Mr. Jenkins?

2 A. They were sitting very closely in a booth, next
3 to each other, and not just very -- well, extremely close,
4 like touching and almost -- she was almost in his lap
5 practically and like physically touching him and like putting
6 her head on him and so forth.

7 And his daughter was far away from them, so they
8 were more like -- it was just uncomfortable to watch actually.

9 Q. What did it seem like they were acting like?

10 A. You want me to characterize it?

11 MS. RISTENPART: Objection, speculation.

12 MS. MAZZA: I'll just -- I'll move on,
13 Your Honor.

14 BY MS. MAZZA:

15 Q. After observing this, what did you do?

16 A. Either my -- I was my daughter, BG, and my son
17 and they -- one of them, I don't remember which one, took a
18 picture of it and we just -- we didn't do anything. We just
19 finished our meal and we left.

20 Q. And you indicated AJ was also there?

21 A. Yes.

22 Q. Was Mr. Jenkins acting that way with her?

23 A. No.

24 Q. Was Mr. Jenkins pushing G off of him?

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1 A. No.

2 Q. All right.

3 MS. MAZZA: Your Honor, may I approach?

4 THE COURT: You may.

5 MS. MAZZA: For what's been previously marked as
6 State's Exhibit 1 and 2?

7 THE COURT: Yes.

8 MS. MAZZA: And for the record, Your Honor, I did
9 provide copies to Defense counsel.

10 THE COURT: Thank you.

11 MS. MAZZA: Your Honor, may I approach the
12 witness?

13 THE COURT: Yes.

14 BY MS. MAZZA:

15 Q. All right. Ms. Janicki, I'm handing you what's
16 been marked as Exhibit -- State's Exhibit 1 and 2. Can you
17 take a look at those?

18 A. (Complies.)

19 Q. Do you recognize those?

20 A. Yes.

21 Q. What are they?

22 A. They're pictures from the restaurant of
23 Mr. Jenkins and GW, and then his daughter is sitting, her face
24 is behind the menu.

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1 Q. All right. And is Exhibit 1 and 2 a fair and
2 accurate representation of what you observed?

3 A. Yes.

4 Q. And that --

5 A. Still photos of -- yeah.

6 Q. And that is what we just discussed at Katy's
7 Restaurant?

8 A. Yes.

9 MS. MAZZA: Your Honor, the State would move to
10 admit State's Exhibit 1 and 2.

11 THE COURT: Any objection, Ms. Ristenpart?

12 MS. RISTENPART: I apologize, Your Honor. I'm
13 sorry, what was it?

14 THE COURT: Any objection to this? She's moved
15 to admit Exhibits 1 and 2, the photographs.

16 MS. RISTENPART: Brief voir dire, Your Honor?

17 THE COURT: Go ahead.

18 VOIR DIRE EXAMINATION

19 BY MS. RISTENPART:

20 Q. You gave these photos to Detective Chrzanowski;
21 correct?

22 A. Yes.

23 Q. And there are only two photos?

24 A. I -- if that's what they have, then I believe so.

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1 Q. Well, you didn't take the photos; correct?

2 A. My son or my daughter did. That's what I said,
3 yes.

4 Q. And what phone was the photos taken on?

5 A. I don't recall. It may have been my phone.

6 Q. And are you sure that these are the photos that
7 were turned over to the Detective?

8 A. Yes. They had to be, yes.

9 Q. How can you be sure if you didn't take the photos
10 and you don't know what phone it was?

11 A. Well, because I gave the phone to my son or my
12 daughter to take the pictures. They used my phone at the
13 restaurant. That, I remember. I didn't actually take the
14 photos myself. I gave them the phone and they -- one of them
15 took the photos.

16 Q. And then you, in turn, turned over those photos
17 to Detective Chrzanowski?

18 A. I did, yes.

19 Q. How did you do that?

20 A. I believe that I sent an e-mail to the detective.
21 She had asked -- requested that I send them to her.

22 Q. And these are the two photos that you sent?

23 A. I believe so, yeah. They look like it.

24 MS. RISTENPART: Your Honor, I think there's a

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1 lack of foundation issue to these and we object.

2 THE COURT: Overruled. Do you have any other
3 objection to the photographs?

4 MS. RISTENPART: No, Your Honor.

5 THE COURT: All right. Exhibits 1 and 2 are
6 admitted.

7 (Exhibit 1 admitted into evidence.)

8 (Exhibit 2 admitted into evidence.)

9 MS. MAZZA: Your Honor, may I approach?

10 THE COURT: You may.

11 MS. MAZZA: I'll those back. Your Honor, may I
12 provide it to the Court?

13 THE COURT: Yes, please.

14 MS. MAZZA: Thank you.

15 **DIRECT EXAMINATION CONTINUED**

16 BY MS. MAZZA:

17 Q. All right. Now, Ms. Janicki, I'd like to ask you
18 if there was ever any other occasion that you observed
19 Mr. Jenkins with GW?

20 A. Yes. It was at a Silver State volleyball club
21 in -- over by Mound House. There was like a -- I don't know,
22 it was more or less like a tournament and I can't recall if my
23 daughter was playing with NNJ or Silver State at the time, but
24 yes, he was there with GW. And I don't know if there was kind

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1 of a lot going on with girls playing on the courts and stuff.

2 And my daughter was playing and my son -- there
3 were other parents there, and my son and I were standing off,
4 just watching, you know, kids play, and yeah, we did notice
5 them, and Mr. Jenkins and GW, because some of those girls were
6 playing on the court closest to us and we noticed that they
7 were interacting a lot and that she would -- when she was done
8 playing, like she would leave the court and go off and stand
9 with him and not with the other girls, and that they were
10 very -- again, acting very much like in the restaurant, very
11 close to one another kind of almost in a flirtatious -- kind
12 of a flirtatious manner.

13 MS. RISTENPART: Objection, speculation and move
14 to strike that.

15 THE COURT: Overruled.

16 THE WITNESS: And it was -- again, it was just
17 uncomfortable to see. It didn't seem right and it seemed that
18 GW was kind of isolated from the other girls, that she
19 didn't -- like most girls would go off the courts and run to
20 the other girls, you know, their friends and, you know, go
21 hang with the other girls. She didn't do that. She went and
22 hung out with him.

23 BY MS. MAZZA:

24 Q. And did you see Mr. Jenkins acting this way with

1 anyone else?

2 A. No.

3 Q. And do you see Mr. Jenkins here in the courtroom
4 today?

5 A. Yes.

6 Q. Can you describe what color shirt he's wearing?

7 A. Burgundy.

8 MS. MAZZA: Your Honor, I'd ask that the record
9 reflect identification of the Defendant.

10 THE COURT: It's granted.

11 MS. MAZZA: I have no further questions. Thank
12 you.

13 THE COURT: Cross-examination.

14 MS. RISTENPART: Thank you.

15 **CROSS-EXAMINATION**

16 BY MS. RISTENPART:

17 Q. Taking you back to the July 30th at Katy's
18 Restaurant, you stated that Mr. Jenkins was there with GW and
19 also AJ or let's say his daughter; right?

20 A. Yes.

21 Q. And you testified that you saw G resting her head
22 on Mr. Jenkins' shoulder; right?

23 A. (Nodded head.)

24 Q. And that they -- that G was sitting very close to

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1 Mr. Jenkins?

2 A. Um-hum.

3 Q. You have to answer out loud, ma'am.

4 A. Yes.

5 Q. During that time when you were observing them,
6 Mr. Jenkins never touched GW; correct?

7 A. No, they were touching each other.

8 Q. Well, leaning against one another is different
9 than actively touching; correct?

10 A. I don't believe so.

11 Q. At any time, did you see Mr. Jenkins use his hand
12 to touch GW?

13 A. I was trying not to stare. It was very
14 uncomfortable to watch, period, because it was more like a --
15 his daughter was there and they looked more like a couple
16 rather than a man, a grown man with his daughter and her
17 friend, a teenager.

18 Q. At any time, did you see Mr. Jenkins use his
19 hands to touch GW?

20 A. I don't recall what specifically you're asking
21 me, actually.

22 Q. At any time, did you observe Mr. Jenkins use his
23 hands to touch GW?

24 A. I don't recall.

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1 MS. MAZZA: Your Honor, I'm going to object as
2 asked and answered.

3 MS. RISTENPART: It actually hasn't been
4 answered. It's been --

5 THE COURT: I don't think she -- well, she just
6 answered "I don't recall," so that is an answer.

7 BY MS. RISTENPART:

8 Q. And in this picture depicted, in fact, it shows
9 GW leaning her head against Mr. Jenkins' shoulder; correct?

10 A. It does.

11 Q. And, in fact, from this perspective, you can't
12 see anything lower than the upper part of their shoulders;
13 correct? The booth is hiding everything else?

14 A. Well, from the picture, I suppose.

15 Q. You just testified that this was your perspective
16 and that's why you said that this is a picture depicting what
17 you saw that day; right?

18 A. A still photo, yes. But from my testimony, there
19 was more than that. They were acting as a couple. It was
20 like they were very close and kind of touchy, like very close.
21 And I just said more like a couple rather than a grown man
22 with his friend and her daughter in a restaurant.

23 Q. Ma'am, all you saw was from the upper shoulders
24 up?

1 A. In the picture, yes.

2 Q. Correct?

3 A. In the picture.

4 Q. And that's all you saw was touching, was GW
5 leaning against Mr. Jenkins?

6 A. That is not all we saw. You earlier asked that I
7 not characterize it. If you're asking me to describe more, I
8 just did.

9 Q. I'm asking you to testify before this court
10 honestly about what you actually saw versus what you're
11 speculating or presuming?

12 A. I can tell you what I actually saw, which is --
13 which are two people that were very actively touching and
14 continued the entire time that we were there for probably 15,
15 20 minutes, being very close and physical towards each other
16 the whole time. Well, I wouldn't call a 14 or 15 year old
17 being able to consent to that with a 44-year-old man, but --

18 MS. RISTENPART: For the record, this witness
19 then leaned while she was describing the touching, physically
20 in her chair as if someone was leaning on someone else.

21 THE WITNESS: It could be him doing the same
22 towards him. I didn't say her or lean like it was her.

23 MS. RISTENPART: I move to strike that as
24 unresponsive, Your Honor.

1 THE COURT: Overruled.

2 BY MS. RISTENPART:

3 Q. In regards to this observed interaction, you
4 never told anyone; correct?

5 A. I went to the detective.

6 Q. When?

7 A. Pretty soon after that. I don't recall exactly.

8 Q. Are you claiming that you went to the detective
9 shortly after July 30th, 2018?

10 A. I don't remember the exact date, but it wasn't
11 long after that, no.

12 Q. And how did you make that report?

13 A. What do you mean?

14 Q. You said you went to the detective to report
15 this. How did you make that report?

16 A. They -- I believe that they were looking for --
17 it had come out, there was something that had come out about
18 an incident, I think. I don't recall exactly, but I think
19 that there was something and then we went and reported it.

20 Q. And how did you report it? Did you call a hot
21 line? Did you come down here?

22 A. No, I didn't. I just said I went and talked to
23 the detective. I came here and told them I had information
24 and they sent me to the detective to talk to him.

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1 Q. And you were actually interviewed by a detective
2 in November of 2018; correct?

3 A. Okay.

4 Q. So I just want to clarify here. Are you saying
5 that you came in prior to that to report this July 30th
6 observation that you made?

7 A. Prior to November?

8 Q. Correct.

9 A. I guess not. I can -- I just told you I didn't
10 remember the exact date. So if that's what you have, then
11 that's when I came in.

12 Q. And to clarify, you only spoke with detectives
13 once about this July 30th at Katy's Restaurant?

14 A. I don't know how many times I talked to him.

15 Q. Do you anything about Mr. Jenkins' relationship
16 with G?

17 A. I don't.

18 Q. Have you ever actually talked to G?

19 A. No.

20 Q. Do you know anything about G?

21 A. No.

22 Q. In regards to your observations at a Silver State
23 tournament I believe you said?

24 A. Yes.

1 Q. That you felt that they were -- you testified
2 that you felt that G would go stand with him versus going and
3 hanging out with the other girls?

4 A. Yes.

5 Q. But again, you don't know anything about G;
6 right?

7 A. I don't.

8 Q. You don't know whether or not she's friends with
9 the other girls on the team?

10 A. I don't, no.

11 Q. And you also stated that they would stand next to
12 each other closely; correct?

13 A. Yes.

14 Q. But specifically you never saw Mr. Jenkins touch
15 G in a sexual manner; correct?

16 A. I've never seen him touch her in a sexual manner,
17 no.

18 Q. Never saw her touch -- him touch her on the butt?

19 A. No.

20 Q. Never saw him touch her on the front vaginal
21 area?

22 A. No.

23 Q. On the chest?

24 A. No.

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1 Q. And when was that tournament, the Silver State
2 tournament?

3 A. I don't recall.

4 Q. Was it before or after Katy's Restaurant?

5 A. It would have been after that, during club
6 season.

7 Q. And when you observed these interactions at the
8 tournament, you didn't report it, did you?

9 A. At the tournament?

10 Q. Correct.

11 A. To who?

12 Q. Did you make any report of it to law enforcement?

13 A. I reported it at some time.

14 Q. So to clarify, you brought this up in your one
15 interview -- well, you don't remember, but in your
16 November 8th interview with the detectives?

17 A. It may have been or I spoke to the detective
18 again, I may have brought it up. I don't recall. You asked me
19 if I talked to her more than once and I said I didn't recall.
20 It's been a few years, so I don't know.

21 Q. What I'm getting at, ma'am, is: Did you come
22 down here or did you call the police after the Silver State
23 tournament to make a report of what you say you observed?

24 A. And I told you I don't recall. If it happened

1 before I came in to report the other incident, then if they
2 happened together, then I would have mentioned it then.

3 MS. RISTENPART: No further questions,
4 Your Honor.

5 THE COURT: Okay. Redirect?

6 MS. MAZZA: No, Your Honor. Thank you.

7 THE COURT: All right. Ms. Mazza, may this
8 witness be excused?

9 MS. MAZZA: Yes, Your Honor.

10 THE COURT: Ms. Ristenpart?

11 MS. RISTENPART: Yes, Your Honor.

12 THE COURT: All right, ma'am. Thank you for
13 coming in. You are excused. Please do not discuss your
14 testimony with anyone except for the attorneys in this case
15 and their investigators. You are dismissed.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you.

18 MS. MAZZA: Your Honor, at this time, I believe
19 BG is ready to finish her testimony if we could.

20 THE COURT: All right. Very good. BG, come on
21 back and take the witness stand.

22 THE WITNESS: Yes, sir.

23 THE COURT: You remain under oath.

24 THE WITNESS: Yes, sir.

1 THE COURT: You can go ahead and remove your mask
2 again.

3 THE WITNESS: Yes, sir.

4 THE COURT: Are you okay with proceeding?

5 THE WITNESS: Yes, sir.

6 THE COURT: Okay. Thank you. Go ahead,
7 Ms. Ristenpart.

8 MS. RISTENPART: Thank you, Your Honor. I
9 apologize. I lost my last question that I asked.

10 THE COURT: Take your time. Take a moment.

11 BY MS. RISTENPART:

12 Q. Okay. BG, before we took a break for you, we
13 were talking about your testimony that Mr. Jenkins would throw
14 volleyballs at the players' butts?

15 A. Yes, ma'am.

16 Q. And we had talked about and you testified that it
17 was usually at the back or the butt; right?

18 A. Yes, ma'am.

19 Q. But it was never at the chest area; right?

20 A. No, ma'am.

21 Q. Never in the lower vaginal region?

22 A. No, ma'am.

23 Q. And when did he this, he didn't make comments,
24 did he?

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1 A. No, ma'am.

2 Q. He didn't say, woo-hoo, look at her butt?

3 A. No, ma'am.

4 Q. It didn't seem sexual in nature; correct?

5 A. No, but it was very uncomfortable, ma'am.

6 Q. Okay. So it made you uncomfortable, but nothing

7 about it was overtly sexual or sexual at all; right?

8 A. No, ma'am.

9 Q. And he did this to a lot of players; right?

10 A. I noticed a few of them. I wasn't there for all

11 of it, but what I noticed, it was a few.

12 Q. So at least a few players?

13 A. Yes, ma'am.

14 Q. And just to be very clear here, Mr. Jenkins never

15 touched you inappropriately; correct?

16 A. No, ma'am.

17 Q. In fact, he would give you hi-five's or fist

18 bumps; right?

19 A. Um-hum.

20 Q. Or other conducts or interact with you just like

21 how any other coach has; right?

22 A. (Nodded head.)

23 Q. Now, in regards to your statements regarding GW,

24 do you know GW?

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1 A. Yes, ma'am.

2 Q. Okay. Do you go to school with her?

3 A. Yes, ma'am.

4 Q. Do you still go to school with her?

5 A. No, ma'am.

6 Q. Is that because of the pandemic or you just

7 switched schools?

8 A. Switched schools, ma'am.

9 Q. Okay. So back in the summer of 2018, you went to

10 school with GW; right?

11 A. 2019, I was at school with her.

12 Q. And 2019 also?

13 A. Yes, ma'am.

14 Q. Okay. And you stated that it seemed that GW and

15 Mr. Jenkins were always close to each other physically?

16 A. Yes, ma'am.

17 Q. Like standing close to each other?

18 A. Yes, ma'am.

19 Q. At no time did you ever see Mr. Jenkins

20 inappropriately touch GW; right?

21 A. They held hands and he would touch her shoulder,

22 and I think that was inappropriate.

23 Q. Okay. So that's your thought as to what is

24 inappropriate. Did you ever see Mr. Jenkins touch her butt?

1 A. No, ma'am.

2 Q. Did you ever see Mr. Jenkins touch her chest?

3 A. No, ma'am.

4 Q. Did you ever see Mr. Jenkins touch her vagina?

5 A. No, ma'am.

6 Q. And a lot of times GW was the one who would

7 initiate the touching; correct?

8 A. No, ma'am.

9 Q. Are you claiming that GW would never cling on

10 Mr. Jenkins?

11 A. No, ma'am.

12 Q. Are you -- did you ever see GW lay her shoulder

13 or her head on Mr. Jenkins' shoulder?

14 A. No, ma'am.

15 Q. Have you had a conversation with GW?

16 A. Yes, ma'am.

17 Q. Several; right?

18 A. Yes, ma'am.

19 Q. Because you guys went to school together; right?

20 A. Yes, ma'am.

21 Q. After this allegation came out; right?

22 A. Beforehand and after, me and her had engaged in

23 multiple conversations.

24 Q. And do you know anything about the nature of

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1 Mr. Jenkins' relationship with GW?

2 A. No, ma'am.

3 Q. Do you know anything about GW being best friends

4 with Mr. Jenkins' daughter, AJ?

5 A. No, ma'am.

6 Q. Now, you testified for the State that you didn't

7 see Mr. Jenkins interact or what you perceived the same way

8 with his daughter, AJ; right?

9 A. I'm sorry. Can you --

10 Q. You testified for the State that you did not see

11 Mr. Jenkins act the same way with AJ as you thought he acted

12 with GW; correct?

13 A. Yes, ma'am.

14 Q. Do you know how AJ and Mr. Jenkins act at home?

15 A. No, ma'am.

16 Q. Do you know how they act outside of volleyball

17 practice?

18 A. No, ma'am.

19 Q. Do you know how GW acts outside of volleyball

20 practice?

21 A. No, ma'am.

22 MS. RISTENPART: No further questions.

23 THE COURT: BG, how old are you?

24 THE WITNESS: I'm 17, sir.

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1 THE COURT: Okay. Thank you.
2 THE WITNESS: Yes, sir.
3 THE COURT: Ms. Mazza, any other questions?
4 MS. MAZZA: Just one, Your Honor.
5
6 **REDIRECT EXAMINATION**
7 BY MS. MAZZA:
8 Q. BG, on cross-examination, you indicated you spoke
9 with GW; is that correct?
10 A. I'm sorry, what?
11 Q. You spoke with GW around when this all happened;
12 is that correct?
13 A. Yes, ma'am.
14 Q. Did she tell you what to say here today?
15 A. No, ma'am.
16 MS. MAZZA: No further questions, Your Honor.
17 Thank you.
18 THE COURT: Any recross?
19 MS. RISTENPART: Nothing on that.
20 THE COURT: May this witness be excused,
21 Ms. Mazza?
22 MS. MAZZA: Yes, Your Honor.
23 THE COURT: Ms. Ristenpart?
24 MS. RISTENPART: Yes, Your Honor.
THE COURT: All right. BG, thank you for coming

1 in today. You are excused. Please do not discuss your
2 testimony with anyone except for the attorneys in this case or
3 their investigators.

4 THE WITNESS: Yes, sir. Thank you.

5 THE COURT: Thank you.

6 MS. MAZZA: Your Honor, the State next calls
7 Joseph Girdner.

8 THE COURT: All right. Sir, please stop there
9 for a moment, raise your right hand, face the Court Clerk to
10 be sworn.

11 JOSEPH GIRDNER,
12 called as a witness on behalf of the
13 STATE, was duly sworn and
14 testified as follows:

15 THE COURT: Thank you, sir. Come on up to the
16 witness stand here and you may remove your mask and make
17 yourself comfortable.

18 THE WITNESS: Okay.

19 THE COURT: Please state your name and spell your
20 last name.

21 THE WITNESS: My name is Joe Girdner,
22 G-I-R-D-N-E-R.

23 THE COURT: All right. Thank you. Go ahead,
24 Ms. Mazza.

1 MS. MAZZA: Thank you, Your Honor.

2 **DIRECT EXAMINATION**

3 BY MS. MAZZA:

4 Q. Sir, can you tell us how you're employed?

5 A. I work for the Douglas County School District.
6 I'm currently the Human Resources director. Previously, I was
7 the principal of Douglas High School.

8 Q. And were you the principal back in the spring and
9 summer of 2018?

10 A. I was.

11 Q. All right. So I'd like to direct your attention
12 to that time period. Were you aware of someone named Richard
13 Jenkins?

14 A. I was. I know Rick Jenkins, yes.

15 Q. Do you see him here in the courtroom here today?

16 A. I do, yep.

17 Q. What color shirt is he wearing?

18 A. Burgundy.

19 MS. MAZZA: Your Honor, I would ask that the
20 record reflect identification of the Defendant.

21 THE COURT: It so reflects.

22 BY MS. MAZZA:

23 Q. And during that time period, how did you know
24 Mr. Jenkins?

1 A. Rick served as a coach and volunteer coach in
2 several capacities. Rick was a JV coach for volleyball for a
3 time and then he was actually our head boys' tennis coach, and
4 then in 2018, his last role was as a volunteer girls' tennis
5 coach.

6 Q. All right. And now during that summer, as I said
7 around the summer of 2018, was there an instance where you
8 observed Mr. Jenkins that was concerning to you?

9 A. So there was one situation that I did observe
10 that was while he was a volunteer tennis coach for our girls
11 tennis team, and I observed a female student kind of walk up
12 behind Rick and kind of lean against him. And I was kind of
13 behind and off to the side, so Rick would be over kind of
14 where this picture is to me and --

15 Q. And I'm just going to stop you right there. So
16 you were describing the hanging pictures behind the jury box
17 in the courtroom; is that correct?

18 A. Yeah, the -- like the river picture, correct.

19 Q. Okay.

20 A. And I saw the female student walk up kind of
21 behind Rick and lean against him and put his (sic.) chin kind
22 of on her shoulder -- on Rick's shoulder, right here
23 (indicating).

24 Q. All right. And did Mr. Jenkins push her away,

1 ask her to stop or anything like that?

2 A. No.

3 Q. Were you concerned about his conduct?

4 A. I was concerned and we temporarily put Rick on
5 suspension from coaching to investigate this situation and met
6 with Rick the next morning.

7 Rick shared with me that he was a friend of the
8 girl's family and that her father had recently passed away and
9 he had taken on a father type role for the girl, and it was
10 honestly a fairly quick investigation because we called the
11 girl's mother.

12 And when I spoke with her, she confirmed that
13 Rick had stepped in as a father type role for the student. We
14 did return to Rick to coaching. We did -- obviously I did
15 warn Rick about personal space and the need to really be aware
16 of how he interacted with students, specifically female
17 students.

18 Q. And you indicated you informed the student's
19 mother?

20 A. Yes.

21 Q. Was that out of concern?

22 A. It was.

23 Q. And this student we're talking about, are her
24 initials GW?

1 A. They were, yes, or they are.

2 MS. MAZZA: Your Honor, I have no further
3 questions. Thank you.

4 THE COURT: All right. Ms. Ristenpart, any
5 questions?

6 MS. RISTENPART: Thank you.

7 **CROSS-EXAMINATION**

8 BY MS. RISTENPART:

9 Q. Just to reiterate, you observed GW, the minor,
10 come up to Mr. Jenkins from behind and reach over and kind of
11 grab him?

12 A. Yeah, she didn't reach over, she just kind of
13 leaned against him, kind of body to body, and put her chin on
14 his shoulder.

15 Q. In response, did Mr. Jenkins do anything with his
16 hands?

17 A. He did not. It was more his comfortableness with
18 it that kind of made me uncomfortable.

19 Q. And anything about that encounter -- nothing was
20 sexual; correct?

21 A. I wouldn't categorize it as sexual, it was just
22 very comfortable.

23 Q. And after your investigation, it sounded like it
24 lasted half a day or a day, you reinstated Mr. Jenkins?

1 A. Correct.

2 Q. Working there?

3 A. (Nodded head.)

4 MS. RISTENPART: No further questions. Thank

5 you.

6 THE COURT: All right. Redirect?

7 MS. MAZZA: No, Your Honor. Thank you.

8 THE COURT: May this witness be excused,

9 Ms. Mazza?

10 MS. MAZZA: Yes, Your Honor.

11 THE COURT: Ms. Ristenpart?

12 MS. RISTENPART: Yes, Your Honor.

13 THE COURT: Mr. Girdner, thank you.

14 THE WITNESS: Thank you, sir.

15 THE COURT: You are excused.

16 THE WITNESS: Thank you, Your Honor.

17 THE COURT: Please do not discuss your testimony

18 with anyone except for the attorneys in this case or their

19 investigators. You are excused.

20 THE WITNESS: Yes, sir. Thank you.

21 THE COURT: Ms. Mazza, how many more witnesses do

22 you have at this time? I'm trying to think of when we might

23 next take the next recess.

24 MS. MAZZA: Your Honor, I have four additional,

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1 including the one I just called.

2 THE COURT: Okay.

3 MS. MAZZA: I think they should all be about the
4 same length as Mr. Girdner.

5 THE COURT: All right. Let's go ahead and take
6 one more then and we'll take a recess after that.

7 MS. MAZZA: Thank you, Your Honor.

8 THE COURT: Who would the next witness be?

9 MS. MAZZA: Your Honor, next the State is calling
10 Ashley Gosney.

11 THE COURT: Ms. Mazza, you might have to go out
12 in the hallway.

13 MS. MAZZA: I believe the bailiff has gone.

14 THE COURT: Oh, great. Okay.

15 MS. MAZZA: Thank you.

16 THE COURT: All right. Ma'am, you can stop there
17 for a moment, raise your right hand, face the Court Clerk to
18 be sworn.

19 ASHLEY GOSNEY,
20 called as a witness on behalf of the
21 STATE, was duly sworn and
22 testified as follows:

23 THE COURT: Thank you. Come on up here to the
24 witness stand, please. You may remove your mask and go ahead

1 and get comfortable. Please state your name and spell your
2 last name.

3 THE WITNESS: Ashley Gosney, G-O-S-N-E-Y.

4 THE COURT: Thank you. Go ahead, Ms. Mazza.

5 MS. MAZZA: Thank you, Your Honor.

6 **DIRECT EXAMINATION**

7 BY MS. MAZZA:

8 Q. Ms. Gosney, I'd like to direct your attention to
9 the summer of 2018. I know you've already testified at a
10 preliminary hearing on this matter, but we're going to go over
11 that again here today.

12 Did you have the occasion to play any sports at
13 that time back in the summer of 2018?

14 A. Yes.

15 Q. And what was that?

16 A. Volleyball.

17 Q. And how were you playing that?

18 A. I was just playing with a friend, just bump
19 setting and spiking.

20 Q. Where?

21 A. At the Douglas rec center.

22 Q. And is that something you would do regularly?

23 A. When leagues are going on, yes, on Monday nights.

24 Q. Okay. And have you played volleyball for a

1 while?

2 A. Yes.

3 Q. Do you know a lot of people in the volleyball
4 community?

5 A. Correct, yes.

6 Q. Do you know anyone by the name of Richard
7 Jenkins?

8 A. Yes.

9 Q. Do you see him here in the courtroom today?

10 A. Yes.

11 Q. Can you describe what color shirt he's wearing?

12 A. A burgundy long-sleeve shirt.

13 MS. MAZZA: The State would request
14 identification of the Defendant.

15 THE COURT: The record will so reflect.

16 BY MS. MAZZA:

17 Q. And so you indicated you would play volleyball
18 sometimes in the summer of 2018 at the Douglas County rec
19 center?

20 A. Correct.

21 Q. And how often would you do that?

22 A. Once, twice a week.

23 Q. Okay. And during that time, was there ever an
24 occasion that you observed something that caused you to make a

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1 report to staff at the center?

2 A. Yes.

3 Q. And what was that?

4 A. It was a late evening on a Monday and then I
5 noticed Rick Jenkins and a little girl, their inappropriate
6 behavior.

7 Q. Okay. Can you explain exactly what you observed
8 for us?

9 A. I just felt that he was more attentive to one of
10 the little girls on the team, like holding the pinkies,
11 swaying her back every time, or when the team would take
12 breaks, it would just be them two versus a whole team dynamic
13 circle.

14 Q. And they were secluded from other people?

15 A. Yes.

16 Q. And when you saw this, what did you do?

17 A. So I first talked to a friend about it that was
18 with me, Alex, who was with me, and just kind of asked her to
19 keep her eyes about it as well. But unfortunately she didn't
20 see anything. Her back was turned most of the time.

21 And then when I decided to write the report is
22 when I actually saw the little girl and Rick like in the cove
23 area, in the blind side where all the parents were, and that
24 they were hugging and I thought I saw him kiss her. I was too

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1 far away to say for sure if it was a kiss or not, but that's
2 what I wrote in my report, saying I believe this is what I
3 saw.

4 Q. Okay. Explain to me this area where you saw
5 them.

6 A. So if you go the rec center --

7 Q. If you want, you can get some of that water.

8 A. Thank you.

9 There's an elevator and within that elevator,
10 next to the elevator, if you're facing the elevator on the
11 left-hand side, there's like a bay, like a cove where it dips
12 in a little deeper. So if you're on the right side of it, you
13 cannot see in there. But if you're on the courts, you could
14 see that cove or bay.

15 Q. And you saw the two of them in there?

16 A. Correct.

17 Q. And what you observed was you believed to be an
18 embrace of some sort?

19 A. Correct.

20 Q. Okay. And now you indicated you just -- you
21 believe you saw some sort of a kiss of some type?

22 A. Yes.

23 Q. Can you describe that?

24 A. I just saw -- he grabbed the little girl, he gave

1 her a hug and then on the side of her face, he kissed her.

2 Q. And the girl you're talking about, do you know
3 her name?

4 A. Yes, I only know it because of the last time,
5 which I believe her name was GW.

6 Q. Okay.

7 MS. MAZZA: And I would just ask to strike that
8 and use the initial "G", Your Honor.

9 THE COURT: Absolutely.

10 MS. MAZZA: I have no further questions. Thank
11 you. Oh, let me -- just one more.

12 BY MS. MAZZA:

13 Q. You indicated -- did you report this?

14 A. Yes.

15 Q. To who?

16 A. To Jen who works at the front office at the rec
17 center.

18 Q. And why did you report this?

19 A. Just because a gut feeling, I just didn't feel --
20 I didn't -- what I saw didn't look right or feel right in my
21 stomach.

22 MS. MAZZA: Your Honor, no further questions.
23 Thank you.

24 THE COURT: Thank you. Ms. Ristenpart.

1 MS. RISTENPART: Thank you.

2 CROSS-EXAMINATION

3 BY MS. RISTENPART:

4 Q. You have stated that you were actively playing
5 with your friend, Alex?

6 A. Yes.

7 Q. So you were on the volleyball courts; correct?

8 A. Yes.

9 Q. And you were playing and you state that you think
10 you saw Mr. Jenkins, as you testified, grab the little girl?

11 A. Hold her, yes.

12 Q. And what do you mean by "hold"?

13 A. Hold her pinkies, hug her. That is what I mean
14 by hold.

15 Q. At any time, did you see Mr. Jenkins touch her
16 butt?

17 A. No.

18 Q. Did you ever see Mr. Jenkins touch her vaginal
19 area?

20 A. No.

21 Q. Did you ever see him touch her breasts?

22 A. No.

23 Q. So everything you saw, nothing was sexual in
24 nature; correct?

1 A. Not necessarily, no.

2 Q. And even then you say you think you saw a kiss;

3 right?

4 A. Correct.

5 Q. But, in fact, you're not entirely sure?

6 A. No, I'm not. But I suppose that's why I'm here,

7 because whatever I saw on the cameras is legit.

8 Q. And this alcove area, it actually opens up into

9 the courts; correct?

10 A. No, not necessarily, opens up into a hallway.

11 Q. Where the courts are right there; right?

12 A. Yes.

13 Q. And there's a little, for lack of a better term,

14 a pony wall, maybe the height of the jury box wall?

15 A. Behind it, yes, but the other wall is an

16 elevator. So it's a full 10, 15-foot wall, whatever that is.

17 Q. And when this hug occurred in the alcove, there

18 were other players still around?

19 A. Yes. But like I said, it was in the blind side.

20 They were where they had their meeting where they can't

21 necessarily see within that cove.

22 Q. You're not sure if other people saw it; right?

23 A. No, I'm not sure.

24 Q. In fact, your friend, Alexa --

1 A. Alex.

2 Q. Thank you. Didn't see anything?

3 A. No, her back was turned towards them.

4 Q. But you asked her to keep an eye on Mr. Jenkins?

5 A. Correct.

6 Q. And this little girl and she never saw anything?

7 A. Her back was turned towards them like I said.

8 Q. And while you were watching the interactions

9 between Mr. Jenkins and G, you saw that G would often actually

10 go to grab Mr. Jenkins or reach for him?

11 A. And vice versa, he would touch her back, too.

12 Q. But G would initiate contact?

13 A. Not all the time, no.

14 Q. Not all the time, but she would?

15 A. I can't say that I don't remember seeing her

16 initiate. I just remember the touching. It's been three

17 years. So I just remember the grabbing, I remember him

18 swiping her back in the cove incident. I don't vividly

19 remember her going to him or anything like that.

20 Q. And the hug in the alcove, it was a regular hug;

21 correct?

22 A. It was longer than a regular hug. It wasn't just

23 like a hug when you say hello to someone, just give them a hug

24 and walk away. It was an embracement. It was very long.

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1 Q. And you don't know anything about Mr. Jenkins'
2 relationship with G; correct?
3 A. I assume he's the coach of that team.
4 Q. But do you know anything about their
5 relationship?
6 A. No.
7 Q. And do you know anything about G?
8 A. No.
9 Q. Do you know how G acts?
10 A. No.
11 MS. RISTENPART: No further questions,
12 Your Honor. Thank you.
13 THE COURT: Okay. Redirect?
14 MS. MAZZA: Nothing further. Thank you,
15 Your Honor.
16 THE COURT: May this witness be excused,
17 Ms. Mazza?
18 MS. MAZZA: Yes, Your Honor.
19 THE COURT: Ms. Ristenpart?
20 MS. RISTENPART: Yes, Your Honor.
21 THE COURT: All right. Ma'am, thank you.
22 THE WITNESS: Thank you.
23 THE COURT: You are excused. Please do not
24 discuss your testimony with anyone except for the attorneys in

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1 this case or their investigators.

2 THE WITNESS: All right. That door?

3 THE COURT: Yes, please. All right. We're going
4 to go ahead and take a ten-minute recess at this point. So
5 we'll reconvene at 2:40.

6 (Recess.)

7 THE COURT: Court is back in session on Case
8 Number 19-CR-188. I show the appearance of counsel for the
9 State, counsel for the Defendant and also appearing is the
10 Defendant.

11 Ms. Mazza, is this our next witness?

12 MS. MAZZA: Yes, Your Honor. This is VS.

13 THE COURT: All right. Go ahead and raise your
14 right hand, face the Court Clerk here to be sworn.

15 VS,

16 called as a witness on behalf of the

17 STATE, was duly sworn and

18 testified as follows:

19 THE COURT: Come on up here to the witness,
20 please. You can go ahead and remove your mask and have a
21 seat. Please state your full name and spell your last name.

22 MS. MAZZA: Your Honor, I'm going to ask that she
23 give her initials.

24 THE COURT: That's fine. You can go ahead and

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1 use your initials. What -- tell us what your initials are.

2 THE WITNESS: VS.

3 THE COURT: All right. Thank you. So we'll use
4 "VS" from this point forward. Go ahead, Ms. Mazza.

5 MS. MAZZA: And just to make the record clear,
6 how old are you?

7 THE WITNESS: 17.

8 **DIRECT EXAMINATION**

9 BY MS. MAZZA:

10 Q. All right. So today we'll refer to you by your
11 initials?

12 A. (Nodded head.)

13 Q. Okay?

14 A. (Nodded head.)

15 Q. And then if we talk about anyone else who's under
16 18, if you could refer to them with their initials, too?

17 A. (Nodded head.)

18 Q. So I'm going to ask you to kind of take your mind
19 back to 2018. Around the spring and summer months, did you
20 have a best friend at that time?

21 A. Yes.

22 Q. And what are her initial?

23 A. GW.

24 Q. All right. And did you guys hang out pretty

1 often?

2 A. Yes.

3 Q. What kind of stuff would you guys do?

4 A. We would play volleyball, go to the park, go on
5 walks, go to the rec center, go to breakfast. Things people
6 would normally do.

7 Q. Okay. At that time, did you ever have any
8 interactions with Richard Jenkins?

9 A. Yes.

10 Q. Do you see him here in court today?

11 A. Yes.

12 Q. What color shirt is he wearing?

13 A. Red.

14 MS. MAZZA: Your Honor, I'd ask that the record
15 reflect identification of the Defendant.

16 THE COURT: The record will so reflect.

17 BY MS. MAZZA:

18 Q. And to your knowledge, from just your
19 experiences, did GW know Mr. Jenkins?

20 A. Yes.

21 Q. How did they know each other?

22 A. Through another friend and as a coach.

23 Q. Okay. Coach of what?

24 A. Volleyball.

1 Q. Okay. Did he coach you?
2 A. Not in particular. I was the manager of the
3 team.
4 Q. Okay. And GW was on the team?
5 A. Yes.
6 Q. And he was on -- the coach?
7 A. Yes.
8 Q. And what team was that?
9 A. Freshman volleyball.
10 Q. Okay. For Douglas High School?
11 A. Yes.
12 Q. Okay. And did there come a time where you ever
13 observed anything a little awkward between Mr. Jenkins and GW?
14 A. Yes.
15 MS. RISTENPART: Objection to leading, "awkward."
16 THE COURT: Overruled.
17 BY MS. MAZZA:
18 Q. What was that answer?
19 A. Yes.
20 Q. And what was that?
21 A. Hugging, like hanging out without the other girl,
22 GW's friend, touching, those kinds of things.
23 Q. And you described the other girl, who was that?
24 A. AJ.

1 Q. Is that AJ?

2 A. Yes.

3 Q. Mr. Jenkins' daughter?

4 A. Yes.

5 Q. And so you described that Mr. Jenkins and GW
6 would hang out without her?

7 A. Yes.

8 Q. And that was -- you knew that through being GW's
9 friend?

10 A. Yes.

11 Q. Now, was there ever a time that you observed or
12 heard any conversations between GW and Mr. Jenkins?

13 A. Yes.

14 Q. When was that?

15 A. I can't give you the exact date because I don't
16 remember, but I was sitting in her room and Mr. Jenkins had
17 called GW and asked if there was anyone else in the room,
18 where her mother was, if her mom was going to come up and
19 listen to their conversation.

20 And I just kept quiet and listened to the
21 conversation and he told her that he missed her and he wanted
22 to see her and just wanted to make sure that they weren't
23 going to get caught talking because they knew they weren't
24 going to be -- they weren't supposed to be talking.

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1 Q. And how could you hear all this?

2 A. She had put the phone on speaker and I was

3 sitting in her bedroom.

4 Q. Next to GW?

5 A. Yes.

6 Q. Who was talking to Mr. Jenkins?

7 A. Yes.

8 Q. And now was this at like a sleep over with GW?

9 A. Yes.

10 Q. Did you do this often? Did you guys have sleep

11 overs?

12 A. Yeah, we had sleep overs at least twice a week.

13 Q. Okay. Did you guys go to breakfast any mornings

14 after sleep overs?

15 A. Yes, we'd go to breakfast on our late start days

16 before school or on weekends.

17 Q. And on any of those days where you're going to

18 school, did you see Mr. Jenkins?

19 A. Yes.

20 Q. When was -- what happened then?

21 A. We -- one time we went on a walk to Woodett's and

22 we saw Mr. Jenkins and GW knew she wasn't supposed to be

23 talking to him.

24 So I turned around and started walking back and

1 told her that we should come on and Mr. Jenkins saw us and
2 they hugged and then we walked back.

3 Q. How would you describe that hug that they had?

4 A. It was very touchy, it was really long. It
5 wasn't just like a side shoulder hug, it was a big like
6 forward, facing each other bear hug.

7 Q. And you said that GW wasn't supposed to be with
8 Mr. Jenkins?

9 A. Yes. They were not supposed to be in any contact
10 or communicating.

11 Q. How did you know that?

12 A. GW told me and --

13 MS. RISTENPART: Objection to hearsay.

14 THE COURT: Sustained.

15 BY MS. MAZZA:

16 Q. So without telling me what someone said to you,
17 did you learn that they were not supposed to be in contact?

18 A. Yes.

19 Q. Did you have any feelings about their
20 relationship?

21 A. Yes. I thought it was really weird to have --

22 MS. RISTENPART: Objection, opinion, speculative.

23 THE COURT: Overruled.

24 THE WITNESS: A relationship with your friend's

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1 dad and to be touching your friend's parents in a way that I
2 thought you shouldn't be touching another older man.

3 BY MS. MAZZA:

4 Q. Now, with regard to GW, you said you guys were
5 pretty good friends in 2018?

6 A. Yes.

7 Q. All these events you described, the sleep overs,
8 the breakfast, hearing Mr. Jenkins on the phone, were those
9 around the time you were playing volleyball?

10 A. Yes.

11 Q. Would that be around 2018?

12 A. Yes.

13 Q. And based upon this case happening, has GW told
14 you what to say here today?

15 A. No.

16 Q. Did you guys talk about how you were going to
17 testify today?

18 A. No.

19 MS. MAZZA: Your Honor, I have no further
20 questions. Thank you.

21 THE COURT: Thank you. Cross-examination.

22 MS. RISTENPART: Thank you.

23

24

1 **CROSS-EXAMINATION**

2 BY MS. RISTENPART:

3 Q. VS, you gave an interview to detectives on
4 November 20th of 2018; correct?

5 A. Yes.

6 Q. And in that interview, that was the first time
7 you ever told someone in law enforcement about your alleged
8 phone conversation you overheard?

9 A. Yes.

10 Q. And also this allegation of a hug when you guys
11 went to breakfast at Woodett's?

12 A. It wouldn't be the first time that they had
13 hugged in front of me without AJ Jenkins there, so it was a
14 big hug right outside of Woodett's in front of the Mexican
15 restaurant.

16 Q. Now, going November 20th, 2018, that was after
17 Mr. Jenkins had already been arrested and charged with
18 allegations; correct?

19 A. No, this was before.

20 Q. When you gave your interview with police, it was
21 after Mr. Jenkins had already been arrested; right?

22 A. Yes.

23 Q. And did you contact detectives to tell them this
24 or did someone contact you?

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1 A. No, someone contacted me.

2 Q. Who?

3 A. I don't remember their name.

4 Q. So at the time that you gave this interview and
5 made these statements to law enforcement, you knew that Rick
6 Jenkins had some charges and allegations against him by GW?

7 A. I did know that there were some things going on,
8 but I didn't know the exact details or what was really was
9 going on, like what was happening. I just knew a few things.

10 Q. Now, going back to that alleged phone call that
11 you claim you overheard, you can't remember what day it was?

12 A. No.

13 Q. Do you have any phone records to back this up?

14 A. It was not my cell phone.

15 Q. And in regards to the testimony you just gave
16 about walking to breakfast, do you have the date?

17 A. No.

18 Q. And you just testified that AJ was not there with
19 you; correct?

20 A. Yes.

21 Q. But you told law enforcement that AJ had actually
22 spent the night with you guys?

23 A. No, that was a different night. That was not the
24 day that me and GW went to breakfast.

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1 Q. Do you remember telling law enforcement that on
2 an unknown date and time, that you and A, or AJ, spent the
3 night at GW's residence?

4 A. Yes.

5 Q. And do you remember telling them that that was
6 when GW suggested they take the dog for a walk?

7 A. Yes, we did do that.

8 Q. Which you and AJ and GW did?

9 A. Yes.

10 Q. And you were telling police that you stated that
11 you walked to Woodett's and that Mr. Jenkins was there?

12 A. Yes.

13 Q. And that's when you saw them, quote, "bear hug"?

14 A. Yes, they did that, too.

15 Q. And now you're claiming that AJ was not there?

16 A. No. There was several occasions that me and GW
17 had went to breakfast and there was one occasion that AJ was
18 not there and we did see Rick Jenkins there and they did hug.

19 Q. But you don't know day or time or --

20 A. No.

21 Q. -- anything?

22 A. No. There was another occasion that me and GW --

23 MS. RISTENPART: Moving to strike as
24 unresponsive, Your Honor.

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1 THE COURT: Just hold on until there's a
2 question, please.

3 THE WITNESS: Okay.

4 THE COURT: Thank you.

5 BY MS. RISTENPART:

6 Q. At no time did Mr. Jenkins ever touch you
7 inappropriately; correct?

8 A. No.

9 Q. And of the interactions you saw with Mr. Jenkins
10 and GW, you never saw Mr. Jenkins touch GW on the butt; right?

11 A. No.

12 Q. Never saw Mr. Jenkins touch her on the chest
13 area?

14 A. No.

15 Q. Never saw Mr. Jenkins touch her in the vaginal
16 area?

17 A. No.

18 Q. And you claimed that you knew that GW was not
19 supposed to have, quote, "contact" with Mr. Jenkins?

20 A. Yes.

21 Q. Were you there for the conversation between GW
22 and her mom and Mr. Jenkins?

23 A. No.

24 Q. Are you aware of what was actually said in that

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1 conversation?

2 A. No.

3 Q. Are you aware exactly as to what were the
4 parameters of this, what you claimed the no-contact was
5 supposed to be?

6 A. No talking to each other.

7 Q. You kind of like shrugged your shoulders when you
8 answered. Are you sure?

9 A. Yeah.

10 Q. How would you know if you weren't part of the
11 conversation?

12 A. Because GW had told me they were not supposed to
13 be texting, calling, talking in person, so no contact.

14 Q. This was based upon GW telling you?

15 A. Yes.

16 Q. Have you seen GW be clingy?

17 A. Yes.

18 Q. Describe how.

19 A. With other people, not Rick Jenkins.

20 Q. And how would she be clingy?

21 A. Just wanted to hang out and talk, FaceTime.

22 Q. Has she been physically clingy that you've seen?

23 A. No.

24 Q. Like literally hanging on someone?

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1 A. No.

2 Q. Are you still friends with GW?

3 A. Yes.

4 Q. Are you still best friends with her?

5 A. Yes.

6 Q. Do you guys talk every day?

7 A. Yes.

8 Q. Are you still friends with AJ?

9 A. No.

10 MS. RISTENPART: No further questions.

11 THE COURT: All right. Redirect?

12 MS. MAZZA: No, Your Honor. Thank you.

13 THE COURT: May this witness be excused,

14 Ms. Mazza?

15 MS. MAZZA: Yes.

16 THE COURT: Ms. Ristenpart?

17 MS. RISTENPART: Yes, Your Honor.

18 THE COURT: All right. VS, thank you for coming

19 in. You are excused. Please do not discuss your testimony

20 with anyone except for the attorneys in this case or their

21 investigators. You are excused. Thank you.

22 MS. MAZZA: Your Honor, the State next calls

23 another juvenile with the initials KK.

24 THE COURT: Thank you.

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1 MS. MAZZA: The bailiff is going to get her.

2 THE COURT: Very good. Stop there for a moment.
3 Go ahead and raise your right hand and face the clerk here to
4 be sworn.

5 KK,
6 called as a witness on behalf of the
7 STATE, was duly sworn and
8 testified as follows:

9 THE COURT: All right. Come on up here to the
10 witness stand. Go ahead and have a seat and you can remove
11 your mask. Please state your name -- or actually we're going
12 to be using your initials, KK.

13 Are those your initials?

14 THE WITNESS: Yes.

15 THE COURT: All right. Very good. Ms. Mazza, go
16 ahead.

17 MS. MAZZA: Thank you.

18 **DIRECT EXAMINATION**

19 BY MS. MAZZA:

20 Q. So, Miss, you indicated your initials are KK; is
21 that correct?

22 A. Yes.

23 Q. Do you play any sports?

24 A. Not currently, but in the past I have played

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1 softball and volleyball.

2 Q. Okay. How old are you?

3 A. I'm 17.

4 Q. Okay. So in the past when you played volleyball,

5 how old were you?

6 A. I started in eighth grade, so I would have been

7 about 13 and the last year I played, I was probably 15.

8 Q. Okay. So were you playing in 2018?

9 A. Yes.

10 Q. At any time, did you have the occasion to play or

11 be coached by or have any practices with Richard Jenkins

12 involved?

13 A. In 2018?

14 Q. Yes.

15 A. No.

16 Q. Okay. Any time before that?

17 A. Yes.

18 Q. When would that have been?

19 A. In eighth grade.

20 Q. Okay. At Pau-Wa-Lu?

21 A. Yes.

22 Q. Okay. And Mr. Jenkins was your coach?

23 A. Yes.

24 Q. Do you see him here today?

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1 A. Yeah.

2 Q. All right. What color shirt is he wearing?

3 A. He's wearing a maroon shirt.

4 MS. MAZZA: Your Honor, the State would request

5 identification.

6 THE COURT: The record will reflect.

7 MS. MAZZA: Thank you.

8 BY MS. MAZZA:

9 Q. Now when you indicate that you played on a team

10 with Mr. Jenkins, were there other players, I assume, on your

11 team?

12 A. Yes.

13 Q. Was your sister on the team?

14 A. She was not.

15 Q. She was not. Did she practice with you guys?

16 A. No, not that year.

17 Q. When did she play with you guys?

18 A. That would have been in 2018. She -- we would

19 have had practices somewhat together, but we were never on the

20 same team.

21 Q. Okay. And in 2018, she would have been around?

22 A. Yes.

23 Q. Would another player by the initials "GW" have

24 been around?

1 A. Yes.

2 Q. In 2018?

3 A. Yes.

4 Q. Did you guys all three ever practice together?

5 A. There was a few times that we did, yes.

6 Q. Yeah. Was there ever a time the three of you and

7 Mr. Jenkins were there?

8 A. Yes.

9 Q. Ever a time that Mr. Jenkins and GW were in close

10 contact?

11 A. Yes.

12 Q. Can you describe that for me?

13 A. There was one time where we all were practicing

14 together and Rick and the initials GW, we all were working on

15 serving and Rick was saying that she needed to have more hip

16 movement in her serve, and he had grabbed her waist and kind

17 of rotated her hips, showing her how to move her hips when she

18 serves.

19 Q. When you say "grabbed her waist," he used his

20 hands?

21 A. Yes.

22 Q. And touched her waist?

23 A. Yes.

24 Q. Did he do that with all the players?

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1 A. No.

2 Q. Had you ever seen him do that before?

3 A. No.

4 Q. All right. Did it make you uncomfortable?

5 A. Yes.

6 Q. What did you do in response?

7 A. I waited until after practice and then I went and

8 told some other coaches what I saw because I knew that it

9 was -- it made me uncomfortable and I knew it was

10 inappropriate.

11 Q. So you told other coaches present at the time?

12 A. Yes.

13 Q. And was that at the Douglas County rec center?

14 A. That was at Douglas High School.

15 Q. Okay. Had you previously noticed that, any

16 contact between Mr. Jenkins and GW?

17 A. I had noticed kind of a weird relationship. I

18 don't know if I had seen any physical contact before that. I

19 don't really remember. But I do know that I had like

20 recognized just some off things in their relationship.

21 Q. Do you know Mr. Jenkins' daughter?

22 A. I do.

23 Q. Is that AJ?

24 A. Yes.

1 Q. Did she play volleyball with you?

2 A. Yes.

3 Q. And had you ever noticed that kind of contact
4 between Mr. Jenkins and AJ?

5 A. Not physical contact.

6 Q. Now, when you say Mr. Jenkins was close to GW
7 when this occurred, was -- did he act like this with any other
8 players?

9 A. No, he only did that with her.

10 MS. MAZZA: Your Honor, I have no further
11 questions.

12 THE COURT: Cross-examination.

13 MS. RISTENPART: Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 BY MS. RISTENPART:

16 Q. In reference to this one episode that you're
17 testifying in regards to observing Mr. Jenkins instructing GW
18 about serving; right?

19 A. Um-hum.

20 Q. So you guys were at practice; right?

21 A. Um-hum.

22 Q. Other people are around?

23 A. Yes.

24 Q. It was in full view of everyone?

1 A. Yes.

2 Q. And you stated Mr. Jenkins -- you saw that

3 Mr. Jenkins was trying to coach or teach GW how to serve?

4 A. Yes.

5 Q. Right? And you also heard instruction from

6 Mr. Jenkins to GW, you need to use more of your hips; right?

7 A. Yes.

8 Q. Which as a volleyball player, you know you have

9 to use hips?

10 A. Yes.

11 Q. To get the serve; correct?

12 A. Yes.

13 Q. And then you stated that you saw Mr. Jenkins

14 use both -- well, use his hands and physically maneuver or

15 touch GW's waist to maneuver her into the right position?

16 A. Yes.

17 Q. So throughout that period, he was actively

18 instructing GW?

19 A. Yes.

20 Q. And when you state "the waist," we're talking

21 above the hips; right?

22 A. Right above the hips, yes.

23 Q. Okay. And at any time, did you see Mr. Jenkins

24 touch GW's butt?

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1 A. Not that I could see.

2 Q. At any time, did you see Mr. Jenkins touch her

3 vaginal area?

4 A. Not that I could see.

5 Q. At any time, did you see him touch her chest?

6 A. Not that I could see.

7 Q. Now, did you know the nature of the relationship

8 between GW and Mr. Jenkins?

9 A. I knew that he was a coach for her and I knew

10 that both AJ and GW were friends and they hung out quite

11 often.

12 Q. Do you know GW very well?

13 A. Not too well. I've never -- I maybe had a few

14 conversations with her, but I wouldn't say we're close

15 friends.

16 Q. When you observed Mr. Jenkins instructing GW,

17 what was GW's reaction?

18 A. I didn't notice a huge reaction. I kind of felt

19 like she might have been uncomfortable, but she didn't display

20 it very well, you know. She wasn't trying to get away or like

21 feeding into it. She kind of was just there, letting it

22 happen, I guess.

23 Q. So you said you thought maybe she felt

24 uncomfortable, but you don't really know?

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1 A. Her facial expressions showed a little bit of
2 uncomfortableness, but she never had any like full body
3 actions to try and avoid it.

4 Q. You were interviewed by Douglas County Sheriff's
5 Office; correct?

6 A. Yes.

7 Q. And you were interviewed back on November 5th,
8 2018?

9 A. Yes.

10 Q. In fact, you were interviewed with your sister
11 sitting next to you; right?

12 A. Yes.

13 Q. And in that interview, did you tell the detective
14 that GW's response was she didn't think anything was wrong
15 with that?

16 A. I don't remember saying that. That was quite a
17 while ago.

18 Q. Now, you were just asked some questions about
19 your observations of Mr. Jenkins' interactions with his
20 daughter, AJ?

21 A. (Nodded head.)

22 Q. Right?

23 A. Um-hum.

24 Q. And you just testified for the State that you

1 didn't think that they were as physically close as you saw GW
2 and Mr. Jenkins?

3 A. Yes.

4 Q. Do you remember telling the detective something
5 different when you were interviewed?

6 A. No.

7 Q. Did you tell the detectives that AJ would stand
8 just as close to Mr. Jenkins as GW would?

9 A. I don't remember saying that.

10 Q. Now, to be fair, you were being interviewed with
11 your sister; right?

12 A. Yes.

13 Q. So your sister could have said that in the
14 interview?

15 A. She could have.

16 Q. At any time, was Mr. Jenkins inappropriate with
17 you?

18 A. No.

19 MS. RISTENPART: No further questions. Thank
20 you.

21 THE COURT: Redirect, Ms. Mazza?

22 MS. MAZZA: No, Your Honor. Thank you.

23 THE COURT: Ms. Mazza, may this witness be
24 excused?

1 MS. MAZZA: Yes.

2 THE COURT: Ms. Ristenpart?

3 MS. RISTENPART: Yes, Your Honor.

4 THE COURT: Okay. KK, thank you. You are

5 excused. Please do not discuss your testimony with anyone

6 except for the attorneys in this case or their investigators.

7 THE WITNESS: Okay. Thank you.

8 THE COURT: You're welcome.

9 MS. MAZZA: Your Honor, actually I don't believe

10 I'm be calling any more witnesses.

11 THE COURT: All right. Do you need a moment

12 before you make that decision or --

13 MS. MAZZA: No, if I could just let a witness

14 know that I'm not calling.

15 THE COURT: Absolutely.

16 MS. MAZZA: Thank you.

17 Your Honor, at this time, the State will not call

18 any additional witnesses and we're prepared for argument.

19 THE COURT: Okay. Very good. Ms. Ristenpart,

20 are there any witnesses you desire to call for this motion?

21 MS. RISTENPART: Your Honor, with the Court's

22 indulgence, please.

23 THE COURT: Yes, take your time.

24 MS. RISTENPART: Thank you. Thank you,

1 Your Honor.

2 THE COURT: You're welcome.

3 MS. RISTENPART: Defense would just ask to
4 briefly recall GW.

5 THE COURT: All right. You may.

6 MS. RISTENPART: I don't know where she is.

7 THE BAILIFF: Is she in your office?

8 MS. MAZZA: Um-hum. And, Your Honor, while we're
9 getting GW, I would have an objection to her being called as a
10 witness on this motion, which the State has filed this motion.
11 I believe we've proven our motion with the witnesses that we
12 have. There is no impeachment -- there is no impeachment to
13 be done of GW at this time as she was not called by a witness.

14 So for any other purpose of calling her, I
15 believe it would really be just harassment at this point of
16 her. And I believe under the Nevada constitution, she has a
17 right to not be overly questioned or overly harassed in a
18 case.

19 THE COURT: Hold on one second. I'm going to
20 have you remain outside the courtroom just for a moment.
21 Thank you. All right.

22 Ms. Ristenpart, why are you calling GW?

23 MS. RISTENPART: Your Honor, as I had prefaced
24 with the Court when I kept her under subpoena, is based upon

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1 some of her witnesses, I would anticipate having to recall GW
2 to ask some questions, specifically VS and her accusation or
3 claim that she overheard a phone call.

4 GW has never described that, has never been
5 questioned about that. And without any kind of phone records
6 to back that up, I think it's very suspect, VS's claims, that
7 the Court's to consider as being a, quote, "prior bad act" the
8 State wants you to admit evidence of without any confirmation
9 that this actual phone call occurred.

10 THE COURT: So you believe she might offer
11 evidence that would refute that the bad act occurred?

12 MS. RISTENPART: Correct.

13 THE COURT: Okay. So, Ms. Mazza, your burden is
14 to show that a bad act occurred by clear and convincing
15 evidence. Certainly the defense gets a chance to attempt to
16 rebut that. As long as it's within that framework,
17 Ms. Ristenpart, I'm inclined to allow it. But, Ms. Mazza,
18 I'll certainly hear from you.

19 MS. MAZZA: Your Honor, I, again, would object
20 for the reason I believe the State has already met that burden
21 of clear and convincing evidence with the testimony of VS -- I
22 apologize, VS, at this time. This isn't trial.

23 Defense is well allowed to cross-examine GW on
24 any of these issues at trial. What we're just here for is the

1 experience that VS had. She testified to that. Defense was
2 able to cross-examine her about that. I believe that we've
3 met that burden sufficiently at this time and I believe that
4 GW can be cross-examined about this at trial.

5 But at this time, I believe we've met our burden
6 on it and I believe calling her would just go to undue
7 harassment or undue hardship to her at this time, which I
8 don't think she should have under the Nevada constitution.

9 THE COURT: All right. Thank you. I'm going to
10 go ahead and allow her to be recalled. Ms. Ristenpart,
11 though, let's keep it to the point that's appropriate for this
12 particular motion and hopefully the questions will be limited.
13 Let's go ahead and bring her in.

14 All right. GW, come on back up to the stand.
15 You remain under oath. You can go ahead and remove your mask
16 again. And, Ms. Ristenpart, you may proceed.

17 MS. RISTENPART: Thank you.

18 GW,
19 recalled as a witness on behalf of the
20 DEFENSE, was previously sworn and
21 testified as follows:

22 **DIRECT EXAMINATION**

23 BY MS. RISTENPART:

24 Q. GW, did you ever have a phone conversation with

1 Mr. Jenkins that your best friend, VS, listened in on?
2 A. Yes.
3 Q. When was that?
4 A. It was a while ago and --
5 Q. Go ahead.
6 A. I'd say like 2018, I believe, in the summer.
7 Q. And why does this phone call stand out to you?
8 A. Stand out to me?
9 Q. Um-hum?
10 A. He was asking what like -- if my mom was around
11 and if she could hear me.
12 Q. In regards to that conversation, that occurred
13 after you and Mr. Jenkins and your mom talked?
14 A. What was that?
15 Q. It was a bad question. Let me rephrase.
16 At some point, did you have a conversation with
17 your mom and Mr. Jenkins about contact with Mr. Jenkins?
18 A. Correct.
19 Q. And to clarify, you were still allowed to hang
20 out with Mr. Jenkins and AJ; right?
21 A. Yes.
22 Q. It just was not to be alone essentially?
23 A. Yeah.
24 Q. And why did Mr. Jenkins call you that day?

1 MS. MAZZA: Your Honor, I'm going to object. I
2 think the purpose has been fulfilled at this point. I think
3 anything else is outside of the scope of figuring out if --
4 what the testimony of VS would be compared to GW.

5 THE COURT: All right. It also would be
6 speculation for her to say why he was calling her. So that
7 objection is sustained.

8 BY MS. RISTENPART:

9 Q. Did you often talk on the phone about volleyball
10 and planning practices?

11 MS. MAZZA: Your Honor, I'm going to object for
12 the same reason. Again, Defense made it clear for their
13 reason for calling.

14 THE COURT: That's sustained.

15 MS. RISTENPART: No further questions,
16 Your Honor.

17 THE COURT: All right. Ms. Mazza, do you have
18 any other questions?

19 MS. MAZZA: No, Your Honor. Thank you.

20 THE COURT: And for today's purpose, may this
21 witness be released, Ms. Mazza?

22 MS. MAZZA: Yes.

23 THE COURT: Ms. Ristenpart?

24 MS. RISTENPART: Yes.

1 THE COURT: All right. GW, you are excused.
2 Please do not discuss your testimony with anyone except for
3 the attorneys in this case or their investigators. Thank you.

4 THE WITNESS: Thank you.

5 MS. RISTENPART: Your Honor, at this time, I'd
6 also release Detective Chrzanowski.

7 THE COURT: Thank you. Ms. Ristenpart, do you
8 have any other witnesses?

9 MS. RISTENPART: Not at this time, Your Honor.

10 THE COURT: And, Ms. Mazza, did that testimony
11 cause you to want to call any other witnesses?

12 MS. MAZZA: No, Your Honor. Thank you.

13 THE COURT: Okay. All right. We'll go ahead
14 then and take closing arguments. Since this is the State's
15 motion, Ms. Mazza, you can go first and then offer rebuttal
16 again.

17 MS. MAZZA: Thank you, Your Honor.

18 Your Honor, in this motion, the State and Defense
19 have both briefed pretty extensively what we believe the
20 applicable law to be in this case.

21 And at this time, the State believes we have met
22 our burden for this conduct which you've heard about today and
23 the conduct would be indicated in our motion to be admitted as
24 both prior bad acts, res gestae or inappropriate previous

1 sexual conduct.

2 In this case, you heard a lot about the conduct
3 between GW and Mr. Jenkins that several people observed,
4 several people who came here to testify, and they observed
5 that conduct and that conduct actually led to the
6 investigation in this case. So that, alone, the State
7 believes it is admissible as res gestae.

8 But we've gone a step beyond and we've proven by
9 clear and convincing evidence that this testimony is also
10 admissible as prior bad acts.

11 If Your Honor were to find that his conduct with
12 GW or his conduct with other volleyball players were bad acts,
13 we believe we've met our burden as meeting that as well. We
14 believe it is admissible to show a lack of mistake or his
15 motive -- MO in how he conducts himself with volleyball
16 players, other female students, other female juveniles.

17 There is no mistake that Mr. Jenkins was acting
18 in this way with GW and knew that it was inappropriate. I
19 think you heard testimony that on a couple occasions,
20 Mr. Jenkins was talked to by staff for the school district and
21 Tamara Woodbridge, all telling him that they need to not have
22 any physical conduct between the two of them, yet that conduct
23 still continued. So there is no mistake. I think this all
24 goes into showing there was no mistake by Mr. Jenkins of what

1 he was doing.

2 I also think it goes into showing his conduct in
3 putting himself in these situations around these young
4 vulnerable girls playing these sports, in a situation where
5 they felt uncomfortable and which some would term as a sexual
6 encounter between him, whether it be the way he was touching
7 someone.

8 Although it's not criminal, the State believes it
9 is a prior bad act and he could be facing repercussions for
10 those actions that he had with the other students as well as
11 GW.

12 I believe we've laid it out pretty extensively in
13 our motion of why it fits under a sexual act, but it also fits
14 under prior bad acts as well as res gestae to this case. I
15 don't believe we can tell this story to a jury or we could
16 tell this case to a jury without telling them how we got here,
17 without telling them all the reports that there were of the
18 conduct between the two of them. So I don't believe that a
19 jury can decide this case without that information.

20 And defense argued that our position was
21 unconstitutional. I believe we flushed that out pretty
22 extensively in our reply with regard to this case. This
23 information is more prejudicial than probative as well. I
24 believe that is a prong Your Honor has to decide with regard

1 to this. It is probative to show the entire contact, the
2 entire package of Mr. Jenkins.

3 For a jury to go in there and not have any of
4 this information would be inappropriate. A hug can be a hug,
5 but it can also be inappropriate contact, which it is in this
6 case, and the jury is -- needs that information to make that
7 decision.

8 It is not more prejudicial and it is highly
9 probative to the jury in making this decision as to how this
10 contact grew between GW and Mr. Jenkins and as to how
11 Mr. Jenkins conducted himself with females in similar
12 positions.

13 So we would ask that you grant our motion here
14 today. We believe we've met our burden with the witnesses
15 we've brought forward today and we would ask that you grant
16 our motion.

17 THE COURT: Thank you, Ms. Mazza.

18 Ms. Ristenpart.

19 MS. RISTENPART: Thank you, Your Honor.

20 As I pointed out in my opposition, and I'll
21 reiterate today, it's hard for defense to actually piece apart
22 what the State is trying to bring in as, quote, "a prior bad
23 act," a prior sexual offense and/or under the theme of res
24 gestae.

1 They are clumping together all the testimony we
2 heard today from several different people over a span of time
3 and saying, just a minute, Your Honor, because it shows that
4 Mr. Jenkins is a bad guy, which is exactly why they want this,
5 Your Honor. They want to have a parade of young females
6 coming in before the jury to prejudice unfairly Mr. Jenkins by
7 innuendo and opinion, because what did the Court actually hear
8 today?

9 And I think we have to piece apart as much as I
10 can piece apart what the State's arguments are, is that the
11 first portion is they're trying to admit in other acts
12 described by testimony here today that does not involve GW.
13 I'll address those first.

14 You heard about the sports bra and the color of
15 the sports bra and that being a, quote, "prior bad act." You
16 also heard of the claim as to throwing the balls at the
17 volleyball players' butts. I'm assuming that is one of these
18 bad acts that they're referring to.

19 If you look at indicia, you also heard from --
20 the court's indulgence. That, from my understanding of the
21 testimony, are the two only prior bad acts that have nothing
22 to do with GW. And again, like I said, it's hard to respond
23 to the State's overwhelming argument.

24 But those -- if we look at those, themselves, has

1 the State met the burden under Petrocelli? They are trying to
2 argue by clear and convincing evidence that, one, that this is
3 relevant, and two, that they've proven it by clear and
4 convincing evidence, and three, that it goes to some kind of
5 purpose other than to claim propensity.

6 As you heard from testimony, she clearly stated
7 that she was wearing a uniformed shirt, that the other girl
8 next to her may have laughed in reaction to it, that the
9 colors of the sports bra were clearly visible from the front
10 and the back, and that that made her feel uncomfortable.

11 There wasn't anything sexual in nature in any of
12 the commentary or any of the statements. It was simply a
13 statement of you guys are wearing the opposite colors in your
14 sports bras that were clearly visible even by her own
15 testimony because they were super sheer uniformed shirts.

16 Does that rise to show some kind of lack of
17 mistake or kind of some MO? That has nothing to do with the
18 allegations against GW. GW never claimed that Mr. Jenkins
19 made any comments about her sports bra or clothing or anything
20 along those lines.

21 That also being said, I think the government is
22 then trying to argue, well, if you don't believe that as being
23 an exception under Petrocelli, then just lump it under, you
24 know, sexual propensity offenses.

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1 But that's clearly not what occurred here as it
2 was in front of other people, and the gist of it was that it
3 was made for a joke and -- or just merely an observation, not
4 sexual in nature as you heard testimony.

5 In regards to throwing the balls at volleyball
6 players' butts, you heard that it wasn't testimony, that it
7 wasn't singled out for any single one person. In fact, no one
8 testified that Mr. Jenkins ever threw a volleyball at GW's
9 butt.

10 So how that would go to some kind of relevance to
11 GW's allegation, it's such a far stretch, it's irrelevant,
12 Your Honor, and coupled with it, again, is just -- the whole
13 point is for the State to have a parade of young women coming
14 through, saying they felt uncomfortable, which is an opinion.
15 That's not fact.

16 That is their opinions after the fact, after
17 Mr. Jenkins was arrested, they're then interviewed by
18 detectives and they're all claiming that they felt
19 uncomfortable by certain actions at the time that were never
20 reported.

21 So when you're looking at those two acts that I
22 believe the State is trying to get in as to the sports bra
23 comment and also the throwing the balls at volleyball players'
24 butts, neither of those are sexual in nature.

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1 It doesn't come in under that exception and, Your
2 Honor, they have not met their burden by showing that it is
3 relevant to these proceedings and to GW's allegations. It has
4 not met any kind of MO or lack of mistake. So those two are
5 inadmissible.

6 Going forward, Your Honor, you heard a lot of
7 testimony about, again, innuendo about what people thought
8 they observed, and again, just talking to detectives after the
9 fact of Mr. Jenkins' arrest as to what they thought was
10 uncomfortable behavior or, you know, they were just really
11 close to one another, and I think we have to look at each one
12 individually. We can't just, as the State wants you to do,
13 lump them all together.

14 Because you also -- you heard from Erica Janicki,
15 the mom at the restaurant who claimed that on July 30th, 2018,
16 she saw Mr. Jenkins, AJ and also GW at the restaurant and that
17 she saw that GW was sitting too close or that Mr. Jenkins and
18 GW were sitting too close to one another; right?

19 We also have a picture depicting, well, it looks
20 to be GW leaning her head upon Mr. Jenkins' shoulders and also
21 Mr. Jenkins looking at clearly looks to be a menu or a phone,
22 something in front of him.

23 You heard testimony that it wasn't sexual in
24 nature. You also heard testimony directly from GW's mother

1 that GW is a clingy, physical, affectionate kid and that
2 sometimes she would cling on people and that she could be
3 huggy and also stand close to people.

4 And you also heard a lot of testimony from a lot
5 of the witnesses that GW would be the one who initiated it
6 herself, including from the principal who saw GW come up
7 behind Mr. Jenkins and lean against him like you heard a lot
8 of the testimony, a lot of leaning; right, but that they
9 investigated it and then brought Mr. Jenkins back to work.

10 So for this claim as to -- that somehow these
11 uncharged acts are bad pursuant to Petrocelli, and that
12 they've been proven by clear and convincing evidence, the
13 State hasn't met its burden. And going through each and every
14 one analysis under Petrocelli is critical and that's what the
15 State doesn't want the Court to do.

16 They want you to just blanket allow everything in
17 to say, well, you know what, everything comes in because it's
18 not fair to the State as the State just argued. It's not fair
19 if they don't get to see the true Mr. Jenkins.

20 But that's completely what a Petrocelli hearing
21 is for, that they don't get to prejudice unfairly a man who's
22 being accused by one individual of inappropriate sexual
23 touching, and that's GW.

24 Everyone else this whole show, this entire

1 afternoon has been it kind of made me uncomfortable, but it
2 wasn't sexual. There was no touching that was sexual, there
3 was no touching that matched what GW is claiming.

4 So therefore, Your Honor, the only reason they're
5 trying to get this in is to prejudice Mr. Jenkins unfair, and
6 they're trying to make it and force us as defense to have a
7 trial within a trial, that now we're not just arguing against
8 GW's allegations as in the Information, we're now under the
9 umbrella of, well, there's all this weird behavior as their
10 description, which again, is opinion evidence and none of
11 them -- no other relationship between Mr. Jenkins and AJ and
12 also GW. They're not privy to anything.

13 So for them to come in and make this argument and
14 try to say, well, in hindsight, I found it to be weird, but I
15 didn't make any report at the time, the prejudicial factor is
16 overwhelming. And that's exactly why we keep out this kind of
17 evidence where it's speculative innuendo and simply just there
18 to prejudice unfairly in front of a jury trial.

19 I'm happy to go through each of that analysis
20 with you, Your Honor, because I know that there was several
21 different things about GW's interactions that they're trying
22 to bring in as the uncharged bad acts, but I would just
23 refresh the Court's memory.

24 None of it was sexual in nature, so therefore, it

1 doesn't fall under propensity. It's not a sexual offense
2 pursuant to the statute as I argued in my opposition and it
3 doesn't come in under that exception.

4 Whether or not it met the burden of Petrocelli,
5 even if they show by clear and convincing evidence because
6 they had one person testify that -- it's not relevant. It
7 doesn't show any kind of purpose in regards to GW's
8 allegations.

9 So with all that, Your Honor, we're asking that
10 specifically the acts that have nothing to do with GW are
11 completely inadmissible and clearly inadmissible. The acts
12 claim to be GW don't fit any of the criteria and are not
13 admissible under our law. Thank you.

14 THE COURT: Thank you, Ms. Ristenpart.
15 Ms. Mazza, you may rebut.

16 MS. MAZZA: Thank you, Your Honor.

17 Well, with the way Ms. Ristenpart just argued it,
18 then none of this Information is a bad act involving GW. So
19 we don't even need to be going through this analysis at all by
20 the way that Ms. Ristenpart describes it, and it should be
21 just be admissible.

22 But we've gone that step further and we have done
23 the analysis under Petrocelli and we have done the analysis
24 under Franks, and we have looked at the case as a whole on all

1 of the different items that we are talking about. And we've
2 laid them out specifically in our motion, we laid them out
3 with witnesses here today, so I do believe we've met our
4 burden.

5 Ms. Ristenpart said herself, it does not go to
6 propensity. Exactly. We're not trying to do this for
7 propensity. That would be inadmissible. We're trying to do
8 this to show the lack of mistake, his modis operandi. We're
9 trying to meet it under these standards of Petrocelli and we
10 believe we have met that.

11 Your Honor, the Defense counsel indicated that
12 this is all opinion. I think you know very well that we
13 didn't hear opinions here today. We heard exactly what people
14 saw and what people observed. That's not their opinion, what
15 they saw in this case.

16 And you also heard them indicate that they did
17 not see the Defendant stop any of the conduct with regard to
18 GW. That is -- regardless of that, this is important and it
19 does meet the criteria under Petrocelli.

20 Your Honor, we're not asking that you blanket
21 allow all of this information. If that was the case, we would
22 have just put it all there and said let this information in.
23 We very carefully separated each item. We very carefully
24 called separate witnesses to talk about all of this. We're

1 not asking for a blanket admission of this evidence.

2 We believe it's appropriate, we believe we've met
3 the standards under Petrocelli as well as Franks. We believe
4 that it is more probative than prejudicial in this case and we
5 would ask that you grant our motion here today based upon the
6 testimony, based upon the motion and the reply in this case,
7 we believe we have met our burden.

8 THE COURT: Ms. Mazza, you said you didn't
9 think -- or you weren't offering it for propensity. Are -- is
10 it your position that the evidence does not show a propensity
11 to commit sexual acts?

12 MS. MAZZA: Your Honor, I think it'd be
13 inadmissible if we're trying to get it in under -- for
14 propensity to act that way. I believe Petrocelli is specific
15 to that. We have to be admitting it for a specific purpose,
16 and in this case, I believe our specific purpose is very clear
17 as lack of mistake or MO in this case.

18 He acts the same way with these similar women,
19 young women in similar circumstances playing for sports teams
20 for him. So we do believe we've met the separate prongs that
21 are required, not propensity in this case.

22 THE COURT: All right. Thank you. Counsel,
23 thank you for your efforts in all of these motions here today.
24 The briefs are very helpful to the Court as was the advocacy

1 here in the courtroom and the presentation of the witnesses.

2 It is my intention to take the remaining motions
3 under advisement and you will hear from me by way of my
4 written orders that will be coming.

5 One just bit of housekeeping. The trial in this
6 case is currently scheduled to begin on April 20th. The
7 Court -- we are not going to convene on that date. Instead,
8 we will beginning the trial the following date -- day, which
9 is Wednesday, the 21st, and I had issue a new scheduling order
10 to reflect that change. So we're not starting on the 20th, we
11 are starting on the 21st. I think that concludes everything
12 that we have here today, and again, I thank counsel.

13 Ms. Mazza, did you have something?

14 MS. MAZZA: Your Honor, with regard to
15 housekeeping, I do have just a couple of questions. That
16 trial date of the 21st, for the purposes of both counsel
17 subpoenaing witnesses and having them present, do you
18 anticipate that entire day will be jury selection?

19 THE COURT: So typically on a case like this, I
20 would say in most cases, we finish jury selection in the
21 morning at some point. A case of this nature, jury selection
22 tends to go a little bit longer.

23 So if counsel wants to pre-decide that, all we
24 would accomplish on the first day would be jury selection and

1 at the most opening statements and no calling of witnesses.
2 I'm willing to accommodate counsel and witnesses in that
3 fashion, at least then you know you don't have to have
4 witnesses on that date. So that makes sense to me and I'm
5 open to that if that's what counsel prefers.

6 MS. MAZZA: I think I'm mostly just referring to
7 the fact that COVID, I don't know if jury selection takes
8 longer in this department based upon that. So if we all are
9 in agreement to that, that would be fine with the State.

10 THE COURT: Okay. Ms. Ristenpart, your thoughts
11 about, at the most, on the first day, doing jury selection and
12 if we get to it, opening statements, but not getting into
13 witnesses.

14 MS. RISTENPART: I agree. That's usually my
15 experience is how far we get on these types of allegations.

16 THE COURT: All right. So that's going to be our
17 game plan here. And so the State, you do not need to have
18 your witnesses on the 21st. You will need then to be ready to
19 go on April 22nd.

20 MS. MAZZA: And, Your Honor, another question I
21 have: I believe that Defense has indicated they will probably
22 be filing another motion and we'd like to set another motion
23 hearing date now.

24 THE COURT: Ms. Ristenpart, I don't know if

1 you've decided yet or not. Do you anticipate that you will be
2 filing another motion?

3 MS. RISTENPART: I do.

4 THE COURT: Okay. And if it's a type of motion
5 that we expect from your reply brief, it would most likely
6 take witnesses. Do you agree with that or --

7 MS. RISTENPART: I do agree with that.

8 THE COURT: Okay. So we probably should go
9 ahead -- why don't we go ahead and set a briefing schedule?
10 We're getting pretty close to the trial here. So let's go
11 ahead and set a briefing schedule and a hearing date.

12 So, Ms. Ristenpart, when can you file that
13 motion?

14 MS. RISTENPART: Your Honor, if I could have
15 until Monday, I need the weekend to work on it.

16 THE COURT: All right. That's pretty fair. So
17 that would be Monday, the 15th, would -- that'd be the
18 deadline to file the motion. So if that was served on the
19 same day, if we were to have briefing following the normal
20 course under court rules, I believe the response or opposition
21 would be due on the 29th. I'm trying to see if we're going to
22 be -- if we can follow the normal schedule or not.

23 So if we went to the 29th and then, Ms.
24 Ristenpart, you would get, then, time to reply, we're going to

1 be bumping right up against that trial. So --

2 MS. RISTENPART: Your Honor, if it's possible,
3 can we shorten both my reply and possibly the State's? I
4 think they already have a pre-glimpse of what we're going to
5 be arguing from my reply.

6 THE COURT: What do you propose?

7 MS. RISTENPART: Well, Your Honor, I can turn
8 around and reply within three days. I don't need the five
9 days.

10 THE COURT: Okay. So that's helpful. Ms. Mazza,
11 you haven't seen the motion yet, so it's kind of hard to know
12 how much time you would need to respond. So, again, the
13 normal course, I believe, would give you until the 29th,
14 assuming the motion is served on the 15th.

15 Ms. Ristenpart, would you be serving it? Can you
16 get it to Ms. Mazza on the 15th?

17 MS. RISTENPART: I'll send her an electronic
18 copy, Your Honor.

19 THE COURT: Okay. So if we gave the State the
20 full time to respond, which would be the 29th, and then we did
21 three days after that for your reply, that your reply would be
22 due on April 1st and then we could get a hearing in the
23 following week.

24 So the week of the 5th, we'd look for a hearing

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1 date there and that's a full two weeks before the trial. So I
2 think that makes the most sense here and that's what we're
3 going to do.

4 So the motion's due by the 15th with service on
5 that date. The State's reply will be due on the 29th and
6 served on the same day as well. Defendant's reply will be due
7 April 1st and now I have some motion hearing dates for you.

8 Ms. Ristenpart, would you be available on
9 Tuesday -- well, let me ask first: How long do you think this
10 hearing -- how long do we need for the hearing?

11 MS. RISTENPART: Your Honor, I would anticipate
12 no more than half a day.

13 THE COURT: Okay.

14 MS. RISTENPART: If we start at nine o'clock like
15 we did today.

16 THE COURT: Great. Ms. Mazza, does that sound
17 about right to you?

18 MS. MAZZA: Yes, Your Honor.

19 THE COURT: Okay. So can I offer Tuesday,
20 April 6th at 9 o'clock in the morning, so from 9:00 to 12:00.
21 Ms. Ristenpart, are you available on that date?

22 MS. RISTENPART: I am available, yes.

23 THE COURT: And do you have any reason to think
24 your witnesses wouldn't be available?

1 MS. RISTENPART: If -- once we subpoena them, if
2 there's any issue, I'll bring it immediately to the State's
3 and also the Court's attention.

4 THE COURT: Okay. Ms. Mazza, would you be
5 available on the 6th at 9 o'clock?

6 MS. MAZZA: Yes, Your Honor.

7 THE COURT: Excellent. So we'll have a motion
8 hearing on the to be filed motion on April 6th at 9 o'clock in
9 the morning set from 9:00 to 12:00.

10 Are there any other motions anticipated, Ms.
11 Ristenpart?

12 MS. RISTENPART: Not at this time, Your Honor.

13 THE COURT: Ms. Mazza?

14 MS. MAZZA: Your Honor, I'm going to guess that
15 there might be motions with regard to expert witnesses. I
16 know there was previously one filed, so I think we can
17 approach that as the expert notice deadline comes and go from
18 there.

19 THE COURT: Okay. Very good.

20 MS. RISTENPART: So based upon the Court's
21 statements, they're going to notice a new expert?

22 THE COURT: Ms. Mazza?

23 MS. MAZZA: Your Honor, I don't know at this
24 time.

1 THE COURT: Yeah.

2 MS. MAZZA: I obviously will file within the
3 deadline. I also don't know if the defense intends to notice
4 the same experts. We haven't hit that deadline yet, so I just
5 am assuming there could be more issues coming up. I don't --
6 as soon as I know my expert, I will let Ms. Ristenpart know.

7 THE COURT: Okay. And I'm not, at this stage,
8 going to look into a crystal ball. We don't know what's going
9 to happen, nor is it my intention to delve into anybody's
10 strategies at this time.

11 Of course, you do need to follow the statutory
12 deadlines for experts and witnesses, and if that creates any
13 issues, we'll deal with it as it arises.

14 MS. RISTENPART: Your Honor, I'd just ask for the
15 Court's consideration if we are going to be noticing new
16 experts or amending our notice of expert, that we actually do
17 that 45 days out versus the regular 21 days as if there is an
18 issue that she's trying to call some other expert, that it's
19 going to definitely result in a hallmark hearing and we would
20 need to set that also.

21 THE COURT: Well, again, I'm not going to guess.
22 Of course the Court will avail itself to the parties as issues
23 come up. There's always issues as these cases get close to
24 trial.

1 I do appreciate the efforts counsel have made to
2 get most of the issues ferreted out in a timely fashion, but
3 I'm not going to guess at where things might go.

4 MS. RISTENPART: And then lastly, Your Honor, in
5 regards to, I believe, the trial order that you issued, do we
6 meet with your clerk the Friday before court or the Thursday
7 before court for exhibits?

8 THE COURT: For the what?

9 MS. RISTENPART: Marking of exhibits?

10 THE COURT: I don't know that there has been --
11 so what is your preference? Because we can discuss that right
12 now with the clerk being here and even schedule a time to do
13 that. What would you like to do?

14 MS. RISTENPART: Normally I work with the Court
15 Clerk as to at least Thursday or Friday before trial, though
16 we are starting Wednesday. So I guess it's up to the Court's
17 schedule. The closer to the trial start, the more preference
18 I have.

19 THE COURT: Okay. I'm going to suggest here that
20 we could use the date that we were going to start the trial
21 on, which would be Tuesday, the 20th, as the date to mark
22 exhibits. Madam Clerk, currently, would you be available to
23 assist the parties in pre-marking exhibits on the 20th?

24 THE CLERK: Yes, yes.

1 THE COURT: Is there a time that works best for
2 you?

3 THE CLERK: Anytime.

4 THE COURT: Okay. Ms. Ristenpart, what time
5 would work best for you?

6 MS. RISTENPART: Usually maybe around 10 or 11
7 just so --

8 THE CLERK: Okay.

9 MS. RISTENPART: -- we're past traffic if that's
10 okay.

11 THE COURT: You want to say 10 o'clock?

12 MS. RISTENPART: 10 o'clock would be perfect.
13 Thank you.

14 THE COURT: To mark the exhibits. That would be
15 on the 20th. I will offer to counsel, I don't know whether
16 you're going to have the need for audio-visual technology.
17 It's perfectly okay with the request for either counsel to
18 come in and play with the equipment and get used to it.

19 And so we just ask that if you have that request,
20 let my judicial assistant know that and we'll put you in
21 contact with the Court's IT person who can arrange a schedule.

22 And again, I don't know that that is needed here
23 or not in this case. Just so both parties are aware of the
24 abilities, of course, you've seen the big screen set monitor.

1 There's also a monitor in front of the witness.

2 The Court also gets to see everything here and
3 there's monitors on counsel's desks. In the jury box, there
4 are also drop-down monitors so the jury can see everything
5 that's going on.

6 If you are going to be presenting something
7 audio/visual wise, you will need to bring in your own lap top
8 computer and it gets plugged in right there in front of you
9 and that's how you tie in then to the screens.

10 We do have -- the witness' screen can be -- you
11 can ask a witness to mark a screen with his or her finger and
12 it'll tell her that you want them to circle something, they
13 can do that. And you can also then preserve that as an
14 exhibit and we can print that out. Typically, what we do, if
15 they mark something that way and you want it preserved for
16 evidence, you would make that request. We print it out, we
17 have it marked and preserved as an exhibit.

18 I'm trying to think if there's anything else.
19 But I just wanted you to know if you want that, we do have --
20 a lot of folks refer to it as an Elmo device, but we do have
21 that in here as well that's -- for overhead projection. Same
22 thing, you bring in your lap top computer and you plug in and
23 off you go.

24 All right. Ms. Ristenpart, anything else for

1 today's purpose?

2 MS. RISTENPART: In regards to the jury
3 instructions, does the Court prefer it to be in a PDF or
4 Microsoft Word or a different format?

5 THE COURT: Word is outstanding. I've found that
6 that really helps us when it comes time to settle the
7 instructions. My judicial assistant is awesome about working
8 with us on those and making changes as we need them. And so
9 if we have those in Word form and can make those changes as
10 needed, it's really helpful. Saves a lot of time.

11 MS. RISTENPART: Thank you, Your Honor.

12 THE COURT: Yes. Ms. Mazza, do you have any
13 questions?

14 MS. MAZZA: No, Your Honor. Thank you.

15 THE COURT: I will tell the parties also just a
16 game plan in terms of COVID, I'm purposely vague and it's not
17 to be mysterious, it's that the COVID situation is ever
18 changing. And so, you know, we need to remain flexible to
19 change as things progress.

20 Right now, the way things are looking, things
21 have of course been improving, which is great, and hopefully
22 they'll keep improving between now and the trial.

23 Right now, the game plan would be to do the jury
24 selection at a remote location where the entire jury venire

1 would all come in. We -- this court did do a jury trial in
2 the middle of COVID and we did it successfully and got it to a
3 jury, but we did three panels where we brought panels here
4 into the courtroom. And while that worked okay, I have a
5 preference for doing one panel where everybody is present.
6 It's basically the same as you're used to doing.

7 Of course, we would have spacing, but it would be
8 at a remote location and that actually works well for our game
9 plan for using that day because -- as far as not bringing
10 witnesses because we're going to be starting at a remote
11 location.

12 And as I think about that, it might be pretty
13 difficult to even get to opening state -- we definitely would
14 not do opening statements at the remote location.

15 So it -- really, only if we got through jury
16 selection very quickly would I then have the jury return on
17 that same day to do opening statements here. So I'd say
18 there's a good possibility we only get as far as jury
19 selection on that first date.

20 Everything but jury selection will take place
21 here in the courtroom. We use spacing. You've already seen
22 my preferences when witnesses testify, the masks need to come
23 off. It's part of the right of confrontation.

24 Jurors will be spaced in the jury box. We give

1 them everything they need from sanitizer, masks, all those
2 things to help keep them safe. So those are just some of the
3 general procedures.

4 If you have questions now, I'm happy to try to
5 answer them, but again, the Court will remain flexible. If
6 things were to get improved dramatically here in the next
7 month, we would do everything here in the courtroom. But the
8 plan right now is at a remote location.

9 Ms. Mazza, do you have any questions about any of
10 that?

11 MS. MAZZA: No. Thank you, Your Honor.

12 THE COURT: Okay. You're welcome.

13 Ms. Ristenpart?

14 MS. RISTENPART: Not at this time. I've -- as we
15 go forward, I may have more and hopefully I can reach out to
16 the Court regarding logistics.

17 THE COURT: Absolutely. Yeah, yeah, and the best
18 way to do that, really, is when we have these hearings.

19 MS. RISTENPART: Okay.

20 THE COURT: If you have questions, ask, and I'll
21 try to answer the best I can. All right? Okay. Thank you,
22 both. Madam Clerk, do you have all the exhibits?

23 THE CLERK: Yes, I do.

24 THE COURT: Okay. Please bring those to me in

1 chambers as I will need them to review the motions.
2 THE CLERK: Okay.
3 THE COURT: Court stands in recess.
4 (Proceedings concluded at 3:48 p.m.)
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1 STATE OF NEVADA)
2)
3 COUNTY OF DOUGLAS)

4 I, Michel Loomis, Certified Shorthand Reporter of
5 the Ninth Judicial District Court of the State of Nevada, in
6 and for the County of Douglas, do hereby certify:

7 That I was present in Department No. II of the
8 above-entitled Court and took stenotype notes of the
9 proceedings entitled herein, and thereafter transcribed the
10 same into typewriting as herein appears;

11 That the foregoing transcript is a full, true and
12 correct transcription of my stenotype notes of said
13 proceedings.

14 DATED: At Carson City, Nevada, this 22nd day of
15 March, 2021.

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18 //SHELLIE LOOMIS
19 Shellie Loomis, CCR No. 228
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7
8 IN THE NINTH JUDICIAL DISTRICT COURT

9
10 STATE OF NEVADA, IN AND FOR THE COUNTY OF DOUGLAS

11 STATE OF NEVADA,

12 Plaintiff,

CASE NO: 19-CR-0188

13 v.

DEPT. NO. II

14 RICHARD JENKINS,

15 Defendant.

16 MOTION IN LIMINE TO SUPPRESS MANIPULATED

17 DOUGLAS COUNTY COMMUNITY CENTER

18 VIDEO SURVEILLANCE CLIPS

19 COMES NOW, Mr. Richard Jenkins, by and through his Counsel, Theresa Ristenpart,
20 Esq. and hereby move this Court to suppress irrelevant and highly prejudicial manipulated video
21 surveillance clips from the Douglas County Community Center.

22 This Motion is based upon the following Points and Authorities, exhibits, testimony, and
23 oral arguments.
24
25
26

POINTS AND AUTHORITIES

Statement of Relevant Facts

On September 28, 2018, law enforcement responded to the Douglas County Community Center on the report of "a volleyball coach making out with a seventeen-year-old in the corner."¹ While at the Douglas County Community Center, DCSO Deputy Williams watches security surveillance of interactions between Mr. Richard Jenkins (Mr. Jenkins) and the minor female and concludes that there is "nothing against the law" in the video surveillance footage he watched. The Douglas County Community Center provided DCSO Deputy Williams with a flash drive containing seven (7) clips of video. See Exhibit 1. DCSO Deputy Williams instructs the community center employees to find more "damning evidence" if the police are to do anything. DCSO Williams does nothing to preserve the video surveillance footage in its entirety.

Mr. Jenkins was arrested by DCSO on November 8, 2018. In December 2018, Douglas County Community Center produces an additional fifteen (15) manipulated video surveillance clips to DCSO Detective Chronowski. See Exhibit 2. Douglas County Community Center manipulates the video surveillance by cutting and splicing out mere minutes from hours and hours of volleyball practice. DCSO Detective Chronowski, who is actively investigating allegations of lewdness with a minor in this case, reviews the clips and again does nothing to preserve the video surveillance in its entirety.

On February 2, 2021, Mr. Jenkins filed a motion to compel the production of the

¹ All quotes are taken from DCSO Justin Williams body camera footage finally provided to Defense by the State on July 2, 2020.

1 missing video surveillance. On February 16, 2021, the State replied and admitted that the
2 missing video surveillance does not exist as the additional footage was not saved or collected.
3 After six to nine months, Douglas County Community Center apparently destroys its video
4 surveillance unless it was collected or saved.

5 **Argument**

6 **I. The video surveillance footage should be suppressed as the State acted in bad faith**
7 **when it failed to collect the community center video surveillance in its entirety.**

8 **a. The missing video surveillance that law enforcement failed to collect is material.**

9 To succeed on a claim that the State failed to collect evidence, the defendant must first
10 show that the evidence was material. *Daniels v. State*, 114 Nev. 261, 267 (1998). Evidence is
11 material if “there is a reasonable probability that, had the evidence been available to the
12 defense, the result of the proceedings would have been different.” *Id.* Here, the deleted video
13 surveillance footage is highly material, and the State admitted it failed to collect material and
14 preserve evidence.
15

16 There were over fifty (50) surveillance cameras at the Douglas Community Center.
17 Preliminary Hearing p 85 line 11-17. Only approximately six (6) out of the fifty (50) cameras
18 angles were preserved; and of the video from those six angles, only limited segments were
19 preserved, specifically from only two days, September 17, 2018 and September 19, 2018. The
20 clips from September 17, 2018 ranged in time from 5:51 p.m. to 8:41 p.m. (2 hours and 50
21 minutes), yet all the State collected was sixteen (16) minutes of clipped footage. At least 2
22 hours and 35 minutes have been destroyed. The clips from September 19, 2018 ranged in time
23 from 4:13 p.m. to 6:17 p.m. (2 hours and 4 minutes) and the State only collected twenty-two
24 (22) minutes of manipulated clipped footage resulting in 1 hour and 47 minutes of footage
25 being destroyed.
26

1 The deleted video surveillance is material as it (1) would have shown different angles of
2 any interactions between G.W. and Mr. Jenkins, (2) gave context to the preserved clips, and (3)
3 would have shown exculpatory evidence such as Mr. Jenkins' overall interactions with G.W.,
4 other players, and led to further exculpatory evidence like other witnesses
5 (parents/coaches/players/community center staff) who witnessed the alleged incident. For
6 example, in one of the clips, G.W. is seen grabbing Mr. Jenkin's arm and trying to drag him
7 away from some other players. Mr. Jenkins is seen struggling to stop G.W.'s behavior as she
8 continues to pull on his arm and neck. The video is clipped, and one does not see what happens
9 after that interaction. Another video clip depicts Mr. Jenkins hugging G.W. near some stairs.
10 The two plus hours preceding that clip and what events transpired during the practice that
11 would put a hug into context were clipped out and destroyed because the State made no effort
12 to preserve this evidence. Having the additional hours of surveillance would impact the jury's
13 interpretation of the clips as well as of the relationship between Mr. Jenkins, G.W. and his
14 daughter.
15

16 **b. Law enforcement acted in bad faith when it repeatedly failed to collect the video**
17 **surveillance in its entirety.**

18 Once the evidence is deemed material, then the court must determine whether the
19 failure to gather evidence was the result of mere negligence, gross negligence, or a bad faith
20 attempt to prejudice the defendant's case. *Daniels* at 267 citing *State v. Ware*, 118 N.M. 319,
21 881 P.2d 679, 685-686. (N.M. 1994). The Defendant "must show either bad faith or
22 connivance on the part of the government or that he was prejudiced by the loss of the
23 evidence." *Boggs v. State*, 95 Nev. 911, 912 (1979).
24

25 Here, the State clearly acted in bad faith as it instructed the Community Center to find
26 more "damning" footage which resulted in the manipulated clips. In addition, law enforcement

1 had multiple opportunities to collect and preserve the video surveillance in its entirety, over a
2 period of several months, yet repeatedly choose not to collect this evidence, resulting in its
3 irrevocable destruction. Investigating officers were aware of the fact that hours of volleyball
4 practice and clinics had taken place at Douglas County Community Center yet discontinued
5 their efforts to properly collect the surveillance after the community center provided a total of
6 thirty-eight minutes of cherry-picked clips. Investigating officers should have collected the
7 video surveillance in its entirety and failed to do so. Further, Mr. Jenkins is prejudiced by the
8 loss of the video surveillance as the resulting clips are out of context, only from certain angles,
9 and manipulated to make it appear that Mr. Jenkins and G.W. were "always" touching when
10 that is not the truth, and the other hours of video surveillance would have shown it.
11

12 **II. The video surveillance footage is inadmissible as any slight probative value is**
13 **greatly outweighed by prejudice as the video is confusing and misleads the jury.**

14 N.R.S. 48.035 states that evidence, which may be relevant, is not admissible if its
15 probative value is substantially outweighed by the danger of unfair prejudice, of confusion of
16 the issues or of misleading the jury.

17 To merit exclusion, the evidence must unfairly prejudice an opponent, typically by
18 appealing to the emotional and sympathetic tendencies of a jury, rather than the jury's
19 intellectual ability to evaluate evidence. *Krause Inc. v. Little*, 117 Nev. 929 (Nev. 2001). The
20 trial judge is vested with discretion to simplify the issues and to exclude even relevant evidence
21 if its probative value is substantially outweighed by the danger that it will confuse the issues or
22 mislead the jury. *Uniroyal Goodrich Tire Co. v. Mercer*, 111 Nev. 318 (Nev. 1995). Here,
23 there is evidence that, as argued above: (1) the video surveillance clips are inaccurate as they
24 fail to provide a full and complete image of interactions between Mr. Jenkins, G.W., and the
25 other players, coaches, and parents, (2) relevant and exculpatory evidence has been deleted
26

1 from them, and (3) the modifications made to the clips adversely affected and obscured the
2 context vital to interpreting the clips. *Cf. Archanian v. State*, 122 Nev. 1019, 1029 (2006)
3 (video composite of original video surveillance recordings admissible as nothing was deleted
4 from the original recordings).

5 Here, the State wants to show the jury mere minutes clipped from hours of video
6 footage to bolster its argument that Mr. Jenkins acted "inappropriately" with G.W. at the
7 community center and have the jury jump to the conclusion that a lewd act was committed.
8 None of the video being offered by the State depicts a lewd act. It does not even show
9 "inappropriate" actions. It is a montage of selected clips depicting G.W. touching and/or
10 clinging to Mr. Jenkins and Mr. Jenkins responding to G.W. Due to the deleted video
11 surveillance, it falsely portrays an idea that G.W. and Mr. Jenkins were "constantly" touching
12 each other *e.g.* hugging, holding hands, standing near each other. That false portrayal is highly
13 prejudicial and is being used by the State to intentionally mislead the jury. The State
14 desperately wants to inflame the jury's emotional tendencies by flashing images taken out of
15 context and modified so that the jury will believe that Mr. Jenkins and G.W. were constantly in
16 physical contact and, therefore, G.W. allegations must be credible despite that the clips do not
17 relate to or reflect G.W.'s allegations. The manipulated video clips are highly prejudicial,
18 confusing, and intended to mislead the jury. As such, the clips are inadmissible pursuant to
19 N.R.S. 48.035.
20
21

22 CONCLUSION

23 Considering the State's admission that the video surveillance in its entirety was
24 destroyed, Mr. Jenkins, by and through his Counsel, respectfully requests that this Court
25 prohibit the State from using the manipulated clips at trial due to the State's bad faith failure to
26

1 collect and preserve material and exculpatory evidence. The chosen manipulated clips are
2 intentionally misleading to the jury, prejudicial, and confusing - and are therefore inadmissible
3 pursuant to N.R.S. 48.035.

4 **AFFIRMATION PURSUANT TO NRS 239B.030**

5 The undersigned does hereby affirm that the preceding document does not contain the
6 Social Security Number of any person.

7
8 DATED this 15th day of March, 2021.

9 
10 /s/ Theresa Ristenpart
11 THERESA RISTENPART, ESQ.
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CERTIFICATE OF SERVICE

I certify that on the 15th day of March, 2021, I e-mailed and sent via USPS mail a true
copy of the attached document to:

Chelsea Mazza
Douglas District Attorney's Office
Douglas County District Attorney Marc Jackson
cmazza@douglas.nv.gov

/s/ Lisa Dee 
LISA DEE, CP

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Exhibit 1

APP0353

Ristenpart Law
BECAUSE WINNING
IS EVERYTHING

464 S. Sierra Street
Reno, Nevada 89501

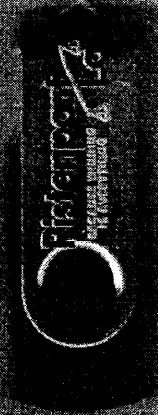


EXHIBIT 2

PLACEHOLDER EXHIBIT - FLASHDRIVE

State v. Richard Jenkins
19-CR-0188

Motion in Limine to Suppress Douglas County
Community Center Video Surveillance Clips

Exhibit 2

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FILED

1 RISTENPART LAW, LLC

2 Theresa Ristenpart, Esq.

3 464 South Sierra Street

4 Reno, NV 89501

5 (775) 200-1699

6 Attorney for Mr. Richard Jenkins

Douglas County
District Court Clerk

2021 MAR 19 AM 11:05

BOBBIE R. WILLIAMS
CLERK

K. WILFERT
BY DEPUTY

7 IN THE NINTH JUDICIAL DISTRICT COURT

8 STATE OF NEVADA, IN AND FOR THE COUNTY OF DOUGLAS

9 STATE OF NEVADA,

Plaintiff,

CASE NO: 19-CR-0188

10 v.

DEPT. NO. II

11 RICHARD JENKINS,

12 Defendant.

13 AMENDED¹ MOTION IN LIMINE TO SUPPRESS MANIPULATED

14 DOUGLAS COUNTY COMMUNITY CENTER

15 VIDEO SURVEILLANCE CLIPS

16 COMES NOW, Mr. Richard Jenkins, by and through his Counsel, Theresa Ristenpart,
17 Esq. and hereby move this Court to suppress irrelevant and highly prejudicial manipulated video
18 surveillance clips from the Douglas County Community Center.

19 This Motion is based upon the following Points and Authorities, exhibits, testimony, and
20 oral arguments.

21
22
23
24
25 ¹ Amended only regarding different labeling attached exhibits and filing with
26 attached exhibits.

POINTS AND AUTHORITIES

Statement of Relevant Facts

On September 28, 2018, law enforcement responded to the Douglas County Community Center on the report of “a volleyball coach making out with a seventeen-year-old in the corner.”² While at the Douglas County Community Center, DCSO Deputy Williams watches security surveillance of interactions between Mr. Richard Jenkins (Mr. Jenkins) and the minor female and concludes that there is “nothing against the law” in the video surveillance footage he watched. The Douglas County Community Center provided DCSO Deputy Williams with a flash drive containing seven (7) clips of video. See Exhibit 1A-1G. DCSO Deputy Williams instructs the community center employees to find more “damning evidence” if the police are to do anything. DCSO Williams does nothing to preserve the video surveillance footage in its entirety.

Mr. Jenkins was arrested by DCSO on November 8, 2018. In December 2018, Douglas County Community Center produces an additional fifteen (15) manipulated video surveillance clips to DCSO Detective Chrzanowski. See Exhibit 2A-2O. Douglas County Community Center manipulates the video surveillance by cutting and splicing out mere minutes from hours and hours of volleyball practice. DCSO Detective Chrzanowski, who is actively investigating allegations of lewdness with a minor in this case, reviews the clips and again does nothing to preserve the video surveillance in its entirety.

On February 2, 2021, Mr. Jenkins filed a motion to compel the production of the

² All quotes are taken from DCSO Justin Williams body camera footage finally provided to Defense by the State on July 2, 2020.

1 missing video surveillance. On February 16, 2021, the State replied and admitted that the
2 missing video surveillance does not exist as the additional footage was not saved or collected.
3 After six to nine months, Douglas County Community Center apparently destroys its video
4 surveillance unless it was collected or saved.

5 **Argument**

6 **I. The video surveillance footage should be suppressed as the State acted in bad faith**
7 **when it failed to collect the community center video surveillance in its entirety.**

8 **a. The missing video surveillance that law enforcement failed to collect is material.**

9 To succeed on a claim that the State failed to collect evidence, the defendant must first
10 show that the evidence was material. *Daniels v. State*, 114 Nev. 261, 267 (1998). Evidence is
11 material if “there is a reasonable probability that, had the evidence been available to the
12 defense, the result of the proceedings would have been different.” *Id.* Here, the deleted video
13 surveillance footage is highly material, and the State admitted it failed to collect material and
14 preserve evidence.
15

16 There were over fifty (50) surveillance cameras at the Douglas Community Center.
17 Preliminary Hearing p 85 line 11-17. Only approximately six (6) out of the fifty (50) cameras
18 angles were preserved; and of the video from those six angles, only limited segments were
19 preserved, specifically from only two days, September 17, 2018 and September 19, 2018. The
20 clips from September 17, 2018 ranged in time from 5:51 p.m. to 8:41 p.m. (2 hours and 50
21 minutes), yet all the State collected was sixteen (16) minutes of clipped footage. At least 2
22 hours and 35 minutes have been destroyed. The clips from September 19, 2018 ranged in time
23 from 4:13 p.m. to 6:17 p.m. (2 hours and 4 minutes) and the State only collected twenty-two
24 (22) minutes of manipulated clipped footage resulting in 1 hour and 47 minutes of footage
25 being destroyed.
26

1 The deleted video surveillance is material as it (1) would have shown different angles of
2 any interactions between G.W. and Mr. Jenkins, (2) gave context to the preserved clips, and (3)
3 would have shown exculpatory evidence such as Mr. Jenkins' overall interactions with G.W.,
4 other players, and led to further exculpatory evidence like other witnesses
5 (parents/coaches/players/community center staff) who witnessed the alleged incident. For
6 example, in one of the clips, G.W. is seen grabbing Mr. Jenkins' arm and trying to drag him
7 away from some other players. Mr. Jenkins is seen struggling to stop G.W.'s behavior as she
8 continues to pull on his arm and neck. The video is clipped, and one does not see what happens
9 after that interaction. Another video clip depicts Mr. Jenkins hugging G.W. near some stairs.
10 The two plus hours preceding that clip and what events transpired during the practice that
11 would put a hug into context were clipped out and destroyed because the State made no effort
12 to preserve this evidence. Having the additional hours of surveillance would impact the jury's
13 interpretation of the clips as well as of the relationship between Mr. Jenkins, G.W. and his
14 daughter.
15

16 **b. Law enforcement acted in bad faith when it repeatedly failed to collect the video**
17 **surveillance in its entirety.**

18 Once the evidence is deemed material, then the court must determine whether the
19 failure to gather evidence was the result of mere negligence, gross negligence, or a bad faith
20 attempt to prejudice the defendant's case. *Daniels* at 267 citing *State v. Ware*, 118 N.M. 319,
21 881 P.2d 679, 685-686. (N.M. 1994). The Defendant "must show either bad faith or
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23 evidence." *Boggs v. State*, 95 Nev. 911, 912 (1979).
24

25 Here, the State clearly acted in bad faith as it instructed the Community Center to find
26 more "damning" footage which resulted in the manipulated clips. In addition, law enforcement

1 had multiple opportunities to collect and preserve the video surveillance in its entirety, over a
2 period of several months, yet repeatedly choose not to collect this evidence, resulting in its
3 irrevocable destruction. Investigating officers were aware of the fact that hours of volleyball
4 practice and clinics had taken place at Douglas County Community Center yet discontinued
5 their efforts to properly collect the surveillance after the community center provided a total of
6 thirty-eight minutes of cherry-picked clips. Investigating officers should have collected the
7 video surveillance in its entirety and failed to do so. Further, Mr. Jenkins is prejudiced by the
8 loss of the video surveillance as the resulting clips are out of context, only from certain angles,
9 and manipulated to make it appear that Mr. Jenkins and G.W. were “always” touching when
10 that is not the truth, and the other hours of video surveillance would have shown it.
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12 **II. The video surveillance footage is inadmissible as any slight probative value is**
13 **greatly outweighed by prejudice as the video is confusing and misleads the jury.**

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15 probative value is substantially outweighed by the danger of unfair prejudice, of confusion of
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20 trial judge is vested with discretion to simplify the issues and to exclude even relevant evidence
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23 there is evidence that, as argued above: (1) the video surveillance clips are inaccurate as they
24 fail to provide a full and complete image of interactions between Mr. Jenkins, G.W., and the
25 other players, coaches, and parents, (2) relevant and exculpatory evidence has been deleted
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1 from them, and (3) the modifications made to the clips adversely affected and obscured the
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3 (video composite of original video surveillance recordings admissible as nothing was deleted
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8 None of the video being offered by the State depicts a lewd act. It does not even show
9 “inappropriate” actions. It is a montage of selected clips depicting G.W. touching and/or
10 clinging to Mr. Jenkins and Mr. Jenkins responding to G.W. Due to the deleted video
11 surveillance, it falsely portrays an idea that G.W. and Mr. Jenkins were “constantly” touching
12 each other e.g. hugging, holding hands, standing near each other. That false portrayal is highly
13 prejudicial and is being used by the State to intentionally mislead the jury. The State
14 desperately wants to inflame the jury’s emotional tendencies by flashing images taken out of
15 context and modified so that the jury will believe that Mr. Jenkins and G.W. were constantly in
16 physical contact and, therefore, G.W. allegations must be credible despite that the clips do not
17 relate to or reflect G.W.’s allegations. The manipulated video clips are highly prejudicial,
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22 CONCLUSION

23 Considering the State’s admission that the video surveillance in its entirety was
24 destroyed, Mr. Jenkins, by and through his Counsel, respectfully requests that this Court
25 prohibit the State from using the manipulated clips at trial due to the State’s bad faith failure to
26

1 collect and preserve material and exculpatory evidence. The chosen manipulated clips are
2 intentionally misleading to the jury, prejudicial, and confusing - and are therefore inadmissible
3 pursuant to N.R.S. 48.035.

4 **AFFIRMATION PURSUANT TO NRS 239B.030**

5 The undersigned does hereby affirm that the preceding document does not contain the
6 Social Security Number of any person.

7
8 DATED this 18th day of March, 2021.

9 /s/ Theresa Ristenpart
10 THERESA RISTENPART, ESQ.
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CERTIFICATE OF SERVICE

I certify that on the 18th day of March, 2021, I e-mailed and sent via USPS mail a true
copy of the attached document to:

Chelsea Mazza
Douglas District Attorney's Office
Douglas County District Attorney Marc Jackson
cmazza@douglas.nv.gov

/s/ Lisa Dee
LISA DEE, CP

EXHIBIT LIST

Exhibit No.	Description	Pages
1A	Player and clip provided to DCSO Williams: "ACC Export - ACC Export - Monday September 17 839 to 841 in the corner"	CD
1B	Player and clip provided to DCSO Williams: "ACC Export - Monday September 17 839 to 841 in the hallway going to corner"	CD
1C	Player and clip provided to DCSO Williams: "ACC Export - Wednesday September 19 413 to 416 in the closet 1"	CD
1D	Player and clip provided to DCSO Williams: "ACC Export - Wednesday September 19 429 to 4432 in the closet 2"	CD
1E	Player and clip provided to DCSO Williams: "ACC Export - Wednesday September 19 503 to 505 in the closet 3"	CD
1F	Player and clip provided to DCSO Williams: "ACC Export - Wednesday September 19 540 to 541 BUTT touch"	CD
1G	Player and clip provided to DCSO Williams: "ACC Export - Wednesday September 19 615 to 617 touch"	CD

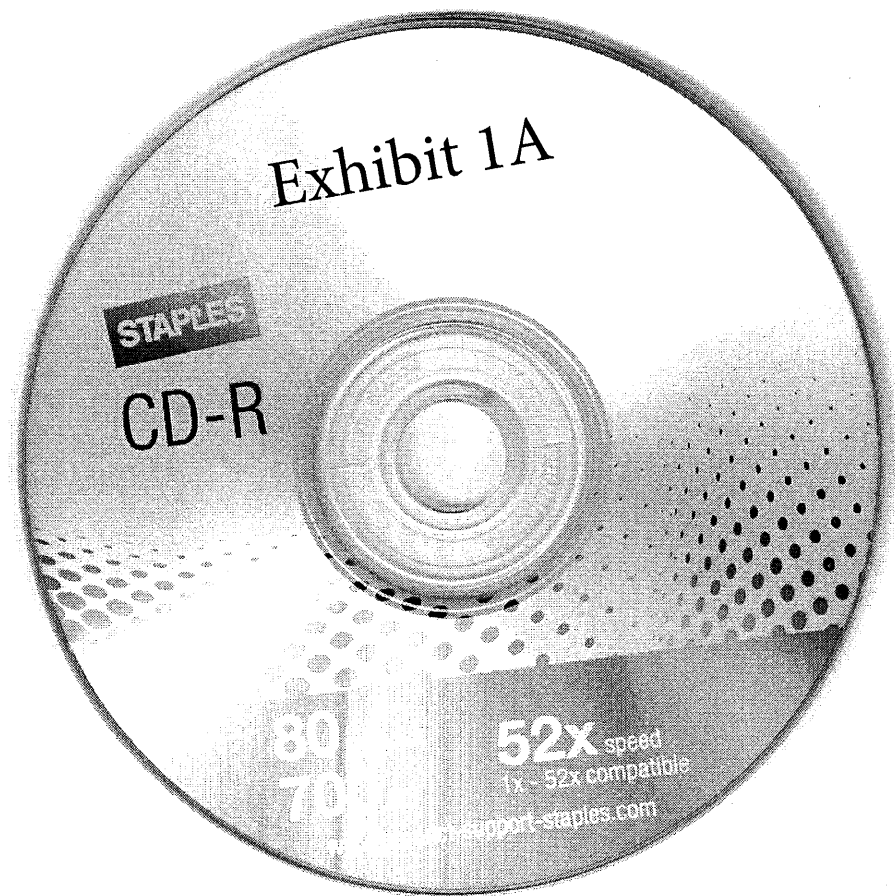
2A	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 1 ACC Export - 2018-11-20 01.03.20 PM"	CD
2B	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 2 ACC Export - 2018-11-20 01.09.10 PM"	CD
2C	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 3 ACC Export - 2018-11-20 12.48.31 PM"	CD
2D	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 4 ACC Export - 2018-11-20 01.14.04 PM"	CD
2E	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 5 ACC Export - 2018-11-20 01.19.43 PM"	CD
2F	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 6 ACC Export - 2018-11-20 01.23.41 PM"	CD
2G	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 7 ACC Export - 2018-11-27 03.34.10 PM"	CD
2H	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 8 ACC Export - 2018-11-27 03.37.13 PM"	CD
2I	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 9 ACC Export - 2018-11-27 03.43.02 PM"	CD
2J	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 10 ACC Export - 2018-11-27 04.01.55 PM"	CD
2K	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 11 ACC Export - 2018-11-27 03.52.43 PM"	CD

2L	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 12 ACC Export - 2018-11-27 04.23.41 PM"	CD
2M	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 13 ACC Export - 2018-11-27 04.30.51 PM"	CD
2N	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 14 ACC Export - 2018-11-27 04.38.16 PM"	CD
2O	Player and clip provided to DCSO Chrzanowski: "Rick Jenkins 15 ACC Export - 2018-11-27 04.44.57 PM"	CD

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Exhibit 1A

APP0366

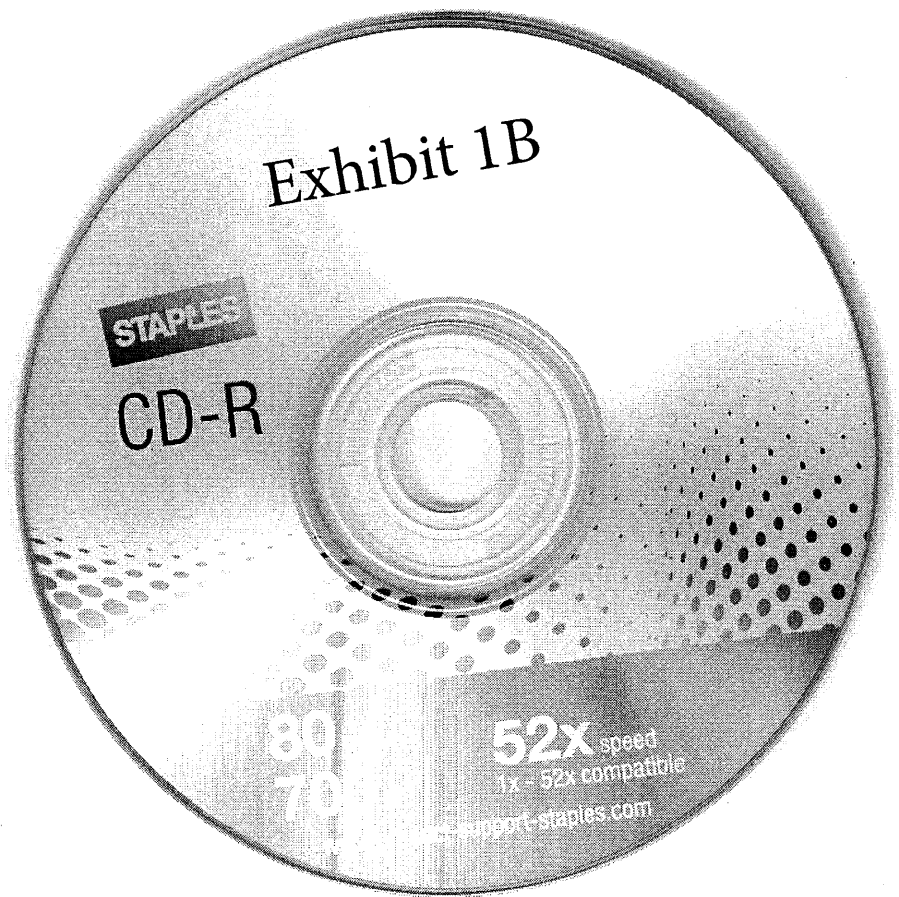


APP0367

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Exhibit 1B

APP0368

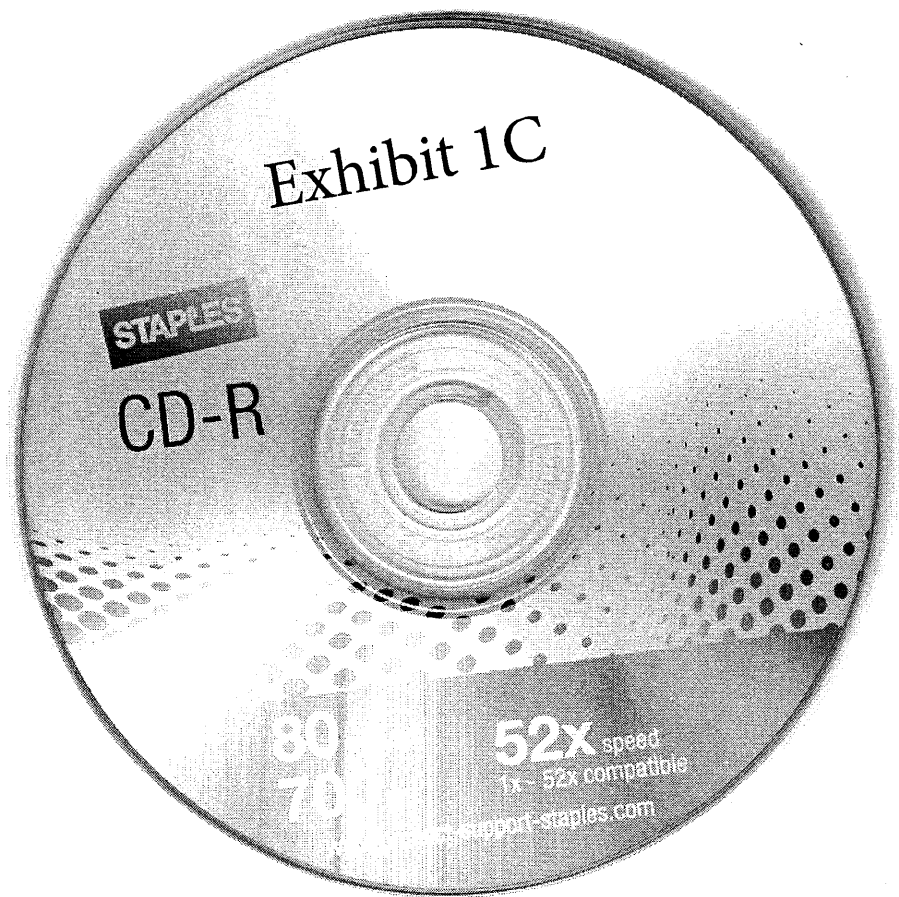


APP0369

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Exhibit 1C

APP0370

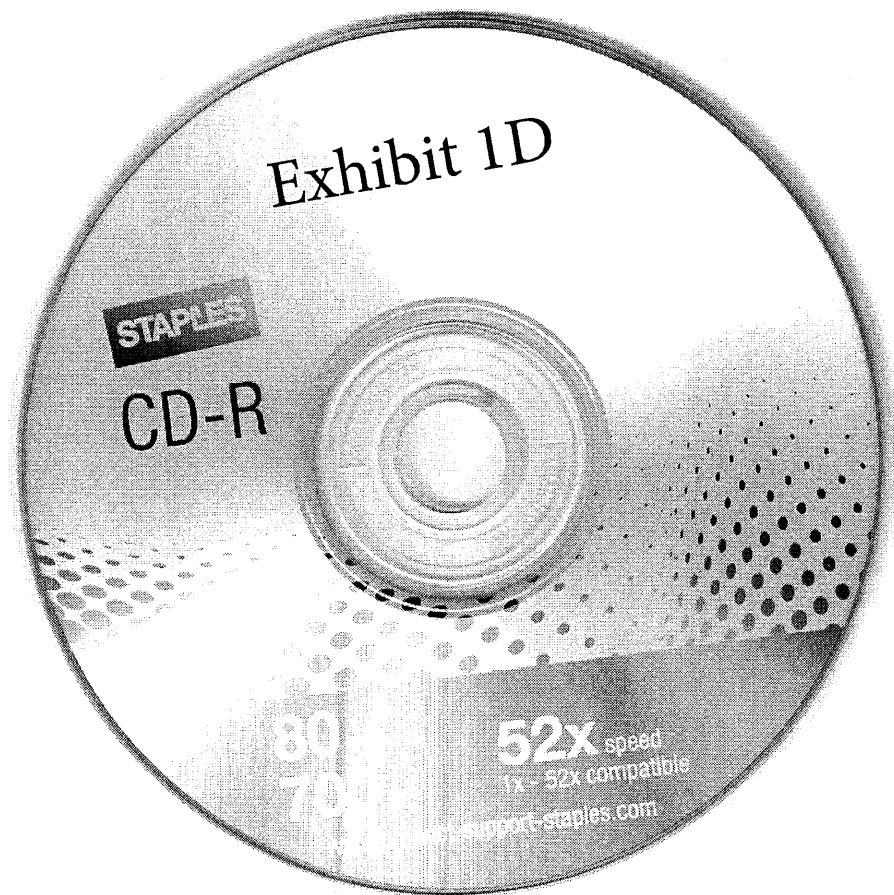


APP0371

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Exhibit 1D

APP0372

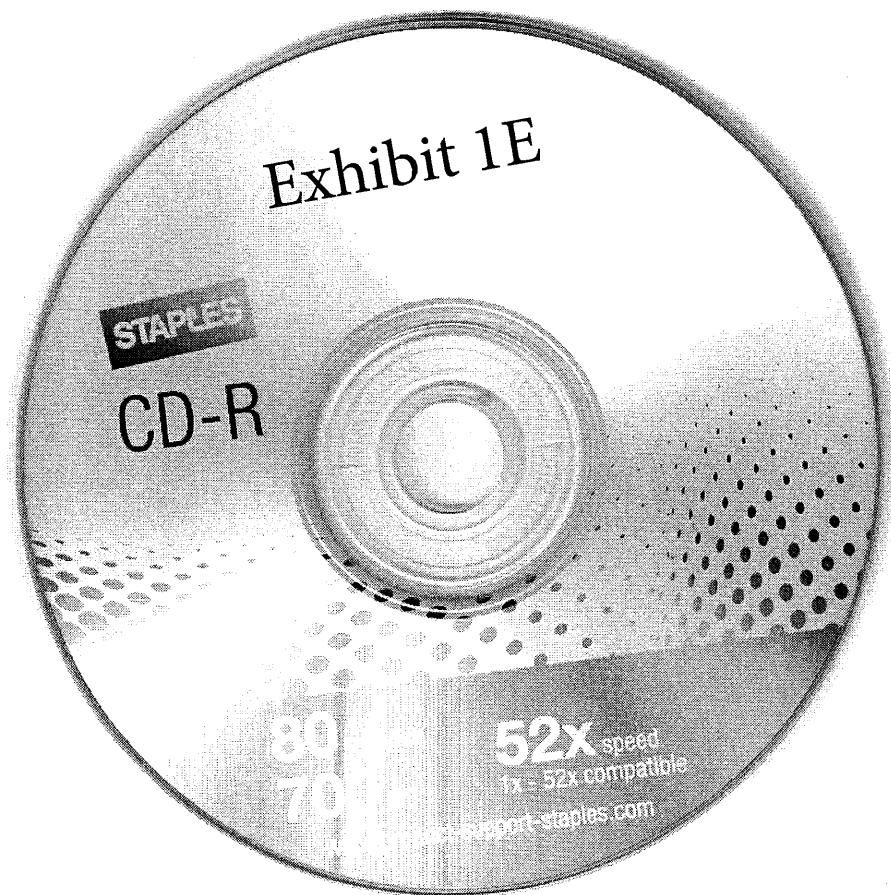


APP0373

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Exhibit 1E

APP0374

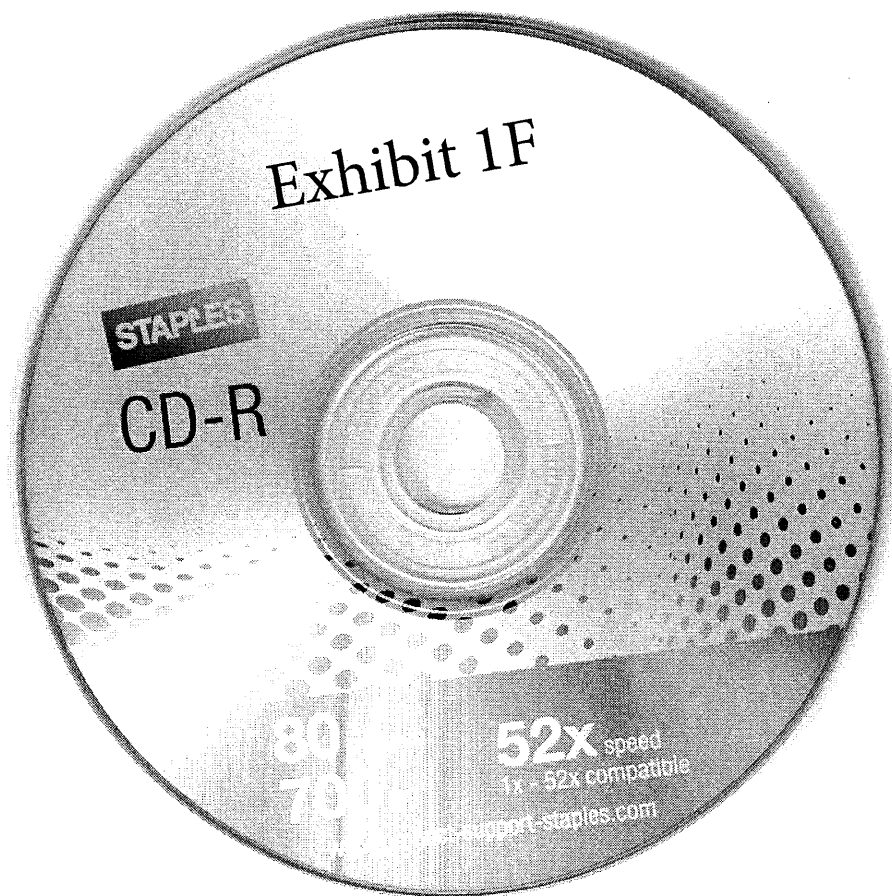


APP0375

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Exhibit 1F

APP0376

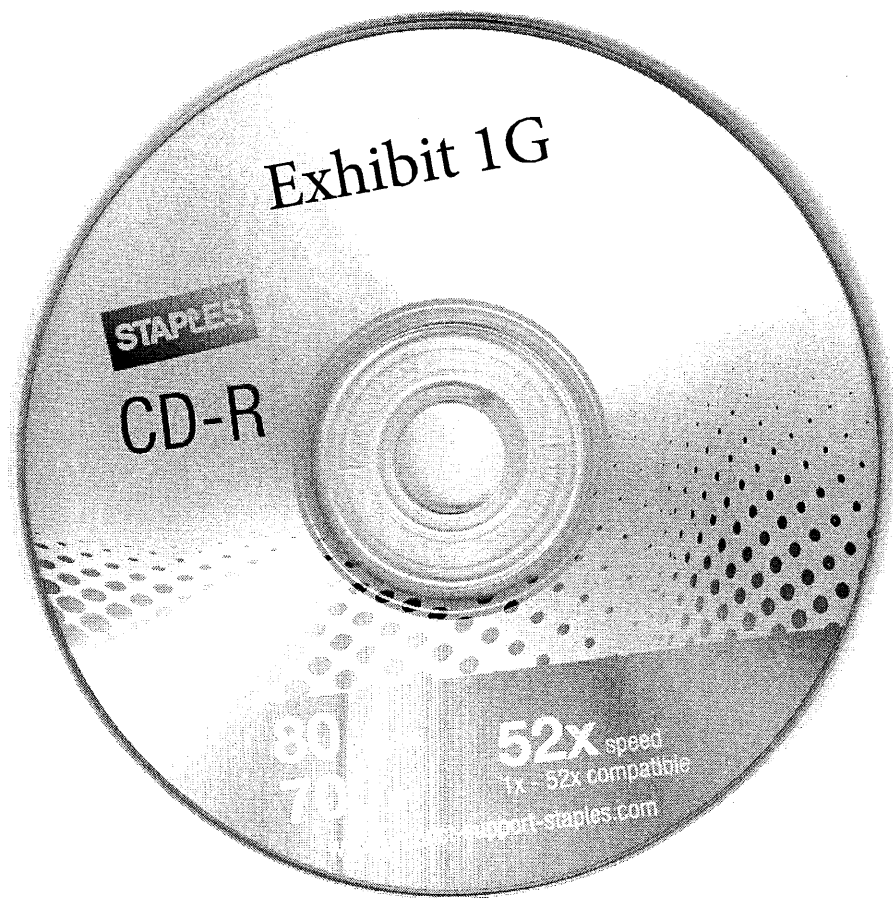


APP0377

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Exhibit 1G

APP0378



APP0379

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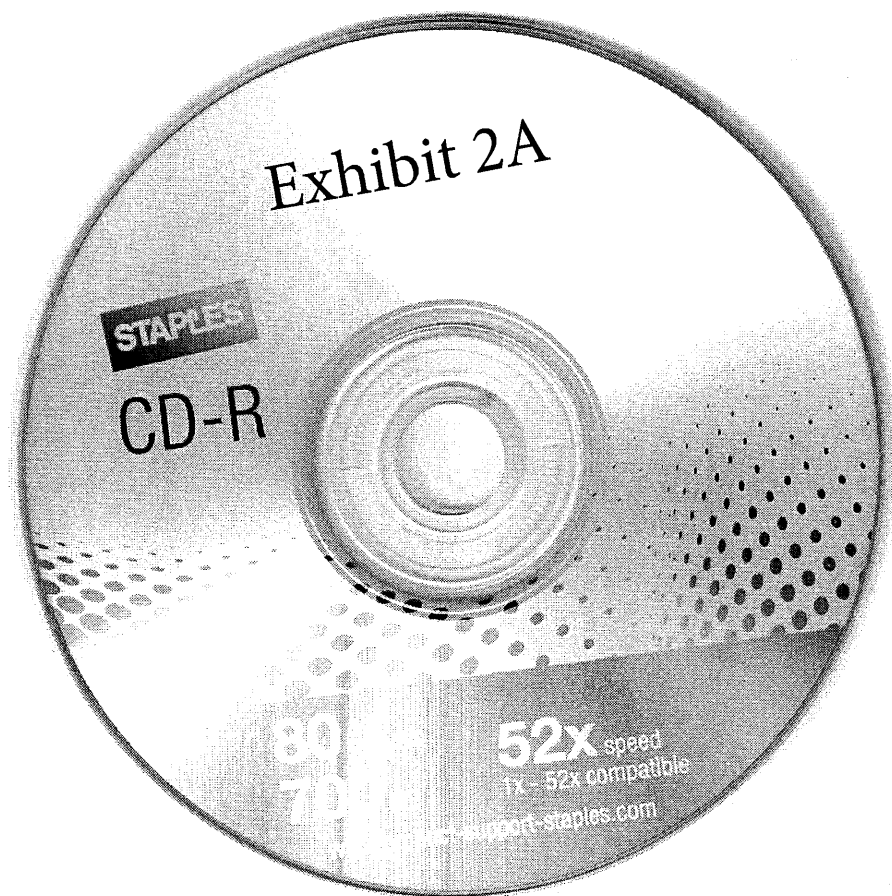
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Exhibit 2A

APP0380



APP0381

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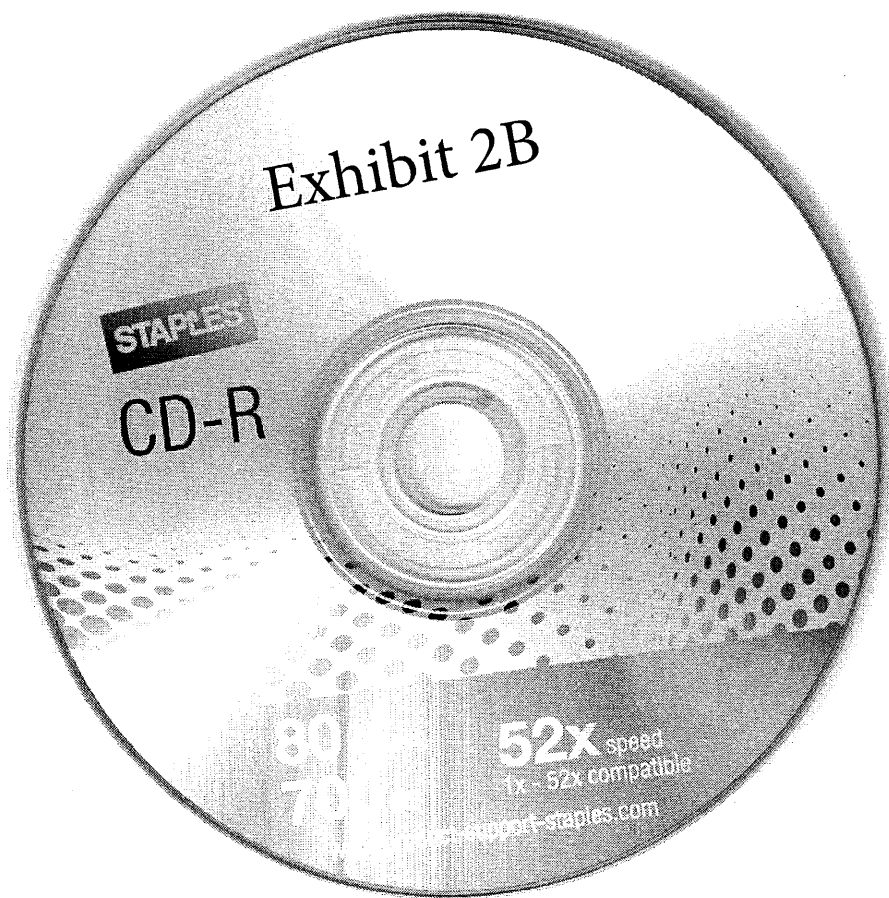
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Exhibit 2B

APP0382



APP0383

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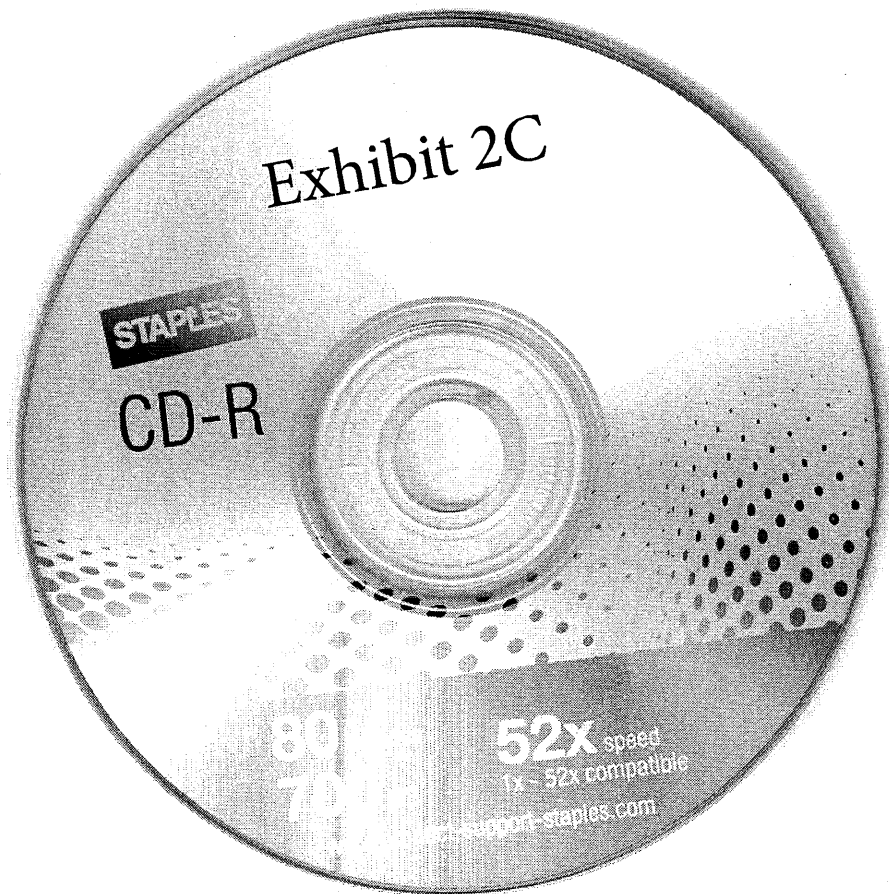
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Exhibit 2C

APP0384

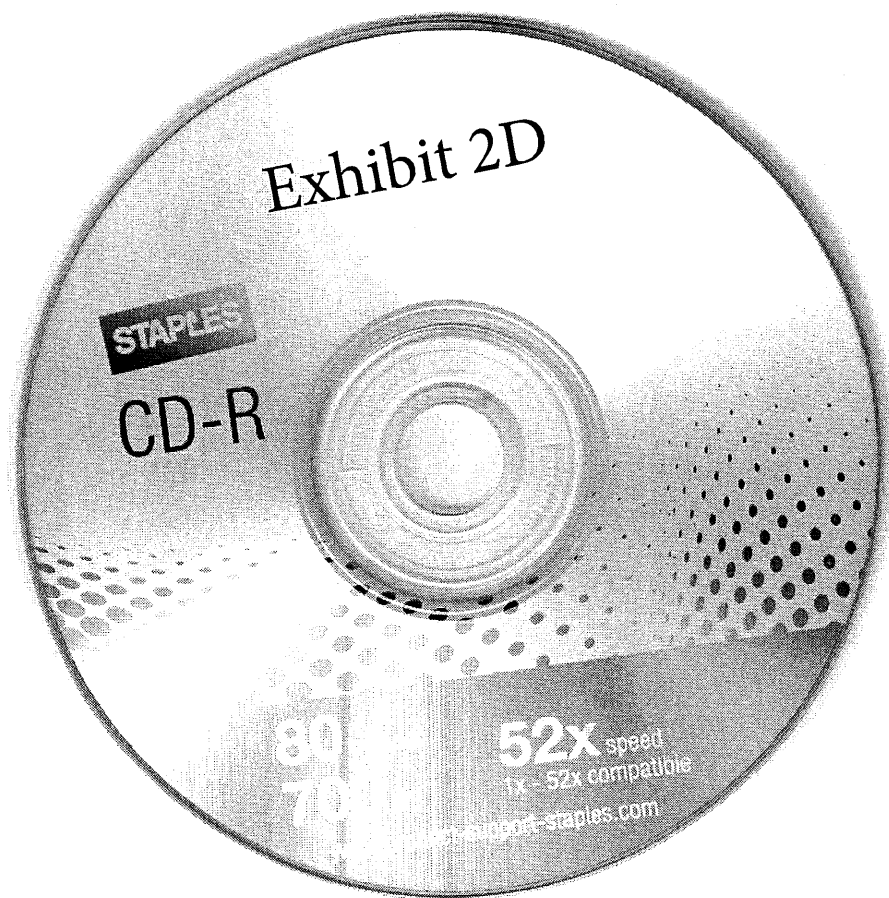


APP0385

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Exhibit 2D

APP0386

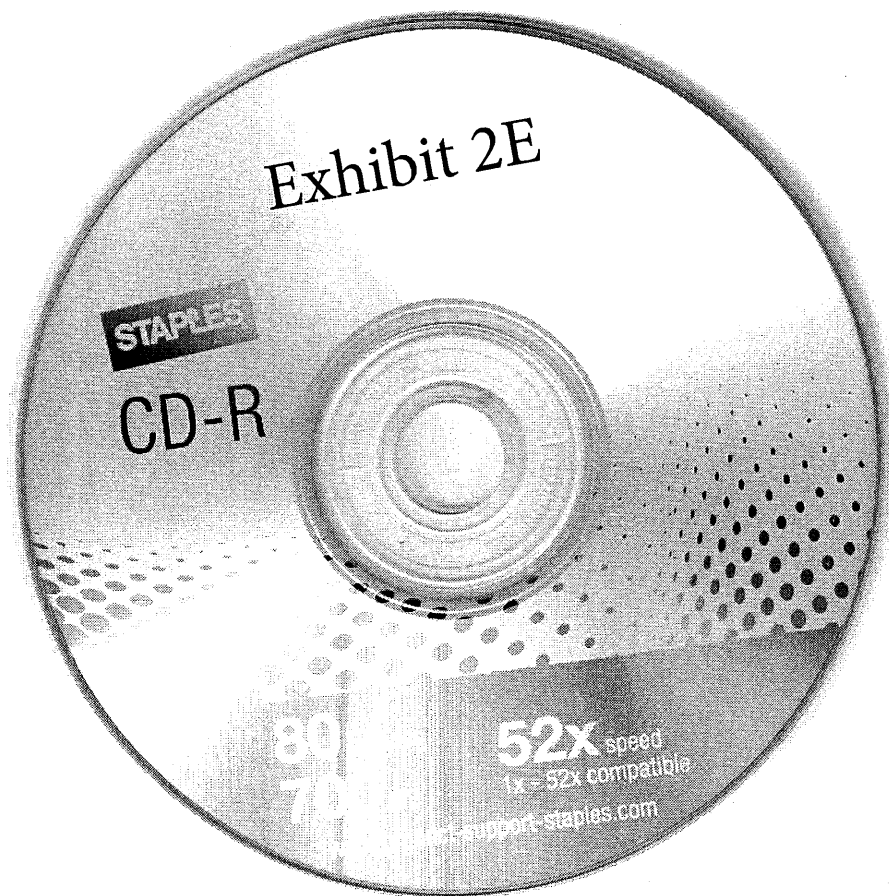


APP0387

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Exhibit 2E

APP0388

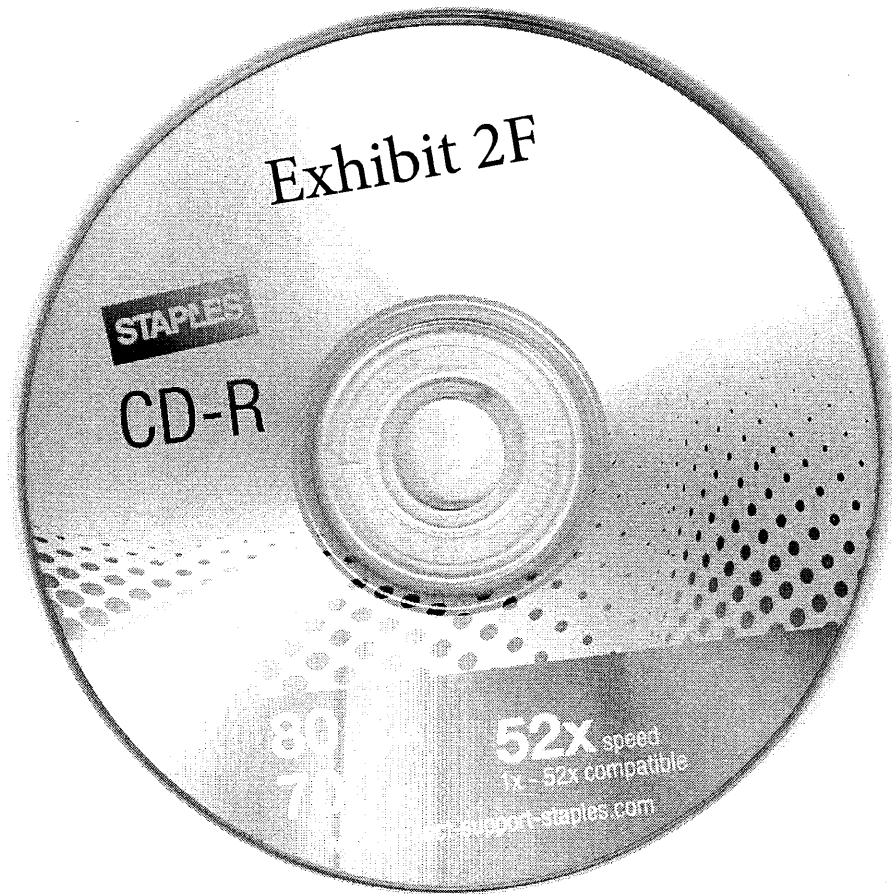


APP0389

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Exhibit 2F

APP0390



APP0391

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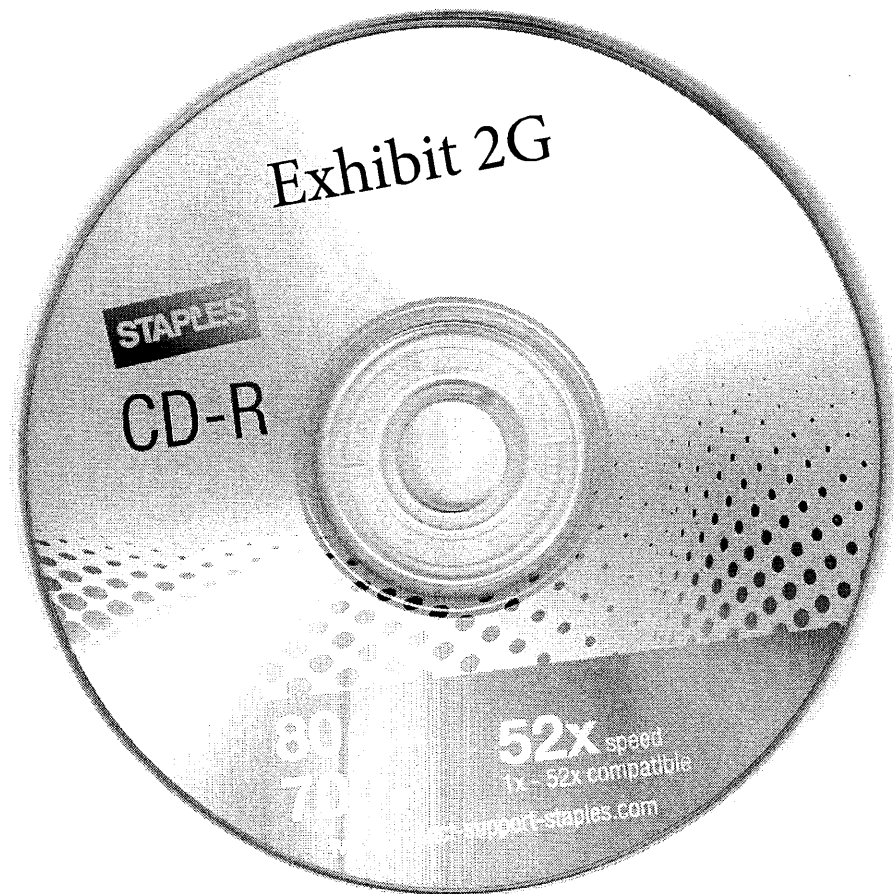
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Exhibit 2G

APP0392

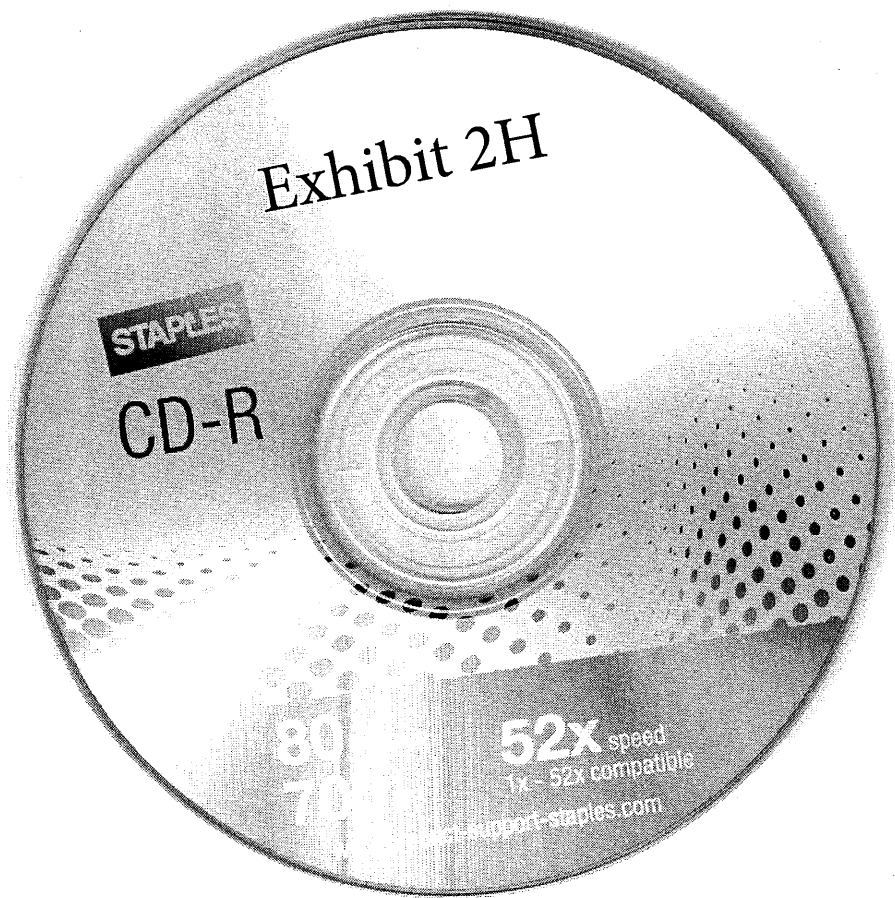


APP0393

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Exhibit 2H

APP0394

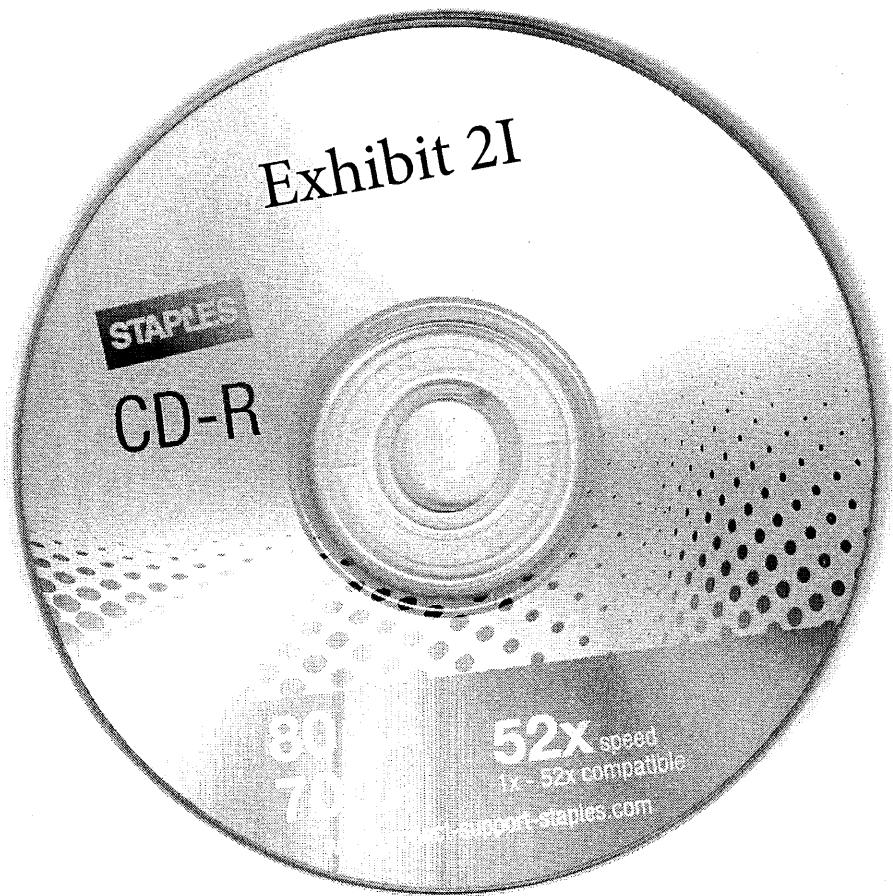


APP0395

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Exhibit 2I

APP0396



APP0397

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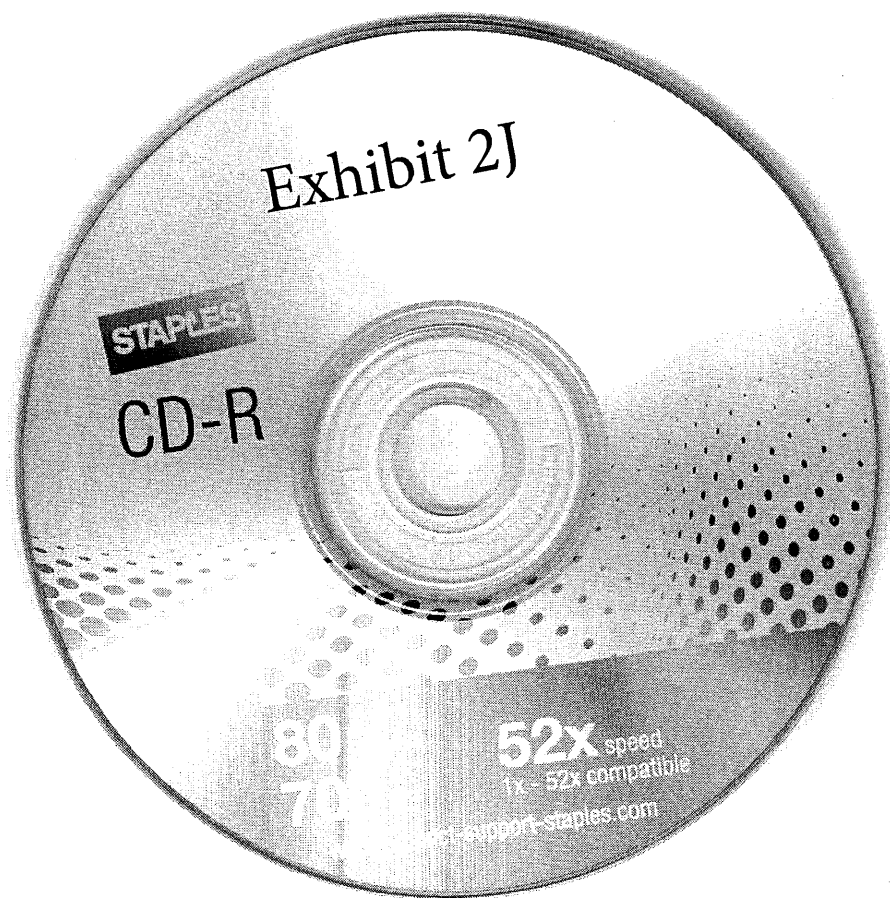
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Exhibit 2J

APP0398

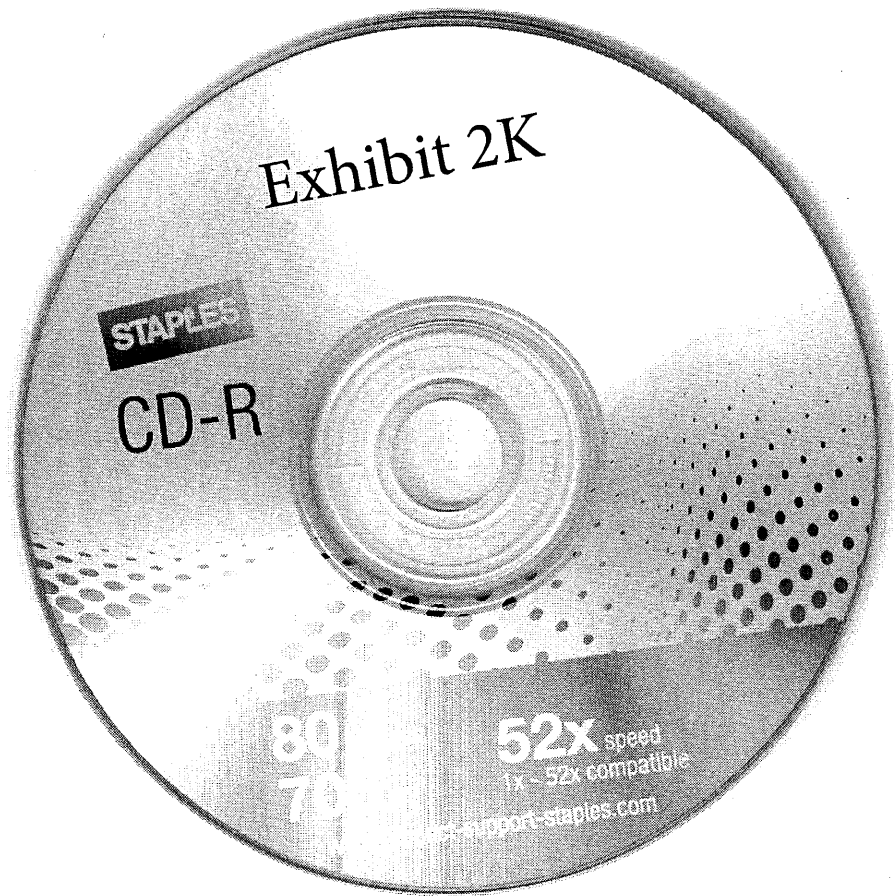


APP0399

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Exhibit 2K

APP0400

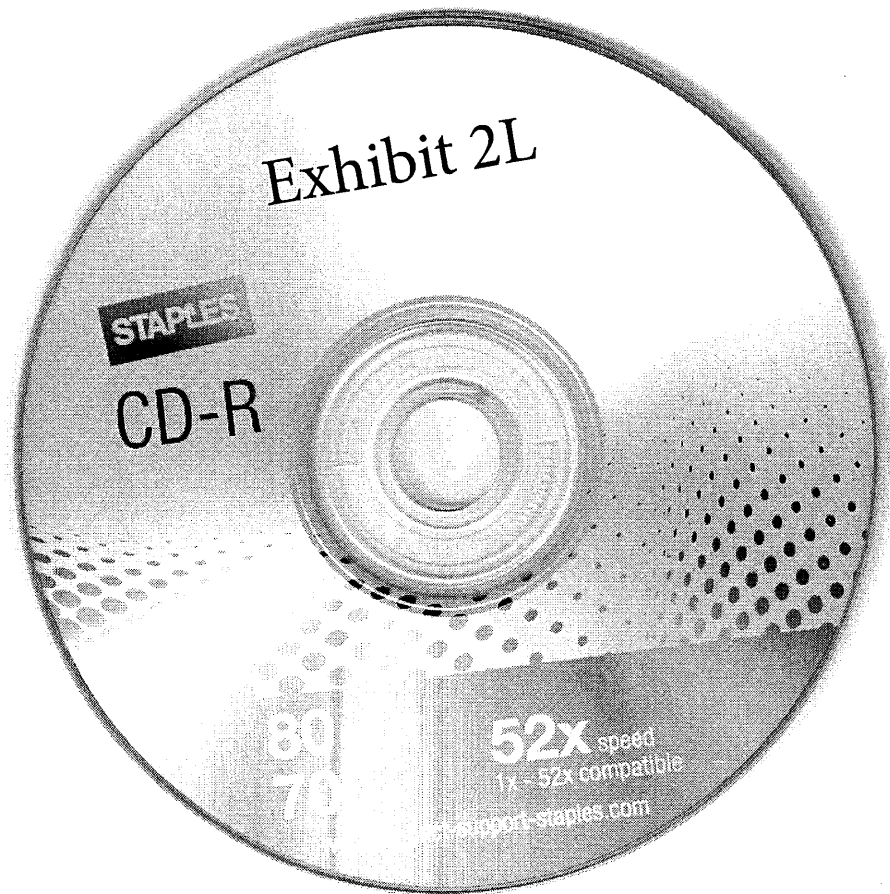


APP0401

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Exhibit 2L

APP0402

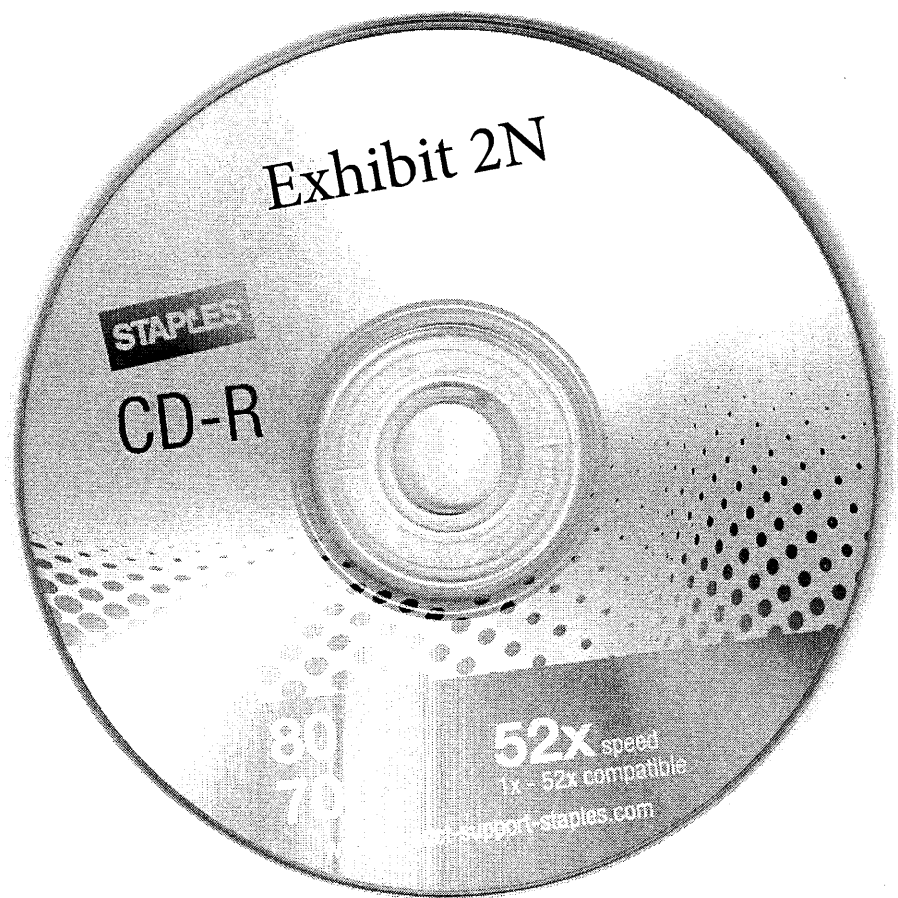


APP0403

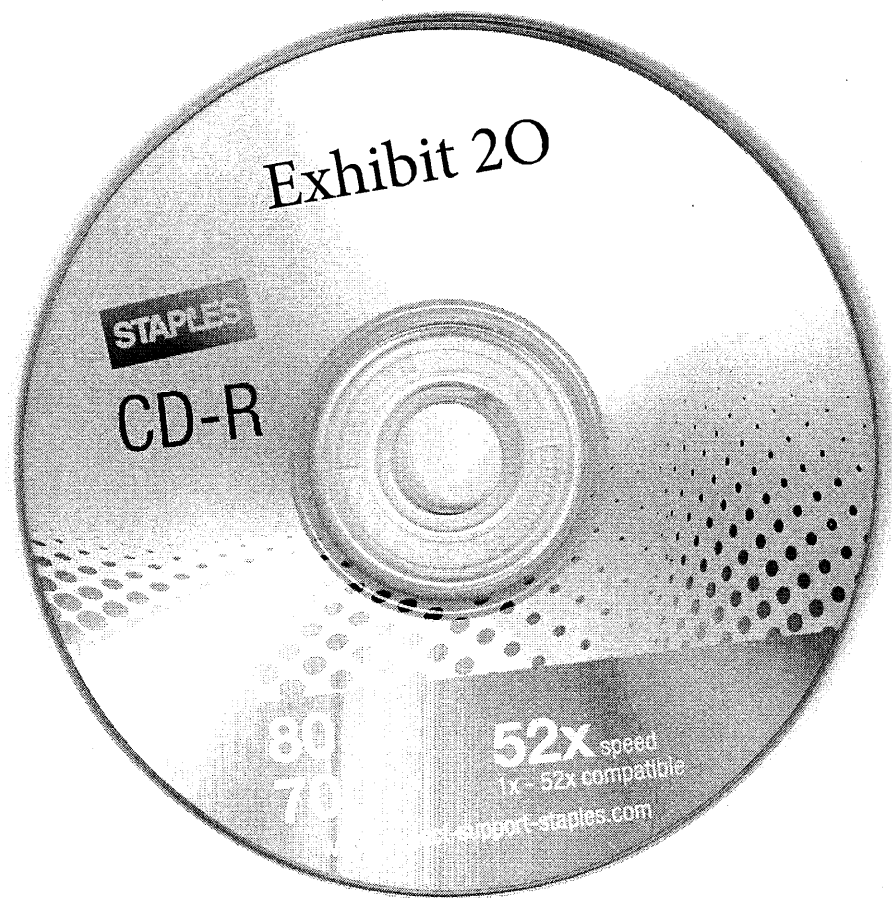
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Exhibit 2N

APP0404



APP0405



APP0406

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1 Case No. 2019-CR-00188

MAR 22 2021

2 Dept. No. II

Douglas County
District Court Clerk

2021 MAR 22 PM 2:48

BOBBIE R. WILLIAMS
CLERK

BY _____ DEPUTY
K. WILFERT

3
4
5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6
7 IN AND FOR THE COUNTY OF DOUGLAS
8

9 THE STATE OF NEVADA,
10 Plaintiff,

11 vs.

12 RICHARD ALEXANDER JENKINS,
13 Defendant.

ORDER DENYING MOTION TO COMPEL
PRODUCTION OF
VIDEO SURVEILLANCE

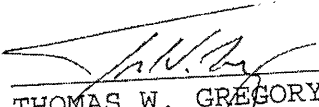
14
15 THIS MATTER comes before the Court on Defendant's Motion to
16 Compel Production of Complete Video Surveillance, filed February
17 3, 2021. The State filed an Opposition to Motion to Compel
18 Production of Complete Video Surveillance on February 16, 2021,
19 indicating that the State has produced all video surveillance in
20 its possession. Defendant filed a Reply to State's Opposition to
21 Motion to Compel Production of Complete Video Surveillance on
22 February 24, 2021, raising new issues.

23 The motion came before the Court for a hearing on March 9,
24 2021. Defendant accepted the State's representation that the
25 State has produced all video-surveillance in its possession and
26 agreed the motion should be denied. Defendant preserved the right
27 to file a new motion raising issues appearing in Defendant's reply
28 brief.

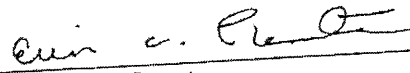
1 Good cause appearing, Defendant's Motion to Compel Production
2 of Complete Video Surveillance is DENIED. If Defendant desires to
3 file a motion raising issues presented in Defendant's reply brief,
4 any such motion shall be filed and served no later than March 15,
5 2021 at 5:00 p.m. The State shall have until March 29, 2021 at
6 5:00 p.m. to file and serve an opposing brief. Defendant shall
7 have until April 1, 2021 at 5:00 p.m. to file and serve a reply
8 brief. A hearing on the motion will be held on April 6, 2021 at
9 9:00 a.m.

10 IT IS SO ORDERED.

11 DATED this 22nd day of March, 2021.

12 
13 THOMAS W. GREGORY
14 DISTRICT JUDGE
15
16

17 Copies served by hand delivery/mail on March 22nd, 2021,
18 addressed to: Chelsea Mazza, Deputy District Attorney, P.O. Box
19 218, Minden, NV 89423 (hand delivery); Theresa Ristenpart, Esq.,
20 464 South Sierra Street, Reno, NV 89201 (mail)
21

22 
23 Erin C. Plante
24
25
26
27
28

Douglas County District Attorney
1038 Buckeye Road
Minden, NV 89423
(775) 782-9800 Fax (775) 782-9807

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MAR 29 2021

Douglas County
District Court Clerk

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CLERK

BY C. WALKER DEPUTY

Case No. 19-CR-0188

Dept No. II

DA 0037969/18-2152R

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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

**OPPOSITION TO MOTION IN
LIMINE TO SUPPRESS
MANIPULATED DOUGLAS
COUNTY COMMUNITY CENTER
VIDEO SURVEILLANCE CLIPS**

The State of Nevada, by and through Douglas County Deputy District Attorney Chelsea Mazza, hereby files this Opposition to Richard Alexander Jenkins' Motion in Limine to Suppress Manipulated Douglas County Community Center Video Surveillance Clips. This Opposition is based on the attached Memorandum of Points and Authorities, the pleadings and papers on file with the Court, and any testimony adduced or oral argument presented at a hearing on the matter.

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APP0409

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1038 Buckeye Road
 Minden, NV 89423
(775) 782-9800 Fax (775) 782-9807

MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL HISTORY

On November 8, 2018, RICHARD ALEXANDER JENKINS (hereinafter "Defendant") was arrested for offenses which occurred on or between July 1, 2018, and September 25, 2018. Defendant was charged by way of an Information filed December 20, 2019 (following a preliminary examination), with four counts of Lewdness with a Child Under 16 Years of Age, category B felonies. Defendant entered a not guilty plea to all charges on January 6, 2020. Defendant was charged by way of an Amended Information filed August 27, 2020 (following an Order Granting Leave to File Amended Information), with four counts of Lewdness with a Child Under 16 Years of Age, category B felonies. Defendant has not been arraigned on the Amended Information. The matter is set for trial to begin on April 21, 2021.

On February 3, 2021, Defendant filed a Motion to Compel Production of Complete Video Surveillance. Prior to that date defense had not previously requested additional video surveillance. The State filed an Opposition on February 16, 2021, to which Defendant filed a Reply on February 24, 2021. Defendant's Reply raised new issues not in the original Motion. The Court filed an Order Denying Motion to Compel Production of Video Surveillance on March 22, 2021, but allowed Defendant to file an additional motion regarding the video surveillance collected from the Douglas County Community Center. On March 15, 2021, Defendant filed a Motion in Limine to Suppress Manipulated Douglas County Community Center Video Surveillance. Defendant attached to the Motion two exhibits. To date, the State has not received copies of these exhibits. However, the State has been informed by defense counsel that these are an exact copy of the surveillance provided in discovery.

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II. ARGUMENT

A. Defendant's motion should be denied because the additional surveillance footage is not material, and the Douglas County Sheriff's Office did not act in bad faith.

In Defendant's Motion, he has argued that the Douglas County Sheriff's Office exercised bad faith for failing to collect certain evidence. Based upon this allegation, Defendant requests, pursuant to Daniels v. State, 114 Nev. 261, 268 (1998), that the surveillance footage that was obtained be suppressed. As this Court noted in Daniels, a distinction must be drawn between the collection and preservation of evidence. See 114 Nev. at 266. When evidence has been gathered and subsequently lost or suppressed, a different standard must be applied than when the State fails to gather or collect exculpatory evidence. See Id. at 266-67. Accordingly, the State contends that the proper test is that which was established in Daniels.

In Daniels, the Nevada Supreme Court recognized that police officers generally have no duty to collect all potential evidence. Id. at 268 (1998) (citing State v. Ware, 118 N.M. 319, 881 P.2d 679, 684 (1994)). However, in some cases a failure to gather evidence may warrant sanctions against the state. Id. The defense must first show that the evidence was "material," meaning that there is a reasonable probability that had the evidence been available to the defense, the result of the proceedings would have been different. Id. at 267. Second, if the evidence is material, then the court must determine whether the failure to gather evidence was the result of mere negligence, gross negligence, or a bad faith attempt to prejudice the defendant's case. Id. "Where mere negligence is involved, no sanctions are imposed, but the defendant can still examine the prosecution's witnesses about the investigative deficiencies. When gross negligence is involved, the defense is entitled to a presumption that the evidence would have been unfavorable to the State. In cases of bad faith, we conclude that dismissal of the charges may be an available remedy based upon an evaluation of the case as a whole." Id. (citing State v. Ware, 118 N.M. 319, 881 P.2d 679, 685-686 (1994)).

///

1 1. The additional surveillance video addressed by Defendant is not material.

2 To establish prejudice, Defendant must show that it could be reasonably anticipated that
3 the evidence would have been exculpatory and material to the defense. Leonard v. State, 114
4 Nev. 639, 654 (1998). Defendant has failed to establish that the additional surveillance footage
5 is material. Defendant has not demonstrated a reasonable probability that collection of
6 additional surveillance footage will change the proceedings. Defendant has set forth no
7 evidence, other than his own argument, that the additional surveillance footage would “[give]
8 context to the preserved clips.” Motion, at 4:2. To the contrary, testimony of Ashley Gosney
9 and Nicholas Lonnegren at both the preliminary hearing and a motion hearing before the Court
10 corroborates video obtained from the Douglas County Community Center. Thus, Defendant’s
11 claim that the jury may reach a different result with the additional surveillance footage is pure
12 speculation. See Daniels, 114 Nev. at 268 (finding “pure speculation” insufficient to
13 demonstrate materiality). Actual evidence shows a fact finder would reach the same
14 conclusion.

15 2. The State did not act improperly when obtaining video surveillance in this
16 matter.

17 Defendant has not shown that the evidence in question is material. However, even in
18 the event that Defendant did demonstrate materiality, he failed to demonstrate that the Douglas
19 County Sheriff’s Office acted in bad faith or that they were grossly negligent in failing to
20 obtain additional surveillance footage. Bad faith is dishonesty of belief, purpose, or motive.
21 Black’s Law Dictionary (11th ed. 2019). The Douglas County Sheriff’s Office did not act in
22 bad faith when obtaining evidence in this case. Defendant has shown no purpose or motive by
23 the Douglas County Sheriff’s Office to prejudice Defendant’s case.

24 After reporting the incidents to the Douglas County Sheriff’s Office, the Douglas
25 County Community Center conducted a thorough review of the surveillance footage at the
26 Center involving G.W. and Defendant. The Center compiled the footage which involved G.W.
27 and Defendant. The Center then provided the Douglas County Sheriff’s Office with this
28 footage and continued their investigation based upon review.

1 As is clear from a review of the footage, the footage alone is not criminal. Deputy
2 Williams never instructed the employees of the Center to find more "damning evidence."
3 Deputy Williams indicated there was nothing criminal about the footage he observed. At the
4 time Deputy Williams responded to the Center, reports had just been made and there was very
5 little time for a full review of the surveillance footage. Deputy Williams simply informed the
6 Center employees to alert the Douglas County Sheriff's Office if additional information is
7 obtained. Once additional footage was found it was provided to the Douglas County Sheriff's
8 Office. The additional footage Defendant requests was not obtained for any improper purpose.
9 Defendant has not shown any bad faith by the Douglas County Sheriff's Office, because none
10 exists. A reasonable jury would not find that the Douglas County Sheriff's Office acted in bad
11 faith by obtaining the surveillance footage from the Center.

12 **B. The probative value of the surveillance footage is not outweigh by prejudice to**
13 **Defendant.**

14 Defendant argues that pursuant to NRS 48.035 the surveillance footage should be
15 suppressed. There is no doubt that the video surveillance carries the potential for prejudice
16 against Defendant. However, all evidence offered by the prosecutor is prejudicial to the
17 defendant, there would be no point in offering it if it were not. Holmes v. State, 129 Nev. 567,
18 575 (2013) (citing United States v. Foster, 939 F.2d 445, 456 (7th Cir.1991)). The real question
19 is whether the value of the evidence will be *substantially* outweighed by the danger of unfair
20 prejudice. NRS 48.035; see Schlotfeldt v. Charter Hosp. of Las Vegas, 112 Nev. 42, 46 (1996)
21 (the "substantially outweigh" requirement "implies a favoritism toward admissibility").
22 Nevada, unlike the federal legal system, requires that the value of the evidence will be
23 *substantially* outweighed by the danger of unfair prejudice for it to be inadmissible. Evidence
24 is "unfairly" prejudicial if it encourages the jury to convict the defendant on an improper basis.
25 State v. Eighth Judicial Dist. Court (Armstrong), 127 Nev. 927 (2011).

26 The interactions between G.W. and Defendant at the Douglas County Community
27 Center are highly probative and show the relationship between G.W. and Defendant. Some of
28 conduct alleged to have been committed by Defendant is alleged to have occurred at the

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Minden, NV 89423
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1 Center. There is no question there is value in this information. The prejudice this evidence
2 may cause does not outweigh the huge value to this evidence.

3 **III. CONCLUSION**

4 The State submits Defendant has not established that the additional surveillance footage
5 is material or that bad faith can be placed on the Douglas County Sheriff's Office. Further, the
6 probative value of the video surveillance in discovery is not substantially outweighed by unfair
7 prejudice. As such, the State respectfully requests Defendant's Motion be denied.

8
9 DATED this 21 day of March, 2021.

10
11 MARK B. JACKSON
DISTRICT ATTORNEY

12 By: _____

13 Chelsea Mazza
14 Deputy District Attorney
15 1038 Buckeye Road
16 Minden, NV 89423
17 (775) 782-9800
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1 Case No. 19-CR-0188

2 Dept No. II

3 DA 0037969/18-2152R

4 This document does not contain personal information of any person

5
6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

CERTIFICATE OF SERVICE

12 RICHARD ALEXANDER JENKINS,

13 Defendant.
14

15 Pursuant to NRCPP 5(b), I certify that I am an employee of the District Attorney for
16 Douglas County, Nevada, and that I deposited for delivery a true copy of Opposition to
17 Defendant's Motion in Limine to Suppress Manipulated Douglas County Community Center
18 Video Surveillance Clips addressed to:

19 Theresa Ristenpart, Esq.
20 464 South Sierra Street
21 Reno, Nevada 89501
theresa@ristenpartlaw.com

- 22
23 ☒ Reno/Carson Messenger
24 ☒ Email

25 DATED this 29th day of March, 2021.

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APP0415

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MAR 31 2021

Douglas County
Clerk

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BOBBIE R. WILLIAMS
CLERK

BY D. GOELZ PUTY

Case No. 19-CR-0188

Dept No. II

DA No. 0037969/18-2152R

This document does not contain personal information of any person

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

**NOTICE OF INTENT TO OFFER
TESTIMONY OF EXPERT WITNESS**

The State of Nevada, by and through Deputy District Attorney Chelsea Mazza of the Douglas County District Attorney's Office, gives notice of intent to offer the testimony of expert witness Blake D. Carmichael, Ph.D. The State submits this notice of expert witness testimony pursuant to NRS 174.234.

Dr. Carmichael is a Licensed Clinical Psychologist. Dr. Carmichael will testify as to his training, education and experience. Dr. Carmichael will testify regarding the dynamics of child sexual abuse victims, including but not limited to conduct of the child before, during and after the abuse; and offender dynamics, including behavior types and conduct. Dr. Carmichael is expected to testify regarding disclosure of child sexual abuse by the child, including but not limited to timing of disclosure, delayed disclosure, and how disclosure is made. Dr. Carmichael is further expected to testify regarding the impacts of child abuse on children, including but not limited to physical, social and emotional responses that a child may have. Dr. Carmichael is anticipated to testify that the conduct of the victim in this matter is consistent with child sexual abuse.

APP0416

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1 Attached hereto and incorporated by reference is State's Exhibit 1, the
2 Curriculum Vitae for Dr. Carmichael outlining Dr. Carmichael's training, education
3 and experience, which Dr. Carmichael will rely upon in his testimony.
4

5 DATED this 31 day of March, 2021.

6 MARK B. JACKSON
7 DISTRICT ATTORNEY

8 By: _____

9 Chelsea Mazza
10 Deputy District Attorney
11 1038 Buckeye Road
12 Minden, NV 89423
13 (775) 782-9800
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APP0417

Douglas County District Attorney
1038 Highway 101
Minden, NV 89423
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EXHIBIT LIST

Exhibit 1.....Blake D. Carmichael, Ph.D. Curriculum Vitae

APP0418

Douglas County District Attorney
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(775) 782-9800 Fax (775) 782-9807

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EXHIBIT 1

EXHIBIT 1

APP0419

BLAKE D. CARMICHAEL, PH.D.

3671 BUSINESS DRIVE, #100
SACRAMENTO, CA 95820
PHONE: (916) 732-8962

EDUCATION

- Ph.D. Clinical Psychology**, California School of Professional Psychology, Alliant University, Alameda, CA, August 2001
M.A. Clinical Psychology, California School of Professional Psychology, Alliant University, Alameda, CA, August 1998
B.A. Psychology, University of California, Davis, June 1995

CLINICAL EXPERIENCE

Psychologist II, Evaluation Program Manager, Professor/Clinical Faculty, UC Davis CAARE

Diagnostic and Treatment Center, July 2005-Present. Conduct psychological and child welfare evaluations, including: parent-child relationship assessments, treatment/reunification planning, recidivism risk assessment for juveniles and adults with sex offense histories, and differential diagnosis. Manage and provide training for trainees and staff within the Evaluation Program. Supervise trainees and staff who are conducting evaluations and Trauma-Focused Cognitive Behavioral Therapy (TFCBT). Provide consultation to social service case workers regarding emergent mental health diagnoses, treatment needs, and placement planning. Lead training for multidisciplinary agencies regarding the provision of evaluation and treatment services, with an emphasis on evaluating children and families with a history of maltreatment. Direct service provider of TFCBT, Dialectical Behavior Therapy (DBT), individual, and conjoint therapy with children and families.

Psychologist I, UC Davis CAARE Diagnostic and Treatment Center, August 2003-June 2005.

Conducted and supervised court ordered child welfare evaluations for court referred youth and adults. Lead training series for Child Welfare Evaluation Program. Completed and supervised psychological evaluations (i.e., diagnostic clarification, treatment planning, and service eligibility) for children who received mental health services in Sacramento County. Provided consultation to Sacramento County social workers regarding emergent mental health diagnoses and treatment needs. Provided Trauma-Focused Cognitive Behavioral Therapy, individual, and conjoint therapy with maltreated children and their families involved with child welfare services. Co-led therapy groups for children who experienced chronic emotional, behavioral, and interpersonal disruption.

Clinical Specialist, UC Davis CAARE Diagnostic and Treatment Center, February 2002-August 2003.

Conducted court ordered child welfare evaluations for court referred youth and adults. Completed psychological evaluations (i.e., diagnostic clarification, treatment planning, and service eligibility) for children who received mental health services Sacramento County. Provided individual, and conjoint therapy with maltreated children and their families involved with child welfare services. Co-led therapy groups for children who experienced chronic emotional, behavioral, and interpersonal disruption.

Post-Doctoral Fellow, UC Davis CAARE Diagnostic and Treatment Center, August 2001-February 2002. Provided individual, conjoint, group, and Parent-Child Interaction Therapy with maltreated children and their families involved with child welfare services. Conducted psychological evaluations and court ordered child welfare evaluations for court referred youth and adults. Co-led within and cross agency trainings related to child maltreatment and evaluation services.

Intake Specialist/Research Assistant, The Amen Clinic for Behavioral Medicine, December 1999 - August 2001. Conducted intake sessions with children, adults, and families. Gathered and analyzed clinical and statistical data. Supported original research projects, and prepared them for publication.

Pre-Doctoral Clinical Intern, Alameda County Guidance Clinic, August 2000-June 2001. Completed psycho-diagnostic assessments for wards of the Juvenile Court, including those adjudicated for sex offenses. Provided crisis intervention and staff psychoeducation in the Juvenile Hall facility. Conducted individual, group, and family treatment for wards of the Juvenile Court. Co-led sex offender treatment/assessment program.

Clinical Trainee/Therapist, Fremont Hospital, September 1999 - August 2000. Assessed and diagnosed patients in acute psychiatric crisis. Conducted individual and group therapy as part of inpatient and outpatient team. Collaborated with a multidisciplinary treatment team consisting of psychiatrists, psychologists, and allied health professionals.

Clinical Trainee, Alameda County Crisis Support Services, August 1998 - August 1999. Conducted individual therapy and facilitated support groups with clients experiencing acute grief reactions and complicated bereavement. Worked weekly crisis shifts for Alameda County suicide prevention and crisis intervention.

Clinical Trainee, Contra Costa County Mental Health, September 1997 - June 1998. Assessed, diagnosed, and developed treatment plans for a diverse population of children and their families. Provided individual therapy for children with a history of significant emotional and behavioral disruption, many of whom had a history of child maltreatment (i.e., physical abuse, sexual abuse, and neglect). Collaborated with teachers, administrators, doctors, and other health care professionals as part of a school based treatment team.

RELEVANT WORK EXPERIENCE

Teaching Assistant, California School of Professional Psychology, Alliant University, Alameda, CA, September 1999 - June 2000. Provided instruction, supervision, and consultation for graduate level students regarding neuropsychological assessment.

Statistics Tutor, California School of Professional Psychology, Alliant University, Alameda, CA, September 1997 - June 2000. Provided individual and group instruction for graduate level students regarding statistical analysis and research review.

Research Assistant, The Amen Clinic for Behavioral Medicine, June 1995 - September 1996. Gathered and analyzed clinical and statistical data to prepare manuscripts for original research projects.

PROFESSIONAL TRAINING AND QUALIFICATIONS

Specialized Professional Training, Various locations and dates. Nationally Certified Therapist - Trauma Focused Cognitive Behavioral Therapy (TF-CBT); Cognitive, Personality, and Neuropsychology Assessment; Assessment and Treatment of Maltreated Children and Families; Child Custody Evaluations; Domestic Violence, Substance Abuse Assessment and Treatment; Assessment and Treatment of Neurodevelopmental Disorders in Children and Adults; Treatment of Trauma Survivors, including use of TF-CBT and Dialectical Behavior Therapy (DBT). Assessment and Treatment of Adults and Adolescents with Sex Offenses (i.e., Static-99-R, STABLE-2007, ERASOR-2.0, and JSOAP-II); Child Development, Family Systems, Human Sexuality, DSM-IV, IV-TR, and 5 Diagnosis; Expert Witness Testimony; Theory/Practice of Clinical Supervision; Suicide Prevention and Intervention; Management of Assaultive Behavior; Short Term Treatment; Psychopharmacology; Health and Aging; and Multi-Cultural Treatment/Awareness.

RESEARCH

Dissertation Research, California School of Professional Psychology, Alliant University, August 1999 – August 2001. Developed unique contribution to the field of psychology requiring original design and data collection. Project completed “Children’s Perceptions of Coaching Style and their Association with Perceived Competence, Self-Esteem, and Anxiety.” Advisor: Debra Gordon, Ph.D.

Research Symposium, California School of Professional Psychology, Alliant University, August 1996 – June 2001. Consulted with graduate level students to assist in developing dissertation and research projects. Performed literature reviews and research design analysis. Multiple projects were associated with the impact of violence and aggression in families, effectiveness of parenting styles, and the assessment of children and families affected by child maltreatment. Advisor: Debra Gordon, Ph.D.

Research Assistant, The Amen Clinic for Behavioral Medicine, June 1995 – August 2001. Developed and supported research projects, including questions, design, literature search, and data analysis for biological bases of behavior and functional brain imaging.

PUBLICATIONS AND PROFESSIONAL PRESENTATIONS

Carmichael, BD., and Vice, S (2019). Understanding and Treating Victims of Child Sexual Abuse. The Courage Center, Napa, CA, October.

Carmichael, BD (2019). Introduction to Juvenile Justice Evaluations. San Francisco Department of Public Health, Behavioral Health Services, San Francisco, CA, June.

Carmichael, BD (2019). Introduction to Child Welfare Evaluations. San Francisco Department of Public Health, Behavioral Health Services, San Francisco, CA, March.

Blacker, D, Urquiza, AJ, Kalich, L, and Carmichael, BD (2016). Termination of Parental Rights, Inside Forensic Psychology, Masson (editor). Praeger, pp. 225-247.

Kalich, L., Carmichael, BD., Masson, T., Blacker, D., Urquiza, AJ. (2007). Evaluating the Evaluator: Guidelines for Legal Professionals in Assessing the Competency of Evaluations in Termination of Parental Rights Cases. Journal of Psychiatry and Law, Fall.

PUBLICATIONS AND PROFESSIONAL PRESENTATIONS (continued)

- Carmichael, BD** (2010 - 2017). Diagnosis and Empirically Based Treatments for Abused and Traumatized Youth. California State Adoptions, Sacramento, CA, Quarterly.
- Carmichael, BD** (2016). Psychological Consequences of Abuse on Children: CSAAS and Other Issues. Napa County Sheriff's Office, Napa, CA, October.
- Carmichael, BD** and **Urquiza, AJ** (2016). Child Maltreatment: Proper Assessment and Intervention Implications for Permanency. Solano County Child Welfare Services, Fairfield, CA, June.
- Carmichael, BD** and **Westin, A** (2015). Psychological Consequences of Abuse on Children: Sexual Abuse Disclosure and Other Issues. California District Attorney Association, Sacramento, CA, May.
- Carmichael, BD**. (2009-2012). Child Clinical Psychology: Evidence Based Treatment and Assessment Guest Lecture, Clinical Psychology, University of California, Davis, CA, March and June.
- Urquiza, AJ**, **Carmichael, BD**, and **Blacker, D**. (2010). Evidence Based Treatment for Abused and Traumatized Youth: Trauma Focused Cognitive Behavioral Therapy. California Department of Social Services, Annual Conference, Sacramento, CA, May.
- Carmichael, BD**. (2009). Differential Diagnosis for Children with Histories of Maltreatment. California State Adoptions, Sacramento, CA, October.
- Carmichael, BD**, and **Boyle C**. (2009). Sexual Abuse Disclosure by Children. DHHS, Sacramento County, Speaker Series, Sacramento, CA, July.
- Carmichael, BD**, **Blacker, D**, and **Silver C**. (2009). Child Welfare Evaluations, Interviewing Children, and Child Sexual Abuse Disclosure. Sacramento Child Advocates, Attorney Training, Sacramento, CA, March.
- Carmichael, BD**. (2009). Interviewing Children. California State Adoptions Staff Consultation, Sacramento, CA, February.
- Carmichael, BD**, **Kalich L**, **Blacker, D**, and **Cammack-Barry T**. (2008/2004). Child Welfare Evaluations. UC Davis Children's Hospital, CAARE Conference, Sacramento, CA, October.
- Kalich, L**, **Blacker, D**, **Carmichael, BD**, and **Masson, T** (2007). Conducting Competent Child Welfare Evaluations. American Psychological Association, National Convention, San Francisco, CA, August.
- Carmichael, BD**, and **Blacker D** (2007). Conducting Competent Child Welfare Evaluations. State Department of Social Services, California State Adoptions Conference, Sacramento, CA, May.
- Masson, T**, **Blacker D**, and **Carmichael, BD**. (2006). Conducting Competent Child Welfare Evaluations. American Professional Society on the Abuse of Children, Nashville, TN, June.

PUBLICATIONS AND PROFESSIONAL PRESENTATIONS (continued)

Carmichael, BD. (2005-2006). Providing Mental Health Consultations to Mental Health Professionals. Department of Human and Health Services, Child Protective Services, Court Investigations and Emergency Response Divisions, Sacramento, CA, March and September.

Urquiza, AJ., and **Carmichael, BD.** (2004). Conducting Competent Child Welfare Evaluations for Court Dependents. Sacramento Child Advocates, Sacramento, CA, June.

Carmichael, BD., and Urquiza, AJ. (2003). Competent Child Welfare Referrals and Evaluations. Department of Human and Health Services, Sacramento County Child Protective Services, Sacramento, CA, October.

Carmichael, BD., and Petersen, M. (2003). Sex Offenders: Population and Treatment Considerations. UCDMC CAARE Child and Adolescent Abuse, Resource, Evaluation and Treatment Center, Sacramento, CA, August.

PROFESSIONAL AFFILIATIONS

Trauma Focused Cognitive Behavioral Therapy National Therapist Certification Program	2019 - present
Sacramento County Juvenile Court Expert Panel	2010 - present
Licensed Clinical Psychologist (#19498) California Board of Psychology	2004 - present
American Psychological Association	1996 - present

EXPERT WITNESS QUALIFICATION HISTORY

Jurisdictions: Alameda County, Amador County, Modoc County, Napa County, Nevada County, Placer County, Sacramento County, San Joaquin County, Santa Clara County, Shasta County, Solano County, Sonoma County, Stanislaus County, Tehama County, Trinity County, Tuolumne County, Ventura County, Yolo County, Yuba County.

Areas of Expertise: Child Welfare/Maltreatment Assessment, Parent-Child Bonding Assessment, Sibling Bonding Assessment, Child Sexual Abuse Accommodation Syndrome (CSAAS), Effects of Sexual Abuse on Children, Sexual Abuse Disclosure, Clinical Psychology, Juvenile Competency, Juvenile Sex Offense-Risk Assessment, Juvenile Transfer.

Case No. 19-CR-0188

Dept No. II

DA No. 003796918-2152R

This document does not contain personal information of any person

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

v.

RICHARD ALEXANDER JENKINS,

Defendant.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for Douglas County, Nevada, and that I deposited for delivery a true copy of Notice of Intent to Offer Testimony of Expert Witness addressed to:

Theresa Ristenpart, Esq.
464 South Sierra Street
Reno, Nevada 89501
theresa@ristenpartlaw.com

- ☒ Reno/Carson Messenger
☒ Email

DATED this 31 day of March, 2021.

APP0425

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Douglas County
District Court Clerk

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BY *M. Arney* DEPUTY

1 RISTENPART LAW
2 Theresa Ristenpart, Esq.
3 464 South Sierra Street
4 Reno, NV 89501
5 (775) 200-1699
6 Attorney for Mr. Richard Jenkins

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8 **IN THE NINTH JUDICIAL DISTRICT COURT**

9 **STATE OF NEVADA, IN AND FOR THE COUNTY OF DOUGLAS**

10 STATE OF NEVADA,

Plaintiff,

CASE NO: 19-CR-0188

11 v.

DEPT. NO. II

12 RICHARD JENKINS,

13 Defendant.
14

15 **REPLY TO THE STATE'S OPPOSITION TO DEFENSE MOTION IN LIMINE TO**
16 **SUPPRESS MANIPULATED DOUGLAS COUNTY COMMUNITY CENTER VIDEO**
17 **SURVEILLANCE CLIPS**
18

19 The Defendant, Richard Jenkins, by and through his counsel, Theresa Ristenpart, Esq.
20 and files this Reply to the State's Opposition to the Defense Motion in Limine to Suppress
21 Manipulated Douglas County Community Center Video Surveillance Clips filed on March 29,
22 2021.
23

24 **REPLY**

25 The State argues that the hours and hours of video surveillance that the Douglas
26 County Sheriff's Office failed to collect are not material as there is no demonstration of a

1 reasonable probability that the additional footage would change the proceedings. Mr. Jenkins
2 is charged with allegations of lewdness between the dates of July 1, 2018 and September 25,
3 2018. Three of the counts alleged by the State specifically claim that Mr. Jenkins committed
4 lewd acts on G.W. at the Douglas County Recreational Center. Yet, the DCSO only collected
5 thirty-eight (38) minutes of video surveillance from two days in September despite alleging that
6 these lewd acts took place during the summer of 2018 at the rec center.

7 Even more concerning is that the clips which were collected by DCSO were
8 manipulated resulting in overly prejudicial footage. Douglas County Community Center was
9 directed by DCSO Williams to find more "damning" evidence. In response, the rec center
10 employees clipped out what they perceived to be bolster their claims that Mr. Jenkins and
11 G.W.'s interactions were "inappropriate," and hence why the rec center fired Mr. Jenkins.
12

13 DCSO was aware that there were hours of additional video surveillance from these
14 practices and of G.W. and Mr. Jenkins' interactions, but did nothing to preserve that evidence.
15 While clips may be appropriate in some cases where the clip/s captures the entire episode of a
16 singular alleged interaction, such as a robbery in a gas station, they are not appropriate in this
17 case, where there are allegations of multiple episodes spanning several months which were not
18 captured in the clips ultimately collected by the Douglas County Sheriff's Office.
19

20 The context of these clipped videos would be provided by a complete observation of
21 G.W. and Mr. Jenkins' interactions from the entirety of the video surveillance. The State wants
22 the jury to leap to a conclusion based upon very skewed and manipulated optics presented by
23 the manipulated clips.

24 In addition to its contextual value which is now forever lost because DCSO failed to
25 collect the full video surveillance, the video surveillance DCSO failed to collect is material
26

1 because it would have shown different angles of the captured interactions between G.W. and
2 Mr. Jenkins and exculpatory evidence such as Mr. Jenkins' overall interactions with G.W. and
3 other players.

4 Additionally, the State argues that Douglas County Sheriff's Office did not act in bad
5 faith when it failed to collect the entirety of the video surveillance. Contrary to the State's
6 claim, a finding of bad faith does not require a showing that the State had purpose or motive to
7 prejudice the Defendant's case. Rather, bad faith is dishonesty of belief, purpose, or motive.
8 The State knew there were hours of other video surveillance available, both because the
9 community center claimed they went through hours of video surveillance to pick out the clips
10 and because G.W. said she played volleyball at the community center with Mr. Jenkins
11 throughout the summer of 2018. When DSCO Deputy Williams responds to the community
12 center, he states that he knows there is video surveillance from different cameras and different
13 times and that it will "be a pain to go through." Yet the State chose not to collect the other
14 video surveillance, despite multiple opportunities to do so.
15

16 The State claims the community center did Douglas County Sheriff's Office's work for
17 them, "conducting a thorough review of the surveillance footage and compiling the footage
18 which involved G.W. and Mr. Jenkins." This is simply not true. The community center did not
19 conduct a thorough investigation and did not provide all footage which involved G.W. and Mr.
20 Jenkins. The community center only provided video surveillance from two days of volleyball
21 practice at the Rec Center, despite there being many more days from which surveillance was
22 available. The only reason Douglas County Sheriff's Office requested more video surveillance
23 besides the one initially shown to Deputy Williams at the community center was because
24 Deputy Williams did not see anything against the law and needed something more "damning."
25
26

1 Once they received the thirty-eight (38) minute of cherry-picked video from the community
2 center, Douglas County Sheriff's Office did nothing further to obtain any more footage. The
3 Douglas County Sheriff's Office received two USB drives with a total of twenty-two (22)
4 videos from only two (2) days from the summer of 2018, knew there was more video
5 surveillance available, and failed to do anything to collect it, acting in bad faith.

6 The State argues that the limited video clips are of course prejudicial, but that their
7 probative value is not substantially outweighed by the danger of unfair prejudice. The State
8 claims the clips are probative because they show the relationship between G.W. and Mr.
9 Jenkins. However, that is the problem. They show an *incomplete and inaccurate* relationship,
10 as it shows a picture of constant touching and attention, when that is not the full picture. The
11 State is relying on the thirty-eight (38) minutes of hours of interaction to characterize a
12 relationship, and for the jury to derive a conclusion about the sexual nature of those interactions
13 from that characterization. The clips were specifically chosen by the community center
14 because of their prejudicial effect and because they are "damning," without any context or
15 background. The State is relying on the emotional reaction to these out-of-context and cherry-
16 picked clips. These manipulated clips are a false portrayal of G.W. and Mr. Jenkins'
17 interactions and are thus highly prejudicial and confusing.

18 The State also claims that the clips are probative because some of the alleged conduct
19 took place at the community center. However, none of the allegations are captured by the clips.
20 G.W. never cites either date as one on which the alleged events occurred, nor does G.W. ever
21 cite the video clips as supplements to her allegations. Therefore, contrary to the State's claim,
22 the clips are not probative as direct evidence of the allegations. Thus, their slight prejudicial
23 value is substantially outweighed by the danger of unfair prejudice.
24
25
26

CONCLUSION

Mr. Jenkins, by and through his Counsel, respectfully requests that this Court order the material and highly prejudicial video surveillance clips provided by the Douglas County Community Center be suppressed, as they are only a small portion of the video surveillance destroyed due to a lack of action founded in bad faith by the Douglas County Sheriff's Office and are substantially more prejudicial than they are probative.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the Social Security Number of any person.

DATED this 2nd day of April, 2021.

/s/ Theresa Ristenpart
THERESA RISTENPART, ESQ.

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CERTIFICATE OF SERVICE

I certify that on the 2nd day of April, 2021, I e-mailed and sent via USPS mail a true copy
of the attached document to:

Chelsea Mazza
Douglas District Attorney's Office
Douglas County District Attorney Marc Jackson
cmazza@douglas.nv.gov

/s/ Lisa Dee
LISA DEE, CP

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1 RISTENPART LAW

2 Theresa Ristenpart, Esq.

3 464 South Sierra Street

4 Reno, NV 89501

5 (775) 200-1699

6 Attorney for Mr. Richard Jenkins

Douglas County
District Court Clerk

2021 APR -8 PM 1:45

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IN THE NINTH JUDICIAL DISTRICT COURT

STATE OF NEVADA, IN AND FOR THE COUNTY OF DOUGLAS

STATE OF NEVADA,

Plaintiff,

CASE NO: 19-CR-0188

v.

DEPT. NO. II

RICHARD JENKINS.

Defendant.

MOTION TO PRECLUDE TESTIMONY OR

FOR A HALLMARK HEARING - BLAKE CARMICHAEL, PH.D.

COMES NOW, Richard Jenkins, by and through his attorney, THERESA RISTENPART, Esq., and hereby moves to exclude the anticipated testimony of Blake Carmichael, Ph.D., or in the alternative, for an evidentiary hearing to determine this testimony's admissibility under NRS 50.275 and *Hallmark v. Eldridge*, 124 Nev. 492, 189 P.3d 646 (2008).

This Motion is based upon the attached points and authorities, the Fourteenth, Fifth, and Sixth Amendments to the United States Constitution, Nev. Const. art. 1 § 8, and any testimony, documentary, and real evidence as may be presented at the hearing on this matter.

FACTS

On April 4, 2016, G.W.¹ reported to her teacher that her mother's boyfriend, Gage Maryces (Gage) had been touching her inappropriately. G.W. claimed that Gage had been coming into her bedroom after everyone else was asleep and laying down with her in her bed with her. G.W. claimed that Gage would rub her back and shoulders while they watched YouTube videos. She claimed that Gage would do this at least once a week. G.W. further claimed that one-time Gage rubbed her butt and she told him to stop and leave her room. G.W. described the interactions and touching as "inappropriate." G.W. told police and her teacher that she had told her mother Tamara, but her mother had told her not to tell anyone.

Douglas County Sheriff's Office interviewed G.W., Tamara, and Gage. Gage denied ever touching G.W. in an inappropriate manner. DCSO concluded that the allegation was "unfounded" and closed the case. Tamara reported to DCSO that she was "concerned about G.W.'s mental state."

In spring 2018, G.W.'s stepfather, with whom she reported to very close, passed away after suffering from cancer. That summer, G.W. became closer friends with Mr. Jenkins' teenage daughter, Alyssa. G.W. spent hours at the Jenkins' home, having dinner, hanging out with Alyssa, Kim (Mr. Jenkins' partner), David (adult son), Chris (roommate), and Mr. Jenkins. G.W.'s mom and family would come over to the Jenkins for barbeques and the Jenkins family took G.W. and her mother on a rafting trip. Mr. Jenkins allowed G.W. to be an "assistant,"

¹ G.W. are the initials of the same complaining party in this instant case in which she is also listed by a pseudonym "Emily Collins."

1 along with his daughter Alyssa, during the summer/fall volleyball clinics he coached at the
2 Douglas County Community Center.

3 In late summer 2018, G.W. tried out for the Douglas County High School volleyball
4 team, at the time coached by Marie Foster. G.W. did not make the team.

5 On September 19, 2018, Ashley Gosley made a report to the Douglas County
6 Community Center claiming she, two days prior, noticed a "strange relationship and touchy
7 behavior with Coach Rick and a younger player."

8 Douglas Community Center reported Ashley Gosley's claims to the Douglas County
9 Sheriff's Office (DCSO). On September 27, 2018, DCSO interviewed G.W. who repeatedly
10 denied any allegations of inappropriate touching by Mr. Jenkins.

11 After this interview, G.W. reached out to Marie Foster to ask about private lessons in
12 order to help make the high school volleyball team. Marie Foster had a private coaching
13 session with G.W. on October 28, 2018. Marie Foster reported to investigating police that she
14 sat down at the beginning of the lesson with G.W. and told G.W. that she had heard
15 stories/rumors about Rick Jenkins. Marie Foster then proceeded to share details of her own
16 personal sexual abuse with G.W. G.W. allegedly then told Marie Foster that Mr. Jenkins would
17 shove her into the equipment room and grope her. Marie Foster ultimately disclosed to G.W.
18 that she is a mandated reporter and would have to report this allegation.
19

20 On November 1, 2018, DCSO interviewed G.W. again. This time G.W. claimed that
21 Mr. Jenkins would rub her butt which made her feel uncomfortable. She also claimed that he
22 put his hands down the front of her pants and almost touched the top of her vagina. G.W.
23 claimed that this happened in at the Jenkins' home and at the Douglas County Community
24 Center.
25
26

1 On March 31, 2021 at 4:12 p.m., the State filed its noticed intent to call Blake
2 Carmichael, Ph.D., a clinical psychologist as an expert witness. The State hand delivered a
3 copy of that notice to Defense on April 1, 2021. Jury trial is set to begin April 21, 2021.
4 In its notice, the State claims "Dr. Carmichael will testify as to his training, education, and
5 experience. Dr. Carmichael will testify regarding the dynamics of child sexual abuse
6 victims, including but not limited to conduct of the child before, during, and after the
7 abuse; and offender dynamics, including behavior types and conduct. Dr. Carmichael is
8 expected to testify regarding disclosure of child sexual abuse by the child, including but
9 not limited to timing of disclosure, delayed disclosure, and how disclosure is made. Dr.
10 Carmichael is further expected to testify regarding the impacts of child abuse on children,
11 including but not limited to physical, social, and emotional responses that a child may
12 have. Dr. Carmichael is anticipated to testify that the conduct of the victim is consistent
13 with child sexual abuse."

14 ARGUMENT

15
16 I. The State failed to timely notice Dr. Blake Carmichael as an expert witness.

17 N.R.S. 174.234 (2) states:

18
19 If the defendant will be tried for one or more offenses that are punishable as a
20 gross misdemeanor or felony and a witness that a party intends to call during the case in
21 chief of the state or during the case in chief of the defendant is expected to offer
22 testimony as an expert witness, the party who intends to call that witness shall file and
23 serve upon the opposing party, **not less than 21 days before trial** or at such other time
24 as the court directs, a written notice containing:

- 25 a) A brief statement regarding the subject matter on which the expert
26 witness is expected to testify and the substance of the testimony;
- b) A copy of the curriculum vitae of the expert witness; and
- c) A copy of all reports made by or at the direction of the expert witness.
(emphasis added)

1 The State served a copy of this notice to Defense Counsel via courier messenger on
2 April 1, 2021 in the late afternoon which provided only twenty (20) days of notice in violation
3 of N.R.S. 174.234(2). At the motion hearing on March 9, 2021, Defense counsel asked this
4 Court to have the notice of expert witnesses due 45 days prior to trial date as Defense
5 anticipated this issue with the State attempting to call another witness in place of Mr. John
6 Paculi, social worker.

7 "Your Honor, I'd just ask for the Court's consideration if we are going to be
8 noticing new experts or amending our notice of expert, that we actually do that 45 days
9 out versus the regular 21 days as if there is an issue that she's trying to call some other
10 expert, that it's going to definitely result in a Hallmark hearing and we would need to
11 set that also." Motion Hearing March 9, 2021 transcript pg. 250 lines 14-20.

12 Despite this forewarning, the State noticed Defense only twenty (20) days prior to trial.
13 As the State failed to comply with N.R.S. 174.234(2) and failed to timely notice, Blake
14 Carmichael, Ph.D. should not be allowed to testify.

15 **II. Blake Carmichael's testimony is not relevant, nor reliable.**

16 The governing standard for the admissibility of expert testimony is found in NRS 50.275.
17 Under that statute,

18 If scientific, technical or other specialized knowledge will assist the
19 trier of fact to understand the evidence or to determine a fact in issue,
20 a witness qualified as an expert by special knowledge, skill,
21 experience, training or education may testify to matters within the
22 scope of such knowledge.

23 As the court prescribed in *Hallmark v. Ellbridge*, in order to testify as an expert under NRS
24 50.275,

25 the witness "must satisfy the following three requirements: (1) he
26 or she must be qualified in an area of 'scientific, technical or other
specialized knowledge' (the qualification requirement); (2) his or
her specialized knowledge must 'assist the trier of fact to
understand the evidence or to determine a fact in issue' (the
assistance requirement); and (3) his or her testimony must be

1 limited 'to matters within the scope of [his or her specialized]
2 knowledge' (the limited scope requirement).

3 124 Nev. 492, 498, 189 P.3d 646, 650 (2008).

4 These three requirements ensure that expert testimony is both relevant and reliable, each
5 a necessary prong to admission of expert testimony. Consequently, the district court must act as
6 a "gatekeeper" before admitting expert testimony. See *Daubert v. Merrell Dow Pharms.*, 509
7 U.S. 579, 589 (1993). As a gatekeeper, the district court must analyze the three requirements
8 identified in *Hallmark*: qualifications, assistance, and scope.

9 Regarding these three requirements, the burden of proof falls to the proponent of the
10 expert testimony by a preponderance of the evidence. *Daubert*, 509 U.S. at 592 n.10. While
11 qualifications and scope are important areas of examination, the critical admissibility inquiry
12 centers on *Hallmark*'s assistance prong. Under the assistance prong, an expert's testimony must
13 be "relevant and the product of reliable methodology." 124 Nev. 492, 498, 189 P.3d 646, 650
14 (2008). To analyze methodological reliability, the court in *Hallmark* enumerates a non-
15 exhaustive list of relevant factors to consider, each of which are "accorded varying weights, and
16 may not apply equally in every case." *Id.*

17 Specifically, reliability is assessed based on whether the proffered opinion is:
18

- 19 (1) within a recognized field of expertise; (2) testable and
20 has been tested; (3) published and subjected to peer review;
21 (4) generally accepted in the scientific community (not
22 always determinative); and (5) based more on particularized
23 facts rather than assumption, conjecture, or generalization.

24 *Higgs*, 126 Nev. Adv. Op. 1, 222 P.3d at 660.

25 In some cases in which principles, theories, reasoning, and methodology are insufficiently
26 transparent or unreliably applied, "[a] court may conclude that there is simply too great an
analytical gap between the data and the opinion offered." *Gen. Elec. Co. v. Joiner*, 522 U.S. 136,

1 146 (1997). As the *Joiner* court notes, "[b]ecause expert opinion based on nebulous methodology
2 is unhelpful to the trier of fact, it has no place in courts of law."

3 In the present matter, it is anticipated that the Dr. Carmichael will give general testimony
4 for the State about sexual abuse. The State's notice is overly broad and vague. To defense
5 knowledge, he has not interviewed any of the parties and/or complainants, nor has he proffered
6 any kind of report as to his findings and conclusions particular to this case. The State appears
7 to be using Dr. Carmichael as a means to impermissibly vouch for G.W.'s credibility by
8 explaining away inconsistencies in stories and timing of disclosures. This type of general
9 testimony must be excluded. It is unreliable and does not rely on scientific principles and
10 methods. It is based on assumptions, generalizations, and a method by which the proposed expert
11 has no particularized information pertaining to this case.
12

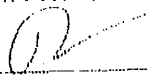
13 CONCLUSION

14 Based on the foregoing, Dr. Carmichael's testimony should be excluded. Alternatively,
15 a *Hallmark* hearing is requested to determine the admissibility of this evidence, and to establish
16 the proper boundaries of trial testimony.
17

18 AFFIRMATION PURSUANT TO NRS 239B.030

19 The undersigned does hereby affirm that the preceding document does not contain the
20 social security number of any person.

21 DATED this 8th day of April, 2021.
22

23 THERESA RISTENPART, ESQ.
24 

25 Attorney for Mr. Richard Jenkins
26

CERTIFICATE OF SERVICE

I certify that on the 8th day of April, 2021, I e-mailed and sent via USPS mail a true copy
of the attached document to:

Chelsea Mazza
Douglas District Attorney's Office
Douglas County District Attorney Marc Jackson
cmazza@douglas.nv.gov

Lisa Dee
LISA DEE, CP

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Case No. 2019-CR-00188

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Dept. No. II

Douglas County
District Court

BOBBIE R. WILLIAMS
CLERK

BY C. WALKER DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

vs.

ORDER REGARDING EVIDENCE OF
PRIOR FALSE ALLEGATIONS

RICHARD ALEXANDER JENKINS,

Defendant.

THIS MATTER comes before the Court on Defendant's Notice of Intent to Admit Evidence of Prior False Allegations of Sexual Assault by Complaining Witness, filed June 26, 2020. Following full briefing, a Miller hearing was held on March 9, 2021. Miller v. State, 105 Nev. 497 (1989). Both parties were provided with an opportunity to present witnesses and evidence. The Court having considered the briefs, evidence and arguments finds and orders as follows:

Defendant is alleged to have committed acts of lewdness with a child under 16 years of age at his residence and at three descript locations within the Douglas County Community Center. Generally, the relationship between Defendant and the complaining witness ("GW") is that of volleyball coach/athlete as well as Defendant being the father of GW's friend. The alleged lewd acts

1 consist of touching/rubbing the complaining witness's pubic area
2 and/or buttocks.

3 Defendant seeks authorization to cross examine GW and,
4 depending on her answers, present extrinsic evidence of prior
5 false allegations of sexual misconduct made by GW. The State is
6 opposed.

7 In cases involving allegations of sexual misconduct, the
8 complaining witness's credibility is critical. *Miller*, 105 Nev.
9 at 500. Prior fabricated accusations of sexual abuse made by a
10 complaining witness are highly probative of the complaining
11 witness's credibility. *Id.* Prior to cross-examining the witness,
12 however, the accused must prove by a preponderance of the evidence
13 in a hearing outside the presence of the jury that (1) the
14 accusation(s) was in fact made; (2) the accusation(s) was in fact
15 false; and (3) the evidence is more probative than prejudicial.
16 *Id.* at 501-02. If this burden is met, the defendant may cross-
17 examine the complaining witness on the prior false allegations.
18 If the complaining witness denies or fails to recall the prior
19 allegations, the defendant may introduce extrinsic evidence. *Id.*;
20 See also, *Abbott v. State*, 122 Nev. 715, 735 (2006).

21 In briefing, Defendant requests authorization to introduce
22 evidence of an allegation made by GW in 2016 against her mother's
23 boyfriend. At the hearing, Defendant elicited testimony of a
24 separate allegation made by GW against her mother's boyfriend in
25 2018. The Court considers each allegation separately.

26 2016 Allegation

27 Defendant claims that in 2016 GW falsely reported to her
28 teacher, her mother and the Douglas County Sheriff's Office that

1 her mother's boyfriend, Gage Marcyes, inappropriately touched her
2 butt.

3 At the hearing, GW testified to having reported in 2016 that
4 Marcyes "touched her inappropriately" by putting his hand on her
5 butt. GW admitted Marcyes did not inappropriately touch her and
6 that what she reported to her teacher and the police was not true.
7 Testimony from other witnesses, such as GW's mother and Marcyes,
8 corroborated that the allegation was made and that the allegation
9 was false.

10 The evidence established by a preponderance of the evidence
11 that GW made the 2016 accusation and that the accusation was
12 false. Given the charges in this case, the probative value as to
13 GW's credibility far exceeds its prejudicial affect on GW. At
14 trial, Defendant may examine GW about her 2016 report that Marcyes
15 inappropriately touched her butt and the falsity of said report.
16 In the event GW denies having made the allegation or denies the
17 falsity of the allegation, Defendant may introduce extrinsic
18 evidence of the allegation and/or its falsity. In the event GW
19 fails to recollect having made the allegation or of its falsity,
20 Defendant may introduce extrinsic evidence only after a failed
21 attempt to refresh GW's recollection.

22 2018 Allegation

23 Defendant claims that in 2018 GW falsely reported to
24 Defendant's girlfriend, Kimberly Copeland, that Marcyes "raped"
25 her.

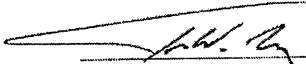
26 At the hearing, GW denied having made any allegations to
27 Copeland about Marcyes. GW denied that Marcyes raped her.
28 Copeland testified that while "chatting" with GW on social media

1 in August or September of 2018, GW claimed Marcyes raped her.
2 Testimony from other witnesses corroborated that the allegation
3 was false. For instance, Marcyes testified that he did not rape
4 GW.

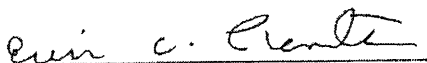
5 The evidence established by a preponderance of the evidence
6 that GW made the 2018 accusation and that the accusation was
7 false. Given the charges in this case, the probative value as to
8 GW's credibility far exceeds its prejudicial affect on GW. At
9 trial, Defendant may examine GW about the 2018 allegation that
10 Marcyes raped her. In the event GW denies having made the
11 allegation or denies the falsity of the allegation, Defendant may
12 introduce extrinsic evidence of the allegation and/or its falsity.
13 In the event GW fails to recollect having made the allegation or
14 of its falsity, Defendant may introduce extrinsic evidence only
15 after a failed attempt to refresh GW's recollection.

16 IT IS SO ORDERED.

17 DATED this 9th day of April, 2021.

18
19 
20 THOMAS W. GREGORY
21 DISTRICT JUDGE

22 Copies served by hand delivery/mail on April 9th, 2021,
23 addressed to: Chelsea Mazza, Deputy District Attorney, P.O. Box
24 218, Minden, NV 89423 (hand delivery); Theresa Ristenpart, Esq.,
464 South Sierra Street, Reno, NV 89201 (mail)

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26 Erin C. Plante
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DOUGLAS COUNTY
DISTRICT ATTORNEY

1 Case No. 2019-CR-00188

2 Dept. No. II

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BY C. WALKER DEPUTY

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6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

ORDER REGARDING STATE'S MOTION
TO ADMIT EVIDENCE OF PRIOR ACTS

12 RICHARD ALEXANDER JENKINS,

13 Defendant.
14

15 THIS MATTER comes before the Court the State's Motion to
16 Admit Evidence of Defendant's Prior Sexual Acts Pursuant to NRS
17 48.045(3) or Alternatively, Motion to Admit Evidence of Other Bad
18 Acts Under NRS 48.045(2). After full briefing, the motion came
19 before the Court for an evidentiary hearing on March 9, 2021.
20 Chelsea Mazza, Deputy District Attorney, appeared for the State.
21 Defendant, Richard Alexander Jenkins, appeared with counsel,
22 Theresa Anne Ristenpart, Esq. Good cause appearing, the Court
23 finds and orders as follows:

24 Procedural and Factual Background

25 Defendant is charged with having committed four counts of
26 Lewdness with a Child Under 16 Years of Age in violation of NRS
27 201.230(1)(a) and (3). Amended Information. The offenses were
28 allegedly committed on or between July 1, 2018 and September 25,

THOMAS W. GREGORY
DISTRICT JUDGE
NINTH JUDICIAL
DISTRICT COURT
P.O. BOX 218
MINDEN, NV 89423

APP0444

1 2018. *Id.* In each count, Defendant is alleged to have touched or
2 rubbed the pubic area or buttocks of the same minor child,
3 referred to herein as "G.W.". *Id.* Allegedly, one offense was
4 committed at Defendant's residence while the other three offenses
5 were committed at the Douglas County Community Center in the
6 equipment room, the multi-purpose room and behind a set of stairs.
7 *Id.*

8 The general backdrop for the case is that G.W.'s stepfather,
9 with whom G.W. was close, succumbed to cancer on July 9, 2018.
10 G.W. was 13 years old. Shortly thereafter, Defendant, who was
11 G.W.'s volleyball coach and father to G.W.'s friend, developed a
12 close relationship with G.W. Witnesses such as the principal of
13 Douglas High School, employees of the Douglas County Community
14 Center, G.W.'s mother, G.W.'s friends and parents observed
15 concerning physical interactions between Defendant and G.W.
16 Reports from some of these witnesses led to a criminal
17 investigation. When G.W. was initially interviewed by the Douglas
18 County Sheriff's Office, she denied that any acts of lewdness had
19 been perpetrated by Defendant. In a subsequent interview, G.W.
20 reported to DCSO that Defendant touched her inappropriately on
21 multiple occasions in the manner, locations and timeframe supplied
22 in the *Amended Information*.

23 The State seeks court authorization to introduce evidence of
24 prior acts pursuant to NRS 48.045(3) (prior sexual offenses) or,
25 alternatively, NRS 48.045(2) (prior bad acts).¹ The prior acts of
26 Defendant fall into two general categories, those indicative of

27
28 ¹ The State argued for the admissibility of the evidence pursuant to NRS
48.035(3), *res gestae*, for the first time during closing argument at the
hearing. This theory is not properly before the Court and is not considered.

1 the relationship between Defendant and G.W. and those indicative
2 of the relationship between Defendant and players other than G.W.
3 Testimony presented during the hearing is summarized below.

4 B.G.: B.G., a minor child, observed Defendant and G.W.
5 become very close as indicated by a lot of touching, hugging and
6 handholding. Defendant did not act this way with other players.

7 Defendant coached B.G. and G.W.'s volleyball team. On one
8 occasion, Defendant threw volleyballs at players' butts.
9 On another occasion, players were wearing supplied uniforms with
10 see-through tops. Defendant commented to B.G. that the color
11 scheme of her bra was the opposite of the color scheme of another
12 player's bra.

13 Tamara Woodbridge: Woodbridge is G.W.'s mother. During the
14 summer of 2018, she became concerned regarding the relationship
15 between G.W. and Defendant because the two seemed too close.
16 Woodbridge discussed this with Defendant on multiple occasions and
17 indicated she did not want G.W. riding with Defendant to and from
18 practices.

19 Ashley Gosney: Gosney works at the Douglas County Community
20 Center. During the summer of 2018, Gosney observed Defendant and
21 G.W. holding pinkie fingers and secluding themselves from others
22 during breaks. Gosney saw Defendant and G.W. hugging in an alcove
23 area. Gosney thought she saw Defendant grab G.W. and kiss her on
24 the side of her face. She saw the two embrace in a very long hug
25 and both were "grabby" with each other. Gosney reported her
26 observations to a superior.

27 Nicholas Lonnegren: Lonnegren works at the Douglas County
28 Community Center. During the summer of 2018, Lonnegren saw

1 Defendant and G.W. go into the equipment room for extended
2 periods, observed Defendant and G.W. hugging and touching and saw
3 G.W. laying on Defendant's thigh in the multi-purpose room. He
4 observed a lot of touching between the two with Defendant paying
5 too much attention to G.W.

6 K.K.: K.K., a minor child, observed escalating interaction
7 between Defendant and G.W. over the course of several months.
8 Defendant often remained close to G.W. as if he were exclusively
9 coaching G.W. While coaching G.W. on serving, Defendant told G.W.
10 to move her hips. Defendant grabbed G.W.'s waste and rotated her
11 hips. Defendant did not do this with other players. K.K.
12 reported the incident to other coaches.

13 Erica Janicki: B.G.'s mother. Saw Defendant, his daughter
14 and G.W. eating at a restaurant on July 30, 2018. Defendant and
15 G.W. were acting like a couple with a lot of active touching.
16 G.W. was practically in Defendant's lap and had her head on him.
17 Defendant's daughter was far away. Janicki took a photograph of
18 the interaction that was introduced during the hearing.

19 On a subsequent occasion, Janicki observed Defendant and G.W.
20 at a volleyball tournament. G.W. was consistently close to
21 Defendant as opposed to being with her teammates. Janicki
22 described the conduct between Defendant and G.W. as being
23 flirtatious.

24 Joe Girdner: Principal at Douglas High School. Defendant
25 volunteered as a tennis coach in the summer of 2018. Girdner saw
26 G.W. walk up behind Defendant, lean in and put her chin on
27 Defendant's shoulder. Defendant's comfortableness with the
28 conduct concerned Girdner to the extent that he immediately

1 suspended Defendant from coaching.

2 V.S.: V.S. is a minor child and friend to G.W. Defendant
3 and G.W. were always together and texting each other. V.S. saw
4 Defendant and G.W. hugging and touching. During a sleepover at
5 G.W.'s house, V.S. overheard a phone conversation between G.W. and
6 Defendant. Defendant asked questions to the effect of, Is your
7 mom there? Is anyone there? Defendant said he missed G.W. and
8 wanted to see her.

9 On another occasion, she observed Defendant and G.W. in front
10 of a restaurant engage in a very touchy, very long bear hug. V.S.
11 observed touching/hugs between Defendant and G.W. on other
12 occasions as well.

13 Prior Sexual Offenses, NRS 48.045(3)

14 The general rule is that other act evidence is not admissible
15 to establish propensity to commit charged acts. NRS 48.045(2).
16 The exception to the rule is that in a criminal prosecution for a
17 sexual offense, evidence of a "separate sexual offense" may be
18 admissible to establish propensity to commit a charged offense.
19 NRS 48.045(2); *Franks v. State*, 135 Nev. 1 (2019). "Sexual
20 offense" has the meaning ascribed to it in NRS 179D.097. NRS
21 48.045(3). The State argues the other act evidence constitutes
22 sexual offenses per NRS 179D.097(1)(n), (r) and (s).

23 NRS 179D.097(1)(n) brings into the definition of sexual
24 offense, "Sexual conduct between certain employees of a school or
25 volunteers at a school and a pupil pursuant to NRS 201.540." NRS
26 179D.097(1)(n). NRS 201.540 criminalizes "sexual conduct" between
27 a person employed/volunteering at a school in a position of
28 authority and a pupil "who is 16 years of age or older..." NRS

1 201.540(1). NRS 201.540(1) is facially inapplicable to the other
2 act evidence in this case as G.W. and B.G. were not 16 years of
3 age or older at the time and the described acts do not meet the
4 definition of "sexual conduct" found in NRS 201.520.

5 NRS 179D.097(1)(r) brings into the definition of sexual
6 offense, "Any other offense that has an element involving a sexual
7 act or sexual conduct with another." NRS 179D.097(1)(r). Other
8 than citing subsection (r), the State fails to develop its
9 argument by pointing out a specific sexual offense. For instance,
10 if the evidence established Defendant held G.W.'s hand, what, if
11 any, offense involving a sexual act or sexual conduct has been
12 committed? The State does not say.

13 NRS 179D.097(1)(s) brings into the definition of sexual
14 offense, "An attempt or conspiracy to commit an offense listed in
15 paragraphs (a) to (r), inclusive." Again, other than citing
16 subsection (r), the State fails to develop its argument by
17 pointing out which specific sexual offenses were attempted or
18 conspired to.

19 The State's request to admit other act evidence pursuant to
20 NRS 48.045(3) is DENIED.

21 Prior Bad Acts, NRS 48.045(2)

22 "Evidence of other crimes, wrongs or acts is not admissible
23 to prove the character of a person in order to show that the
24 person acted in conformity therewith." NRS 48.045(2). "[T]he use
25 of uncharged bad act evidence to convict a defendant is heavily
26 disfavored in our criminal justice system because bad acts are
27 often irrelevant and prejudicial and force the accused to defend
28 against vague and unsubstantiated charges. *Bigpond v. State*, 128

1 Nev. 108, 116 (2012), quoting, *Tavares v. State*, 117 Nev. 725, 730
2 (2001). "[A] presumption of inadmissibility attaches to all prior
3 bad act evidence." *Id.*, quoting, *Rosky v. State*, 121 Nev. 184,
4 195 (2005).

5 The presumption against admissibility of other crimes, wrongs
6 or acts may be overcome. Said evidence "may be admitted for any
7 relevant nonpropensity purpose." *Id.*; NRS 48.045(2). Said
8 evidence is admissible only if the trial court first determines:
9 (1) the prior bad act is relevant to the crime charged and for a
10 purpose other than proving the defendant's propensity; (2) the act
11 is proven by clear and convincing evidence; and (3) the probative
12 value of the evidence is not substantially outweighed by the
13 danger of unfair prejudice. *Id.* at 117.

14 "Identification of an at-issue, nonpropensity purpose for
15 admitting prior-bad-act evidence is a necessary first step of any
16 NRS 48.045(s) analysis." *Hubbard v. State*, 134 Nev. 450, 454
17 (2018), quoting *Newman v. State*, 129 Nev. 222, 231 (213).

18 "'Relevant evidence' means evidence having any tendency to make
19 the existence of any fact that is of consequence to the
20 determination of the action more or less probable than it would be
21 without the evidence." NRS 48.015.

22 The State argues the other act evidence is relevant to prove
23 Defendant's motive, opportunity, intent, preparation or plan or to
24 demonstrate a lack of mistake.

25 The Court agrees with the State as to the prior interactions
26 between Defendant and G.W. Here, as in *Bigpond*, G.W.'s
27 credibility is a central issue because she was the only witness to
28 the alleged offenses and G.W. was not physically injured. G.W.

1 initially denied any wrongdoing by Defendant but later inculcated
2 Defendant in the charged offenses. Defendant attributes G.W.'s
3 changed statements to improper coaxing by a third party and to
4 G.W.'s credibility. The context of the relationship between G.W.
5 and Defendant is relevant as being a possible explanation for
6 G.W.'s inconsistent reporting. *See, Bigpond*, 128 Nev. at 117-118.
7 Further, an offender may prepare "a child for victimization by
8 getting close to the child, making friends with the child,
9 becoming perhaps a confidant of the child, and getting the child
10 used to certain kinds of touching, and play activities." *Perez v.*
11 *State*, 129 Nev. 850, 855 (2013) (internal quotations and citations
12 omitted). The offender engages in this activity "to reduce the
13 child's resistance to sexual activity and reduce the possibility
14 that the victim will report the abuse." *Id.* (internal citation
15 omitted). Admissibility does not turn on "whether the [prior bad
16 act] has certain elements in common with the crime charged, but
17 whether it tends to establish a preconceived plan which resulted
18 in the commission of that crime." *Richmond v. State*, 118 Nev.
19 924, 933 (2002); *See also, Ledbetter v. State*, 122 Nev. 252, 260-
20 61 (2006), *Rosky v. State*, 121 Nev. 184, 196 (2005), *Hogarth v.*
21 *State*, 2020WL405394, p. 2 (Unpublished, Nevada Supreme Court No.
22 76317, January 23, 2020) (evidence of defendant watching victim in
23 the shower and putting lotion on her was relevant to show
24 preparation in gaining victim's trust and exposing her to physical
25 touch and to show motive and intent by demonstrating a plan to
26 carry out the charged sexual assault that occurred within the same
27 timeframe).

28 The Court finds the prior acts between Defendant and G.W.

1 are relevant as to motive, intent², plan and the relationship
2 between Defendant and G.W. Evidence that Defendant and G.W. were
3 observed going into the equipment room for extended periods of
4 time, is relevant to the establishment of opportunity. So too
5 relevant is G.W.'s testimony that Defendant told G.W. to make up a
6 story as to why they were in the equipment room for so long. The
7 evidence that Defendant was counseled against having any physical
8 interaction with G.W. is relevant to demonstrating a lack of
9 mistake. The evidence of prior interactions between Defendant and
10 G.W. also supplies context for the investigation.

11 The Court having assessed the eyewitness testimony and
12 evidence produced at the hearing, finds that each of the prior
13 acts between Defendant and G.W. were proven by clear and
14 convincing evidence. The probative value of the evidence is high.
15 The case involves allegations of sexual offenses being committed
16 against a minor where the credibility of the minor is central and
17 the minor has provided conflicting statements. Evidence of the
18 relationship between Defendant and G.W. is pertinent to the jury's
19 assessment of the charges. The high probative value is not
20 substantially outweighed by undue prejudice. To reduce any
21 prejudice, the Court will give a limiting instruction.

22 The Court turns to assessing the admissibility of prior acts
23 committed by Defendant against someone other than G.W. The only
24 such evidence presented at the hearing was the testimony of B.G.
25 regarding Defendant's comment about players' bras and Defendant
26 throwing volleyballs at players' butts. The Court finds that this
27 evidence is not probative for non-propensity purposes and, even

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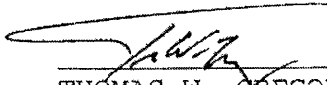
2 The crime of lewdness with a minor is a specific intent crime. NRS 201.23.
9

1 so, any probative value is substantially outweighed by unfair
2 prejudice. There is little correlation between these acts and the
3 charged conduct and the acts do not help establish the
4 relationship between Defendant and G.W.

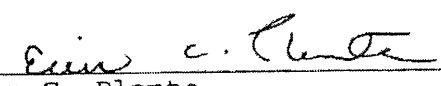
5 The State's request to admit other act evidence pursuant to
6 NRS 48.045(2) is GRANTED, in part, and DENIED, in part, as
7 provided herein.

8 IT IS SO ORDERED.

9 DATED this 9th day of April, 2021.

10
11 
12 THOMAS W. GREGORY
13 DISTRICT JUDGE
14
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16
17

18 Copies served by hand delivery/mail on April 9th, 2021,
19 addressed to: Chelsea Mazza, Deputy District Attorney, P.O. Box
20 218, Minden, NV 89423 (hand delivery); Theresa Ristenpart, Esq.,
464 South Sierra Street, Reno, NV 89201 (mail)

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Case No. 2019-CR-00188

Dept. No. II

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,

Plaintiff,

vs.

RICHARD ALEXANDER JENKINS,

Defendant.

ORDER DENYING DEFENDANT'S
MOTION IN LIMINE TO SUPPRESS
VIDEO SURVEILLANCE CLIPS

THIS MATTER comes before the Court on Defendant's Motion in Limine to Suppress Manipulated Douglas County Community Center Video Surveillance Clips, filed March 15, 2021, as amended on March 19, 2021. After full briefing, the motion came before the Court for an evidentiary hearing on April 6 and April 9, 2021. Chelsea Mazza, Deputy District Attorney, appeared for the State. Defendant, Richard Alexander Jenkins, appeared with counsel, Theresa Anne Ristenpart, Esq.

Defendant requests suppression of video surveillance clips from the Douglas County Community Center based upon the State's bad faith failure to collect additional video surveillance footage.¹ Defendant secondarily argues for exclusion of preserved

¹ At the hearing, Defendant argued for the remedy of dismissal of three counts.

1 video surveillance clips on the basis that the probative value of
2 the preserved video surveillance footage is substantially
3 outweighed by undue prejudice.

4 The Court, finding that the failure to collect additional
5 video surveillance footage was not the result of State gross
6 negligence or bad faith and that the probative value of the
7 collected video surveillance footage is not substantially
8 outweighed by undue prejudice, denies the motion.

9 Findings of Fact

10 Defendant is charged with having committed four counts of
11 Lewdness with a Child Under 16 Years of Age in violation of NRS
12 201.230(1)(a) and (3). *Amended Information*. The offenses were
13 allegedly committed on or between July 1, 2018 and September 25,
14 2018. *Id.* In each count, Defendant is alleged to have touched or
15 rubbed the pubic area or buttocks of the same minor child,
16 referred to herein as "G.W.". *Id.* Allegedly, one offense was
17 committed at Defendant's residence while the other three offenses
18 were committed at the Douglas County Community Center in the
19 equipment room, the multi-purpose room and behind a set of stairs.
20 *Id.*

21 The Douglas County Community Center has 36 video surveillance
22 cameras covering various aspects of the center. There are no
23 cameras in the equipment room. Camera coverage of the multi-
24 purpose room is limited. Camera coverage of the area behind the
25 stairs is limited. Cameras are on 24/7 and are motion activated.
26 Surveillance footage is digitally recorded onto a hard drive and
27 remains available until the hard drive is full. Once the hard
28 drive is full, new footage is preserved by deletion of old

1 footage on a first in/first out basis. Surveillance footage is
2 available for an average of four to six months.

3 The Community Center received reports from employees that on
4 September 17 and September 19, 2018, Defendant was observed having
5 inappropriate contact with G.W., 14 years of age. The Community
6 Center reviewed video surveillance footage and preserved seven
7 video clips. Based upon what was reported and observed on the
8 seven video clips, the Community Center decided to report the
9 incidents to the Douglas County Sheriff's Office. The Community
10 Center provided the seven video-clips to DCSO on September 20,
11 2018. DCSO's investigation ensued, culminating in the arrest of
12 Defendant on November 8, 2018 for four counts of lewdness with a
13 minor committed on or between July 1 and September 25, 2018.

14 In November 2018, Investigator Chrzanowski of the Douglas
15 County Sheriff's Office "requested the community center review
16 their surveillance for any additional video surveillance showing
17 any interaction between Richard Jenkins and G.W." *Stipulation of*
18 *Facts Regarding Defendant's Motion to Suppress Manipulated Douglas*
19 *County Community Center Video Surveillance*, subsection 9, April 9,
20 2021. On December 10, 2018, the Community Center informed
21 Investigator Chrzanowski that additional video clips were ready
22 for pick-up. *Id.* at 10. Investigator Chrzanowski picked up 15
23 additional video surveillance clips from the Community Center.
24 *Id.* The 15 additional video clips depict interactions between
25 Defendant and G.W. on September 17 and September 19, 2018.
26 Investigator Chrzanowski did not view any other video footage or
27 request any additional video footage. *Id.* at 11-14.

28 Georgianna Drees-Wasner testified that she is the Community

1 Center's recreation coordinator for senior services. Ms. Drees-
2 Wasner testified that she was directed by her boss, not DCSO, to
3 review video footage for "uncomfortable" or "out of place" conduct
4 between Defendant and G.W. At the time, video footage was only
5 available back to August 2018. Although Ms. Drees-Wasner
6 collected the 15 clips, another employee(s) found some of the
7 footage. In making the clips, Ms. Drees-Wasner looked for and
8 preserved the best and most clear camera footage of the incidents
9 that were of concern. Ms. Drees-Wasner did not manipulate, alter
10 or splice the video footage. Ms. Drees-Wasner stated there was
11 other video footage of Defendant and G.W. that she did not
12 preserve because it did not contain inappropriate behavior.² Ms.
13 Drees-Wasner gave the 15 video clips to her boss and did not speak
14 with DCSO or show the video to DCSO.

15 The acts reported to the Community Center by its employees,
16 as supported by the 22 video clips, do not form the basis for the
17 lewdness charges. The video clips do not contain footage of the
18 acts of lewdness that allegedly occurred in the equipment room,
19 the multi-purpose room or the area behind the stairs. The video
20 clips are offered by the State in support of prior act evidence
21 held admissible by the Court. *Order Regarding State's Motion to*
22 *Admit Evidence of Prior Acts, April 9, 2021.*³

23 At no time did DCSO or the Douglas County District Attorney's
24 Office have possession of all video surveillance footage captured
25

26 ² Scott Morgan, Director of Community Services and Ms. Drees-Wasner's boss,
27 testified that he did not recall receiving an additional request from DCSO.
He asked his staff to review footage from September 17 and 19 to make sure
they got everything.

28 ³ The Courts prior findings as to proof of the prior acts, the probative
value of the prior acts and potential prejudice, are incorporated by
reference and not fully restated herein.

1 by all of the cameras at the Community Center from July 1 to
2 September 25, 2018, or even just September 17 and 19, 2018. The
3 only video footage that the State has ever had possession of or
4 even seen is the 22 video clips collected by the Community Center.
5 DCSO preserved all 22 video clips. Additional video surveillance
6 footage that would have captured Defendant and G.W. was never
7 observed or collected by DCSO and is no longer available.

8 No evidence was presented that the Community Center or DCSO
9 manipulated or altered the 22 video clips.

10 No evidence was presented that DCSO was aware that video
11 surveillance at the Community Center is no longer available after
12 four to six months.

13 No evidence was presented that DCSO knew that there was
14 additional video footage depicting Defendant and G.W.

15 No evidence was presented in support of Defendant's claim
16 that DCSO directed the Community Center to find and collect only
17 "damning evidence."

18 Defendant retained counsel shortly after his arrest.
19 Defendant waited until February 3, 2021, to file a *Motion to*
20 *Compel Production of Complete Video Surveillance*. See, *Order*
21 *Denying Motion to Compel Production of Video Surveillance*, March
22 22, 2021; See also, Transcript of Preliminary Examination,
23 December 6, 2019, p. 70, 72, 73, 85, 86 (indicating defense
24 counsel's full awareness of the video surveillance capabilities of
25 the Community Center). No evidence was presented that Defendant
26 timely requested additional video surveillance footage from the
27 Community Center, timely served a subpoena *duces tecum* or timely
28 brought a motion to compel.

1 counsel shortly after his arrest on November 8, 2018, made any
2 such effort.

3 Based upon the evidence presented and the findings of fact,
4 the Court finds that Defendant's claim of bad faith or gross
5 negligence is frivolous. Similarly, Defendant has failed to
6 establish that the uncollected video is material. Given the
7 locations in the Community Center where the lewdness offenses were
8 allegedly committed and the corresponding lack of cameras or
9 camera coverage in those areas, Defendant has not demonstrated
10 that there is reason to believe uncollected video footage would
11 exculpate Defendant or likely change the outcome of the trial.

12 The Court next addresses a legal theory raised by Defendant
13 for the first time in closing argument. Defendant claims the
14 Community Center was acting as a State agent when it failed to
15 preserve the video footage, thereby making *Boggs* the operative
16 standard. This theory was not raised in a timely manner and is
17 not properly before the Court. Besides, *Leonard v. State*, 114
18 Nev. 639 (1998), *Jackson v. State*, 128 Nev. 598 (2012) and the
19 evidence presented do not support Defendant's contention.

20 *Leonard* involved a murder committed in prison. A prison
21 official failed to videotape the altercation. The Nevada Supreme
22 Court held that the prison official, "even though a state
23 employee, [] was not acting for the police or prosecuting
24 authorities when he failed to make a tape. Similarly, any bad
25 faith by [the prison official] is not attributable to the state in
26 its police or prosecutorial role." *Leonard*, 114 Nev. at 655.

27 In *Jackson*, police officers investigating a robbery were
28 offered complete video from the bar where the robbery occurred.

1 The police declined and instead requested a composite video. The
2 bar produced the composite video at the request of the police. In
3 addressing the no longer available video footage, the Nevada
4 Supreme Court applied the *Daniels* standard and did not label the
5 bar a state agent. *Jackson*, 128 Nev. at 613. The court also held
6 that the government did not act in bad faith because "the decision
7 to compile only parts of the surveillance recordings appeared to
8 the district court to be the product of concern for efficiency,
9 not bad faith. We cannot disagree." *Id.* at 614.

10 Here, the initial seven video clips were compiled by the
11 Community Center before DCSO was even involved. The evidence does
12 not establish an agency relationship between the State and the
13 Community Center. While Investigator Chrzanowski requested any
14 additional video surveillance showing any interaction between
15 Defendant and G.W., the Director of Community Services, Scott
16 Morgan, testified that he directed staff to look for additional
17 video footage from September 17 and 19 to make sure they got
18 everything, not at DCSO's request. Ms. Drees-Wasner testified
19 that Mr. Morgan asked her to look for additional video of
20 inappropriate behavior by Defendant and preserved the additional
21 15 video clips from September 17 and 19. Ms. Drees-Wasner did not
22 even communicate with DCSO. The evidence does not support that
23 Mr. Morgan or Ms. Drees-Wasner were acting on behalf of the State
24 in its police or prosecutorial capacity. Regardless, there was
25 absolutely no evidence presented indicating bad faith or gross
26 negligence on the part of the Community Center and, as in *Leonard*,
27 any bad faith on the part of the Community Center would not be
28 attributable to the State.

1 The Court finds no basis for sanctions against the State
2 regarding any failure to collect video surveillance tapes.

3 NRS 48.035(1)

4 Defendant moves *in limine* to exclude the collected and
5 preserved video surveillance clips pursuant to NRS 48.035(1).
6 Defendant claims the video clips are inaccurate and/or have been
7 modified or manipulated.

8 The video clips depict prior acts already held by the Court
9 to be admissible. *Order Regarding State's Motion to Admit*
10 *Evidence of Prior Acts*, April 9, 2021.⁴ Consideration of the
11 video clips only enhances the Court's prior findings of proof by
12 clear and convincing evidence, relevance for a non-propensity
13 purpose and that the probative value is not substantially
14 outweighed by undue prejudice.

15 Defendant's claims that the videos are inaccurate, modified
16 and manipulated are without basis. The Community Center simply
17 downloaded to segments of the center's continuous video to a flash
18 drive. There is no evidence that the video clips are inaccurate
19 or have been modified, manipulated or even enhanced. The singular
20 case cited by Defendant, *Archanian v. State*, 122 Nev. 1019, 1029
21 (2006), is not contrary. The failure collect all video depicting
22 Defendant and G.W., goes to the weight of the evidence as opposed
23 to admissibility and can be adequately addressed through cross-
24 examination.

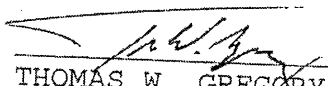
25 The video clips are relevant and the probative value of the
26 video clips is not substantially outweighed by the danger of
27

28 ⁴ Again, the Courts prior findings as to proof of the prior acts, the
probative value of the prior acts and potential prejudice, are incorporated
by reference and not fully restated herein.

1 unfair prejudice, of confusion of the issues or of misleading the
2 jury. NRS 48.035(1). The video clips are admissible pursuant to
3 NRS 48.045(2).

4 IT IS HEREBY ORDERED that Defendant's Motion in Limine to
5 Suppress Manipulated Douglas County Community Center Video
6 Surveillance Clips is DENIED.

7 DATED this 12th day of April, 2021.

8
9
10 
THOMAS W. GREGORY
DISTRICT JUDGE

11 Copies served by mail/hand delivery on April 12th, 2021,
12 addressed to: Chelsea Mazza, Deputy District Attorney, P.O. Box
13 218, Minden, Nevada 89423 (hand delivery); Theresa Ristenpart,
14 Esq., 464 South Sierra Street, Reno, Nevada 89201 (mail)

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16 Erin C. Plante
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IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ALEXANDER JENKINS,

Appellant.

v.

STATE OF NEVADA,

Respondent.

Case No. 83465

APPELLANT’S APPENDIX
VOLUME III

**APPEAL FROM JUDGMENT OF CONVICTION AND
SENTENCING**

NINTH JUDICIAL DISTRICT
STATE OF NEVADA

THE HONORABLE THOMAS W. GREGORY, PRESIDING

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No. 83465

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1 Case No. 19-CR-0188

2 Department No. II

3

4

5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF DOUGLAS

7 THE HONORABLE THOMAS W. GREGORY

8 -oOo-

9 STATE OF NEVADA,)

10 Plaintiff,)

11 vs.)

12 RICHARD ALEXANDER JENKINS,)

13 Defendant.)

14

15 TRANSCRIPT OF PROCEEDINGS

16 MOTIONS HEARING

17 FRIDAY, APRIL 9, 2021

18 MINDEN, NEVADA

19

20 For the State: Chelsea Mazza,
Deputy District Attorney

21

22 For the Defendant: Theresa Ristenpart, Esq.

23

24 Reported by: Shellie Loomis, RPR
Nevada CCR #228

1 MINDEN, NEVADA, FRIDAY, APRIL 9, 2021, P.M. SESSION

2 -oOo-

3
4 THE COURT: Good afternoon, everybody. This is
5 Case Number 19-CR-188, State of Nevada versus Richard Jenkins.
6 Show the appearance of Chelsea Mazza on behalf of the State.
7 Theresa Ristenpart is appearing on behalf of the Defendant who
8 is also appearing here today out of lawful custody.

9 We are here today for the continuation of a
10 hearing on Defendant's motion to exclude certain video
11 surveillance clips or tapes, and so I'm ready to finish that
12 hearing here today.

13 I do want to take a moment just to thank the
14 court reporter who had to go through quite a bit to get here
15 today, beyond normal, and we thank you for your efforts, Madam
16 Court Reporter.

17 THE REPORTER: You're welcome. Thank you.

18 THE COURT: Okay. Ms. Ristenpart, where we were
19 at was -- and, Ms. Mazza, is the calling of Investigator
20 Chrzanowski, is she going to be available this afternoon?

21 MS. RISTENPART: Go ahead and make your record.

22 MS. MAZZA: Your Honor, Investigator Chrzanowski
23 is not available this afternoon. She did go to her medical
24 provider and she was not cleared. She's been ordered to not

1 work and to be at home, resting until April 13th. So she is
2 not available here today. She is in the same condition she
3 was in on the 13th.

4 However, Ms. Ristenpart and I have been able to
5 come to an agreement with regards to a stipulation as to the
6 facts regarding Investigator Chrzanowski, which Defense would
7 be requesting be proven if she were to be called.

8 We do have a stipulation to present to the Court.
9 We had a few last-minute changes to make. They're being
10 printed right now, I believe they should be brought over if I
11 could just have one moment.

12 THE COURT: Thank you for those efforts and,
13 counsel, if you need a few moments to make sure that
14 stipulation is in order, just ask and I will take a few
15 minutes here.

16 MS. MAZZA: Your Honor, we've reviewed it, each
17 side several times, and we just did a last-minute review with
18 some changes. I should be able to get it within the next
19 minute, if I can just walk over to our --

20 THE COURT: Absolutely. Folks, you can just
21 remain seated. I'm going to step out for a moment and once
22 you have that and you're ready to go, what I anticipate is
23 having me look at that stipulation if it's entered and then I
24 guess we would proceed with arguments on the motion.

1 Ms. Mazza, is that sufficient?

2 MS. MAZZA: Yes, Your Honor.

3 THE COURT: Ms. Ristenpart?

4 MS. RISTENPART: That's correct, Your Honor.

5 Just to supplement the record a little bit more, I was
6 informed by Ms. Mazza that Investigator Chrzanowski stated
7 she'd be on medical leave until the 13th and then indicated
8 she would be out of state the rest of the week.

9 It was not clarified for defense as to whether
10 this was a necessary leave or a vacation leave, so I don't
11 have an answer for the Court on that. But parties did come
12 together to make a stipulation for the purposes of this motion
13 hearing.

14 THE COURT: Okay. Well, again, thank you for
15 that effort. We'll go ahead and just be in recess here for a
16 few moments until that stipulation can be printed out and then
17 we'll go forward. Again, everybody can just remain seated,
18 unless you need to go get the copy, of course. All right.
19 Thanks. We're in recess.

20 (Recess.)

21 THE COURT: Court is back in session on Case
22 Number 19-CR-188, show the appearance of both counsel and the
23 Defendant. Filed during the recess is a stipulation to facts
24 regarding Defendant's motion to suppress manipulated Douglas

1 County Community Center video surveillance.

2 And, Ms. Mazza, my thought would be I'd go ahead
3 and consider that now for the purpose of this hearing.

4 Is that your agreement?

5 MS. MAZZA: Yes, Your Honor, with the caveat that
6 it be considered for this hearing only.

7 THE COURT: Okay. Ms. Ristenpart, is that your
8 expectation as well?

9 MS. RISTENPART: That is correct, Your Honor, and
10 I would ask also if we could maybe attach a copy of the filed
11 and stipulation possibly as an exhibit so it follows up.

12 THE COURT: Good idea.

13 MS. RISTENPART: Any motion.

14 THE COURT: Although it will be part of the --

15 MS. RISTENPART: It would, but yeah.

16 THE COURT: It's already filed. It's part of the
17 record, so I think it -- I think we're covered with that.

18 MS. RISTENPART: Okay. I just want to double
19 check. Thank you.

20 THE COURT: Okay. Give me a moment, I'm going
21 review the stipulation.

22 (Brief pause in proceedings.)

23 THE COURT: Okay. The Court has read the
24 stipulation. The Court accepts the stipulation of the parties

1 and the Court will utilize the information provided in the
2 stipulation in determining only the pending motion and at this
3 time, we can move to closing argument, that is if there's --
4 are there any other witnesses to present here today on that
5 motion, Ms. Ristenpart?

6 MS. RISTENPART: No, Your Honor.

7 THE COURT: Ms. Mazza?

8 MS. MAZZA: No, Your Honor.

9 THE COURT: Okay. Ms. Ristenpart, you may offer
10 your argument.

11 MS. RISTENPART: Thank you, Your Honor.

12 I have presented a PowerPoint to assist if the
13 Court -- I have it uploaded and I do have a printed out copy
14 for the Court for an exhibit.

15 THE COURT: Okay. Give me a moment, we'll get
16 the monitors turned on.

17 MS. RISTENPART: With the Court's permission, may
18 I remain seated while I make my argument?

19 THE COURT: You may.

20 MS. RISTENPART: Thank you.

21 THE COURT: All right. So the exhibit will be
22 marked Defendant's Exhibit A for the purpose -- it's
23 demonstrative for the purpose of this hearing and it's also --
24 the Court is able to see the PowerPoint on video system.

1 Ms. Mazza, can you see it as well?

2 MS. MAZZA: Yes, Your Honor.

3 THE COURT: Okay. Very good.

4 MS. RISTENPART: Thank you, Your Honor.

5 So I know the Court is very familiar with our
6 pleadings and motions and arguments, and the Court, as it's
7 just fresh from Tuesday, is familiar with the testimony. The
8 lengthy was necessary to go through to show the Court
9 specifically why this is such a critical issue in this
10 particular case.

11 As we are referencing and we are asking today,
12 we're first asking the Court to consider suppressing all the
13 videos and the clips and the recordings because the government
14 acted in bad faith by failing to preserve and collect
15 exculpatory evidence, meaning -- and specifically the
16 recordings that were in the historic capacity of the Douglas
17 County Community Center that were never properly recorded or
18 collected or even, frankly, looked at.

19 Secondary, Your Honor, is we're also arguing that
20 all the video clips are irrelevant and highly prejudicial and
21 only being used to inflame the jury's passions.

22 When we're looking at, Your Honor, the failure to
23 preserve the evidence and whether bad faith occurred, the
24 Court is well aware that in *Sheriff versus Warner*, 112 Nev.

1 1234, decided in 1996, that the State's loss or destruction of
2 evidence constitutes a due process violation only if the
3 Defendant shows either that the State acted in bad faith or
4 that the Defendant suffered undue prejudice and exculpatory
5 value of the evidence was apparent before it was lost or
6 destroyed.

7 The first issue even before we get to what the
8 Government did or did not do, more specifically in this case
9 is what, in fact, was material about the destroyed video
10 surveillance.

11 The State argues repeatedly in their reply that
12 it wasn't material, it didn't show anything, so therefore,
13 it's not relevant. That's exactly why it's so material.

14 As you heard from the key witness here,
15 Georgianna Drees-Wasmer, the Douglas County Community Rec
16 Center staff member to went back in November to clip more
17 recordings, she stated that she looked at other days and that
18 she looked at other interactions, but that it didn't have
19 anything or it didn't give her that "eh" feeling, so she
20 didn't bother to record them.

21 That in itself is exculpatory evidence. There
22 are other interactions that were contained and stored on that
23 video surveillance by the Douglas County Community Center that
24 clearly showed that there was completely normal quote/unquote

1 "behavior interactions" between GW and Mr. Richard Jenkins at
2 the Douglas County Community Center. Really, and also
3 pursuant to Daniels versus State, as I have said, is that
4 there's a reasonable probability of the evidence, if been
5 available to defense, the result of the proceedings would have
6 been different.

7 Of course, as all case law is, we're looking in
8 hindsight, Your Honor. But looking forward, you can see how
9 this is so important why these clips, which were taken out of
10 context and clipped from much longer 24-hour video
11 surveillance, continuous video surveillance, really represents
12 and shows that what was destroyed and never collected by the
13 Government was never collected and then ultimately destroyed
14 as it was taped over is material, because it shows that there
15 are the quote "normal interactions" between GW and
16 Mr. Jenkins.

17 What also was forever lost were all the other
18 times that Mr. Jenkins went in the equipment room with other
19 players, the other times other coaches went into the equipment
20 room, who also would have observed and seen interactions
21 between GW and Mr. Jenkins. All of that has been irrevocably
22 lost because the Government failed to preserve or collect.

23 It's definitely material, Your Honor, and then we
24 turn to the second prong. I'm not arguing just "or," that

1 there was bad faith or that Mr. Jenkins was greatly
2 prejudiced. It is both, Your Honor, in this case. And even
3 if that's not even the case law standard, it can be either
4 one.

5 But here, Mr. Jenkins is greatly prejudiced, as
6 I'll talk about, by the fact that these clips are taken out of
7 context and give this false image and presentation for the
8 State to rely upon that shows -- or alleges that there was
9 always this constant touching between GW and Mr. Jenkins,
10 which is not true, and that is what they're trying to use to
11 inflame the passions of the jury.

12 And really what it comes down to, Your Honor,
13 also is that we keep using these words "inappropriate
14 touching" and then kind of, as Georgianna testified, it just
15 kind of was like "eh," and she kind of like squirmed a little
16 in her seat, like just kind of gave you an "eh" feeling.
17 That's not a crime in and of itself.

18 And also on top of that, that is such a personal
19 morality question as to what one person feels uncomfortable
20 with versus another and someone who doesn't even know the back
21 history or the family history of these two individuals to then
22 decide what to clip and what to forever destroy.

23 That's where the bad faith by the Government
24 comes in. And what's critical about that, Your Honor, is

1 looking at the timeline events and the knowledge the
2 Government had at each stage.

3 When we're looking at just the charging document
4 yourself, as the Court is well aware in the amended criminal
5 complaint, three out of the four allegations involve the
6 allegation that something occurred at the Douglas County
7 Community Center, specifically in Count II, that while they
8 were together under the -- inside the equipment room of the
9 Douglas County Community Center, that some kind of lewd act
10 occurred.

11 In Count III, again, while they were together in
12 the multipurpose silo room, commonly referred to as the
13 squishy floor room, inside the Douglas County Community
14 Center; and in Count IV, while they were together behind a set
15 of stairs inside the Douglas County Community Center.

16 The timeline of events, Your Honor, starting on
17 September 17th of 2018, this Court would have, from the
18 preliminary hearing, but also you heard testimony from Scott
19 Morgan that there was report of some concerns by one of the
20 community center members. Ashley Gosney is her name and I
21 believe the State asked questions about that.

22 On September 20th, 2018, we have testimony that
23 the community center coordinator, Scott Doerr, from Scott
24 Morgan that Mr. Jenkins was rubbing GW's thigh, confronts him

1 and fires him. That was also the preliminary hearing
2 testimony, Your Honor.

3 On September 20th of 2018, Douglas County
4 Sheriff's Office receives report that Mr. Jenkins was kissing
5 GW. Douglas County Sheriff's Office Deputy Williams responds,
6 watches video surveillance, finds nothing criminal and asks
7 the community center to find more damning evidence.

8 The rec center then manipulates, and when I use
9 the word "manipulate," Your Honor, I'm not saying they changed
10 the image of what they recorded. I'm saying that they
11 manipulated it by cutting it out of much larger video
12 surveillance and that is the manipulation that led to these
13 false impressions of multiple clips, and clipped seven video
14 clips from only September 7th, 2018, and September 19th, 2018,
15 from only certain angles and gives those seven clips to Deputy
16 Williams.

17 On September 24th, 2018, Detective Chrzanowski as
18 per the stipulation before the Court reviewed these seven
19 clips, video surveillance.

20 On November 1st, 2018, the Court is aware GW
21 changes her story and claims that Mr. Jenkins touched her in
22 the squishy room and an equipment closet at the Douglas County
23 Community Center. That's in the stipulation provided to the
24 Court.

1 Sometime in November of 2018, Detective
2 Chrzanowski asked the recreation center for more video
3 surveillance. On November 9th of 2018, Douglas County
4 community -- excuse me, Douglas County Sheriff's Office
5 arrests Mr. Jenkins and the District Attorney's office charges
6 him.

7 On December 10th of 2018, the rec center calls
8 Detective Chrzanowski to pick up more clips of video
9 surveillance. Detective Chrzanowski picks up 15 additional
10 clips, which had been cut, manipulated from much longer video
11 stored surveillance from only certain camera angles and only
12 for 9/17 and 9/19.

13 When we're looking at the time frame, Your Honor,
14 and the Government's knowledge, it's clear from the very least
15 at the very latest date, November 1st of 2018, that the
16 Government was well aware that there was allegations of
17 lewdness in the squishy room and the equipment closet based
18 upon GW's statements to law enforcement.

19 At that time, Detective Chrzanowski did not go
20 herself to go try to get more video surveillance or even
21 check. She requested and used the Douglas County Community
22 Center staff support as her agents to go review and get more
23 video surveillance and we're left with 15 clips that were
24 carefully or specifically chosen by someone who's not even law

1 enforcement, but acting under directions by law enforcement.
2 And someone who said, well, I just looked through video and
3 thought, eh, it kind of made me uncomfortable so I'm going to
4 record this.

5 When we're talking about the totality of what was
6 preserved versus lost, you heard Scott Morgan testify there
7 were 36 different video surveillance cameras in the rec
8 center. We have only been provided six camera angles out of
9 the 36.

10 You also saw, Your Honor, the pictures of the
11 bank of monitors that face out to everyone who walks into the
12 rec center and sees this and how many different angles are
13 even just displayed on those banks of monitors that we clearly
14 did not see in the exhibits that are attached as Exhibits 1, I
15 think, A through H to the motion.

16 If we're looking at -- also Georgianna put
17 together for us and what has been admitted as Defense
18 Exhibit 1, I believe, she marked where she, to the best of her
19 recollection, different cameras and video surveillance that
20 are in the Douglas County Community Center in that area that
21 were specifically kind of really focusing on.

22 As you can see here that the alcove, the
23 equipment closet and the squishy room all have cameras in that
24 general area. But you also have more cameras that would have

1 captured different angles and also would have overlapped as
2 Georgianna testified and would have caught a different angle
3 of even the clipped recordings, showing some interaction that
4 would have shown a different angle or a different perspective.

5 So when we're looking at just the alcove
6 allegation, Count IV, Your Honor, of the amended criminal
7 complaints, you saw that it was the fish bowl, that is they
8 took and clipped a recording from the security camera that is
9 over the arcade room as they refer for it, that also you can
10 move and change the perspective so you can see out to that
11 little alcove area.

12 When we're looking at the angle, even through
13 changing the camera angle, and that's when they show what
14 looks to -- appears to be some interaction between Mr. Jenkins
15 and GW. When we are looking at that angle, we also heard
16 testimony that there are cameras at -- over the front desk.

17 We saw that angle that looked down that hallway
18 where the alcove is, and also on the other side of that same
19 hallway where the alcove is, there are two other cameras and
20 video surveillance highlighted here in yellow.

21 When you look at that and the angles that they
22 could have picked out and recorded, it clearly overlaps with
23 that alcove area, and all of those angle and camera angles
24 have completely been lost because no one collected them.

1 In addition, when you're looking at that alcove
2 area as we saw from this still photograph and you remember
3 Georgianna zoomed in on this area highlighted in yellow where
4 it appeared that Mr. Jenkins was talking to some of the
5 players while they were sitting down.

6 If where my cursor is, that's the stairwell and
7 the alcove right there. So the context of what occurred
8 before Mr. Jenkins and GW went into the alcove, that would
9 have captured what occurred before they walked over there and
10 they failed to preserve that. They failed to collect that.
11 We have lost that because they never clipped the recording,
12 showing the entire interaction of those two individuals
13 throughout the day or throughout the practice.

14 In addition, from the other angle, and this is
15 from the other side, looking towards the front desk,
16 Your Honor, and you can see clearly the alcove area is
17 captured from this viewpoint where my cursor is and that,
18 again, would have shown a different perspective that we could
19 have zoomed in on and has been forever lost and also would
20 have established from a different perspective angle whether
21 there were some other events that occurred prior to that
22 moving over to the alcove area, which would have put that
23 specific moment captured in time in context.

24 What I find, and frankly the most disturbing,

1 which really points to bad faith by the act of the Government,
2 and I know the State is going to jump up and say these were
3 the support staff of the Douglas County Community Center, so
4 therefore, it's not the Government.

5 But remember, Your Honor, this was based upon
6 Detective Chrzanowski informing and directing the staff
7 members to go get more video surveillance. So they were
8 working as agents of Investigator Chrzanowski.

9 But in this we pointed out that there is,
10 highlighted here in yellow, another video surveillance camera
11 right over the alcove area. And you heard Georgianna testify,
12 oh, well, that wouldn't have captured anything because that
13 only looked into the arcade room.

14 Your Honor, when you look at the bank of monitors
15 that's been put in -- marked in the exhibit, if you can see
16 highlighted here in yellow, there's a viewpoint that clearly
17 shows that that arcade camera captures the alcove area at
18 exactly where this allegation took place.

19 That was completely a false statement by the
20 Douglas County Community Center that there wasn't an angle or
21 that that particular camera would not have captured what
22 occurred in the, quote, "alcove." And now, again, that
23 information and that video surveillance is forever lost.

24 When going back to the other cameras and other

1 angles, of course, part of the allegation in Count III, as the
2 Court's aware, is the squishy room or the silo room, sometimes
3 referred to. We heard testimony that there is a camera that
4 looks into and records the squishy room events going on in the
5 squishy room.

6 You also had the pictures shown in Georgianna's
7 testimony that that was there in September of 2018, that
8 camera, and that it did record what was happening in the
9 squishy room.

10 You heard some testimony, well, there are some
11 kind of blind spots or didn't record maybe all the squishy
12 room, but there's clearly recordings or there had been
13 recordings of the squishy room. And the Court knows the
14 complaint is somewhere in the summer of 2018 that some act
15 occurred in the squishy room.

16 But there was nothing -- not even nothing to
17 preserve that video surveillance in the squishy room, there
18 was zero investigation as to whether there was a camera that
19 overlooked the squishy room and whether they should be
20 preserving that.

21 And really, Your Honor, the biggest part of is
22 that it's material and it not -- in bad faith not collected is
23 that Georgianna herself testified, well, I looked at some of
24 the video from the squishy room and I didn't see anything,

1 thereby, by definition, being exculpatory and showing
2 perfectly, quote, "normal interactions" between Mr. Jenkins
3 and GW.

4 Also, if you look at the exhibit that we placed
5 in of the monitor on the colleague's desk, it shows the actual
6 angle that would have been captured by the squishy room
7 camera, which does show here highlighted in yellow and blown
8 up for the Court's perspective, it shows a lot of the squishy
9 room and doesn't just have like one angle. But again, all
10 that has been forever lost because it was not collected.

11 Also, Your Honor, as we heard testimony, there
12 was another camera that is marked here. My cursor is up past
13 the squishy room that had different angle that would have
14 captured events on the volleyball/basketball courts.

15 When we're talking about why that's important,
16 it's just it's another angle that would have put into
17 different perspective or probably more likely better
18 perspective how close these two individuals were, actually
19 what happened, would have been able to zoom in closer from a
20 better camera angle that, again, was forever destroyed or
21 lost.

22 As can you see here from this angle, which was
23 taken above the equipment room, which is on the far side of
24 that camera, it looks -- it's very far away and also it's a

1 different angle. If they had taken from both angles and
2 recorded everything, then we would have seen it from the other
3 perspective, seen facial expressions and also had better idea
4 as to when I touch someone, Your Honor, am I actually touching
5 Mr. Jenkins as I'm demonstrating right now?

6 From your perspective, you may think I am. From
7 the perspective of your bailiff, he sees that there's a gap of
8 three inches between my hand and Mr. Jenkins. That's what I
9 mean about what's lost with perspective and the camera angles.

10 When we're also looking at that, we're missing
11 from that angle and my cursor, I'm pointing to it, because the
12 squishy room is right here, Your Honor, approximately, as you
13 can see the kids walking towards it.

14 And you see right here, there's interaction that
15 was clipped because somehow it gave Georgianna an "eh"
16 feeling. But from the other angle of the camera that was
17 closer to them, it would have better captured the entire
18 interaction and what occurred from a closer angle and a
19 clearer angle. But again, completely lost and now destroyed.

20 In addition, Your Honor, we had numerous recorded
21 clips of this angle of the camera directly almost above the
22 equipment room door, and on questioning Georgianna admitted
23 that there were other angles that could have captured the
24 equipment room and also possibly the facial expressions as the

1 individuals walked out.

2 But, Your Honor, I stress to you to go back and
3 look at all of those clips of the equipment room, because in
4 every single recorded clip, the door is open and the door
5 remains open throughout the entire time of Mr. Jenkins and GW
6 being in the equipment room.

7 And then when you turn to the other camera angle,
8 which was not clipped and recorded to show the juxtaposing
9 camera angle for those other recordings of the equipment room,
10 you can see, as I'm pointing with my cursor, the equipment
11 room door -- sorry, in the very far top right, which would
12 have captured and also would have seen zooming in with the
13 door open, what was occurring in the equipment room. But none
14 of that was clipped and recorded and that camera angle is
15 forever lost.

16 We also have, just from the bank of monitors,
17 Your Honor, additional camera angles that would have captured
18 at least parts of the volleyball courts or where volleyball
19 practice occurred that could, again, have given a different
20 perspective.

21 These are taken from the second story of the
22 community center and looked down and captured some of the
23 volleyball courts from a different perspective.

24 When we're looking at actually what was collected

1 out of what estimate of Georgianna testified that in -- I
2 believe Mr. Morgan also did, that volleyball practices were
3 maybe about an hour, hour and a half, depending, and we're
4 looking at a time frame of June to September of 2018 and all
5 we have is 16 minutes that were collected from September 17th
6 of 2018.

7 When you actually look at the time stamps that we
8 went through laboriously with our witnesses, the clips start
9 around 5:51 p.m., even before or during practice, we don't
10 even know when practice actually started, and the last clip on
11 September 17th, 2018, ends at 8:41 p.m.

12 But from that time frame of two hours and 35
13 minutes -- excuse me, of all that time from 5:51 to 8:41, only
14 16 minutes were collected, thereby at the very least, two
15 hours and 35 minutes have been completely destroyed, which
16 would have shown the context of the interactions and the clips
17 recordings.

18 On September 19th, 2018, the first recording that
19 we have started at 4:13 and the last one is at 6:17 p.m. From
20 that day, only 22 minutes were collected and thereby an hour
21 and 47 minutes of relevant and exculpatory video surveillance
22 was destroyed.

23 And that is just from those two days, let alone
24 the weeks and the months of other video surveillance which

1 showed exculpatory evidence because it didn't give Georgianna
2 that "eh" feeling.

3 When we're looking at the argument of bad faith,
4 Your Honor, it's Investigator Chrzanowski's failure to go
5 back, preserve after her knowledge, and we know that there was
6 the capacity to go do that because we know Georgianna did the
7 additional 15 clips on November 20th and I believe also on
8 November 27th, almost a full month after Investigator
9 Chrzanowski had knowledge that GW was making allegations that
10 events occurred, specifically criminal acts, at the Douglas
11 County Community Center.

12 Beyond the fact that it's bad faith, Your Honor,
13 and in my motion to suppress, I argue that the bad faith at
14 the very least made that these video clips should not be used.

15 But Your Honor, because of the fact that Douglas
16 County Community Center staff acting as agents for the
17 Government now, in fact, lied about the actual camera angles
18 and what it would have captured and that the exculpatory
19 evidence of that versus their manipulation as to which angle
20 they thought probably looked the worst and that's what they're
21 going to submit to the Government, to the Investigator
22 Chrzanowski and Deputy Williams, that this is such a due
23 process violation for Mr. Jenkins that this demands dismissal
24 of Counts II, III and IV from the Douglas County Community

1 Center.

2 Beyond that, Your Honor, even if this court is
3 not convinced that despite the overwhelming evidence and
4 Defense's argument and opinion that this was done in bad
5 faith, highly material and that it is a complete due process
6 violation.

7 The fact is is that these video clips are
8 irrelevant and also highly prejudicial and based upon the
9 balancing act under 48 -- NRS 48.035, the Court to err on
10 suppressing all of these clips because of the fact that they
11 were so taken out of context, that the fact that they
12 destroyed exculpatory evidence because it showed, quote,
13 "normal interactions" between GW and Mr. Jenkins, beyond with
14 also all Mr. Jenkins' interactions with all the other people
15 at the Douglas County Community Center.

16 And also all the other interactions of who went
17 in and out of the equipment room, Mr. Jenkins would go in
18 there by himself, whether GW would go in there by herself, all
19 of that has been lost, whether other players would go in with
20 Mr. Jenkins to retrieve equipment, all lost.

21 In addition, Your Honor, because the way it was
22 clipped, it does leave and purposely leaves and would leave
23 the jury with a false impression that there was this constant
24 touching between GW and Mr. Jenkins, which we know based just

1 upon this last slide and the minutes that were collected out
2 of what was destroyed, but that that's a false and untrue
3 impression.

4 And it would only seek to inflame the passions of
5 the jury, which is exactly why we keep out prejudicial and
6 this fact highly prejudicial evidence.

7 One, because it's irrelevant, Your Honor; and
8 two, even if it is somehow relevant, it's so manipulated by
9 how they cut it and what angle they chose from while
10 destroying everything else makes it so prejudicial that it
11 should not be allowed in.

12 With that, Your Honor, I'll wait for my rebuttal.

13 THE COURT: Okay. Before I turn to Ms. Mazza, I
14 do have a couple of questions. So, of course, your motion
15 begs the Court to think about whether there was any
16 negligence, gross negligence or bad faith, and I'd like for
17 you to define for me under -- in that context, what is the
18 difference between negligence, gross negligence and bad faith?

19 You've talked a lot about bad faith, of course,
20 but I would like for you to tell me what you think the law is
21 regarding negligence, gross negligence and bad faith. What
22 are the differences?

23 MS. RISTENPART: Your Honor, in my original
24 motion, I do talk about the differences, albeit that it's

1 briefly, but in regards to Daniel's, which is citing *State*
2 *versus Ware*, W-A-R-E, 118.NM.319, which is started by New
3 Mexico 1994, which our state Supreme Court adopted as our
4 standards, is that we are talking about negligence, gross
5 negligence and bad faith. The Court's focused on what should
6 be the remedy if that is proven.

7 When it becomes negligence, Your Honor, the Court
8 has erred on the side, that's not a due process violation,
9 that that is not deeming worthy of dismissing the charges
10 completely.

11 Negligence, by definition, and I believe that it
12 is cited in Daniels, I don't have the case in front of me,
13 Your Honor. But when you're talking about negligence, it's
14 the, oops, we didn't collect this.

15 And a lot of the cases that deal with that would
16 be similar to they -- the police officers did not have
17 knowledge of something that was possibly of evidentiary value,
18 and therefore, they would not have known about that even if
19 maybe a more experienced officer would have known to possibly
20 look at that. That would be the negligence factor.

21 In reference to gross negligence, the Court also
22 looked at the officer's knowledge, but also their actions as
23 to whether it was in their control at the time and whether or
24 not there was some active steps that they could have taken to

1 have remedied the situation.

2 And a lot of this, Your Honor, comes from civil
3 case law where evidence is destroyed by corporations or things
4 along those lines, and we're trying to, through very limited
5 case law, also argue that in the criminal context.

6 And the gross negligence, the Court -- it is
7 honestly up to the Court as to what to do. Sometimes they
8 proffer a jury instruction, saying destruction of evidence
9 means that there is a presumption that the evidence destroyed
10 would be exculpatory to a defendant or to the party that it
11 was to help.

12 The last prong, Your Honor, the bad faith, as we
13 talked about in pretty length today, is the fact the Court
14 looks at what was the knowledge of the party, here being law
15 enforcement, coupled with what actions did they or did they
16 not take.

17 And that's why the timeline of events and
18 Investigator Chrzanowski's actions through her agent of the
19 Douglas County Community Center, because she chose to do that.
20 She chose to let the community center clip what they thought
21 was relevant instead of herself going and saying, give me
22 everything, we will review it for, one, if a crime occurred,
23 and two, whether this supports or adds to the evidence that we
24 already have from interviews. That in itself is bad faith,

1 Your Honor.

2 And on top of that I point, again, to the
3 testimony of Georgianna where she says, oh, that angle of the
4 alcove, that security camera, that only goes to the arcade
5 room. It wouldn't capture anything there. When that's
6 clearly not true.

7 And as an agent and the fact that Investigator
8 Chrzanowski did nothing to confirm any of the video clip
9 recordings, whether or not there was additional that could
10 have been evidentiary value or would have been and the fact
11 that she knew the clips that she got was because of the
12 Douglas County Community Center saying, well, that made me
13 feel uncomfortable and that's why I clipped that part.

14 So even at the very latest in December 10th,
15 excuse me, of 2018, when Investigator Chrzanowski received
16 those 15 additional clips, she would have known that these
17 were taken from a much larger stored video surveillance and
18 that also that if everything else was nothing gave her,
19 Georgianna, a bad feeling, then that means it was exculpatory,
20 but it showed normal behavior. And I keep using the words
21 quote/unquote, Your Honor, because again, it's all based on
22 personal perceptions.

23 So that's how the Court has kind of broken down
24 and I kind of went back to argument, Your Honor. But in

1 regards to the bad faith, the Court finds that and the State
2 cannot rebut that there was bad faith, then it's a due process
3 violation, and therefore, it is dismissal of the charges
4 and/or the case.

5 And that's why I'm arguing not only is this such
6 bad faith because of the time frame and the knowledge of the
7 investigating officer, but also because of their lack of doing
8 anything to preserve it.

9 And you heard Mr. Morgan when I asked him, could
10 you have just taken and recorded and plopped on a hard drive
11 the entire day or all the stored capacity from the moment
12 Mr. Jenkins walked into that rec center to the moment he
13 walked out. And Mr. Morgan's answer was, yes, we could have
14 done that. So that would be the difference, Your Honor.

15 THE COURT: From your -- thank you. From your
16 assessment, why didn't Douglas County Sheriff's Office collect
17 all of the video surveillance?

18 MS. RISTENPART: I think, Your Honor, that from
19 our perspective, it would have shown the exculpatory evidence
20 and they wanted the image and the picture of somehow constant
21 touching or this thought that it's inappropriate touching
22 between GW and Mr. Jenkins.

23 THE COURT: But if they hadn't seen it, though,
24 how did they know or think that it was all going to be

1 exculpatory?

2 MS. RISTENPART: Well, Detective Chrzanowski, per
3 her report and per her stipulation, in -- sometime in
4 November, 2018, instructed the Douglas County Community Center
5 to collect interactions between Mr. Jenkins and GW.

6 When Investigator Chrzanowski received -- I don't
7 even know if she went and picked it up, Your Honor, but I'll
8 just say received the 15 additional clips in December 10th of
9 2018, it's very clear from the clips that these were
10 recordings taken out from a much larger video surveillance.

11 And she knew that because she had instructed the
12 Douglas County Community Center to go and get more video
13 recordings of the interactions.

14 So I kind of got lost in -- tangentially, but your
15 question is: How do we know whether or not Investigator
16 Chrzanowski knew that there was more footage?

17 THE COURT: Well, because when I asked you why
18 you think they didn't collect, your response was, oh, because
19 they knew it was exculpatory and so it hurt their case. So
20 they -- you know, you're trying to establish bad faith in that
21 way.

22 And my question was: How -- what do you base
23 that presumption on, this presumption that it -- that it's all
24 exculpatory and so that's why she didn't preserve it.

1 MS. RISTENPART: And I don't know if I'm making
2 that argument, Your Honor, but to be fair, I don't know if
3 Investigator Chrzanowski knew that there was exculpatory. But
4 she knew that there was other additional video surveillance
5 showing interactions between GW and Mr. Jenkins that were not
6 recorded and clipped, right, because the way it came down and
7 Georgianna said, well, we were told to do things that kind of
8 just gave an "eh" feeling to us.

9 And so based upon the time frames and the parts
10 of it, it would have -- and also the way the clips are cut,
11 it's clear that there's going to be more interaction. They're
12 walking across the basketball court, they're walking towards
13 somewhere.

14 I mean, it's very obvious just from the clips
15 themselves that there was more interactions that should have
16 been established, and therefore, why were those not preserved?
17 Because it didn't show some kind of "eh" interaction between
18 Mr. Jenkins and GW.

19 Now, whether or not your question is Investigator
20 Chrzanowski's state of mind, then maybe we need to have her
21 actually testify because we're taking this and her stipulation
22 from her police reports to try to argue this while she's on
23 medical leave and on -- out of state next week.

24 But the other portion, Your Honor, is that you

1 don't have to show that under the bad faith prong, that there
2 is this intent. You don't.

3 Remember, Your Honor, that it can be intent or
4 the fact is is that what had been -- that the Defendant
5 suffered undue prejudice and exculpatory value evidence was
6 apparent before it was lost or destroyed.

7 So regardless of Investigator Chrzanowski
8 personally thought there was exculpatory evidence, we know
9 through Georgianna's testimony, she knew that there was other
10 evidence that showed normal interactions between GW and
11 Mr. Jenkins that she just didn't bother to record or clip, and
12 no one at the center did and no one at law enforcement did.

13 THE COURT: So your position is there's two ways
14 you can get bad faith. One is through specific intent or you
15 have the other way. Let's talk about the specific intent.

16 What evidence has been submitted that
17 Investigator Chrzanowski acted with a specific intent to
18 deprive your client of exculpatory evidence?

19 MS. RISTENPART: Your Honor, I think the most
20 telling portion is that at least as of November 1st of 2018,
21 Investigator Chrzanowski was well aware that there was an
22 allegation something occurred in the squishy room.

23 She did nothing to investigate, review, look at,
24 if there was video camera surveillance of the squishy room

1 and/or also would have, could have captured anything that
2 occurred in the squishy room.

3 I think that in itself is so telling of a
4 specific intent as to her not caring what was not collected or
5 evidence which leads to a specific intent.

6 THE COURT: Well, not caring sounds a little bit
7 like negligence.

8 MS. RISTENPART: No, Your Honor, I think that's a
9 huge difference. When you're a trained investigator with
10 years of experience and that you have information and
11 knowledge that there's an allegation where there is -- also,
12 I'm just going to assume Investigator Chrzanowski, based upon
13 my last case with her, that she has been a Douglas County
14 Sheriff's Office for quite a long time.

15 And I would be hard pressed, and again, maybe
16 this is where we need to get more testimony from Investigator
17 Chrzanowski, that she has never had a case before at the
18 Douglas County Sheriff's Office or is not aware that there's a
19 video surveillance program at the Douglas County Sheriff's
20 Office.

21 At the very least, she knew that because Deputy
22 Williams informed her of that, because when she got assigned
23 to the case, she reviewed Deputy Williams' police report and
24 also the seven clips that were collected by Deputy Williams.

1 THE COURT: Well, I guess, let's assume that she
2 knows they have surveillance and she just didn't care. She's
3 lazy, didn't care. How does that become bad faith or
4 intentional -- you know, intentional wrongdoing?

5 MS. RISTENPART: So, Your Honor, that's where her
6 experience and knowledge and her investigation comes in. When
7 I say the words "don't care," I didn't mean it as flippant as
8 like I'm just not going to get it, I just don't care.

9 It's the blatant fact of that she is not
10 collecting the evidence to show all sides of what could have
11 occurred or the allegation, right, or all the camera angles.
12 Like her purposely directing and shoving off her
13 responsibility as the investigator to the Douglas County
14 community staff to then pick and choose what recordings shows
15 real intent as to bad faith.

16 I think that's the most pressing question here as
17 to you could chalk it up, and I'm sure the State's going to
18 say, oh, well, she just didn't go do it. But this wasn't like
19 we had to do it within three hours and there was a time crunch
20 or a good reason as to why Investigator Chrzanowski didn't go
21 do this.

22 This was over a period of months, and even then
23 there was knowledge that there was still some kind of
24 recording because why would Investigator Chrzanowski direct

1 the support staff at the Douglas County community center to go
2 get more clippings or more recordings of interactions.

3 THE COURT: Okay.

4 MS. RISTENPART: That's what I mean about the bad
5 faith, Your Honor, and knowledge.

6 THE COURT: Next question has to do with remedy.
7 In your motion, you propose that the remedy was exclusion of
8 evidence that was preserved, and is there case law that
9 supports that as a remedy? Today, you're asking for an
10 entirely different remedy.

11 MS. RISTENPART: Right.

12 THE COURT: That's going in a new direction,
13 which is, well, I want dismissal and, of course, dismissal
14 is -- has been listed as a remedy if there's bad faith. But
15 in your motion, you ask for exclusion of collected evidence.

16 You didn't ask for dismissal, you didn't ask for
17 a jury instruction that the jury should assume that all
18 uncollected clips were exculpatory.

19 You asked that the Court exclude what was
20 collected and what is the -- if you have -- I'm wondering if
21 there's legal support for that as a remedy. I just don't
22 know. I'm asking you if you are aware of any cases that
23 allowed for that as a remedy?

24 MS. RISTENPART: Your Honor, under the analysis

1 of the bad faith and the case law versus gross negligence,
2 that has not been a remedy that the courts in the criminal
3 side have pursued, and to my knowledge, even on the civil
4 side.

5 I condensed two arguments into my one motion,
6 Your Honor, and remember, I'm also asking the suppression
7 under the it's irrelevant and high prejudicial prong, which
8 would be the correct remedy under the fact that they can't
9 find it's relevant and also if it would also be so highly
10 prejudicial, it outweighs any probative value.

11 With that, Your Honor, and also, of course, I
12 didn't have at the time I wrote this motion, Georgianna's
13 testimony about the particular angle of the alcove and the
14 fact that it does clearly capture the alcove area versus her
15 statement, well, we didn't bother to record that because it
16 wouldn't have collected that angle, which was an outright
17 untruth based upon just obviously the evidence before the
18 Court.

19 So that is why I am changing that to now as a due
20 process bad faith violation and asking for the dismissal of
21 those three counts dealing with the Douglas County community
22 center.

23 THE COURT: Okay.

24 MS. RISTENPART: In regards to the actual -- if

1 there's case law, there is not supporting under a bad faith or
2 even a gross negligence argument that the evidence should be
3 suppressed.

4 I think that there is some correlate and, of
5 course, even under all of this framework of analysis from the
6 higher courts, the courts do leave it in this court's hands as
7 to what's the appropriate remedy, and that's where sometimes
8 they say it's a jury instruction.

9 But they don't say it's not a remedy, they just
10 say it's up to the court as to remedy and have given examples
11 of what some other courts have decided and done when they have
12 a destruction of evidence.

13 THE COURT: Thank you for your response. In your
14 briefing and today, and I'll point directly to the briefing,
15 in your briefing you say that the lost video, the video that
16 wasn't preserved was, quote, "highly material". But then you
17 say that the preserved video is, quote, "not probative" and
18 I'm trying to make sense of that position.

19 How can the video that wasn't preserved be,
20 quote, "highly material," but the video that was preserved be,
21 quote, "not probative"?

22 MS. RISTENPART: So, Your Honor, when I'm talking
23 about that the video surveillance that had been stored for
24 months, but now is lost, because it's been taped over and was

1 never collected or preserved, that is highly material. If the
2 Court is going to admit or if the jury was to see these clips,
3 it's highly material to put these clips in context and also
4 highly material to show other interactions that occurred
5 before and after and honestly give a true and accurate
6 representation of what was going on during these practices.

7 So that's what I mean about the highly material
8 when I'm arguing that the -- these clips that are presented to
9 the Court that were carefully selected from certain angles,
10 that it's not probative because it's been taken out of
11 context, because it's been only chosen for certain angles
12 versus the other angles which would have shown a different
13 perspective have been lost and destroyed.

14 So I can't argue that it's high material for the
15 lost evidence because it would have put the context -- they're
16 kind of hand in hand, and I don't know if I'm not explaining
17 it correctly to the Court.

18 It seems very clear in my mind, but I do see your
19 puzzled look. So maybe I can help the Court with some more
20 edification, but is the Court -- my argument as to it can be
21 both the same time, because if you had taken the entire stored
22 video surveillance of that practice, then possibly it would
23 have been probative. But now when you take just a clip out of
24 it, out of context from one angle, then it's not probative

1 because it's so prejudicial taken out of context. So that's
2 why I'm arguing them both.

3 THE COURT: If it was possibly probative, why is
4 it bad faith that Investigator Chrzanowski didn't collect it?
5 I mean, you just told me it's possible that if she collected
6 everything, there might have been some probative evidence
7 there.

8 MS. RISTENPART: If she collected everything,
9 we'd know. It would have shown exculpatory evidence. We know
10 from Georgianna that she deleted -- or she just didn't record
11 any interaction she saw between GW and Mr. Jenkins that didn't
12 give her an "eh" feeling or made her feel uncomfortable.

13 THE COURT: So isn't that -- I mean, if the
14 testimony in front of the jury is from the witnesses said,
15 hey, we looked at all that, the video, and there wasn't
16 anything else, aren't you conveying to the jury just what you
17 want then?

18 I mean, you want them to believe it was all
19 exculpatory and that's going to be the testimony, so why isn't
20 that enough here? Why is there a need to be a dismissal or an
21 instruction or your preferred remedy, which is exclusion of
22 what was collected?

23 MS. RISTENPART: Because the power of an image,
24 Your Honor, and that's why we're here. You have before you

1 clips of touching that's not criminal, that's not a lewd act.
2 But there -- the State is going to want the jury to then take
3 these clips that are taken out of context and from particular
4 angles and then jump to a conclusion that something happened
5 in the equipment room and the squishy room and the alcove.

6 THE COURT: Why do you think Ms. Mazza wants to
7 introduce the clips?

8 MS. RISTENPART: Because, Your Honor, I think
9 that based upon all of her questioning, that she's banking on
10 a jury thinking that there's some kind of inappropriateness as
11 to how GW interacts with Mr. Jenkins, and therefore, if it's
12 inappropriate and this is shown, then you could just imagine
13 what went beyond in the equipment room and in the squishy room
14 that was off camera, to support and buttress GW's claims in
15 her second interview.

16 And also, Your Honor, I think when you are
17 bombarded with image after image of just a few seconds taken
18 out of a much longer clip of touching, it looks like and gives
19 a false perception that they were always touching each other.
20 That's the image that if I was a prosecutor, I would want in
21 front of the jury --

22 THE COURT: Well, wait a second.

23 MS. RISTENPART: -- to try to argue --

24 THE COURT: The testimony is exactly the opposite

1 of what you're saying. There's been no testimony that at the
2 senior center or the community center, they were always
3 touching. In fact, the testimony was from those who watched
4 the video is that that's not always the case. They preserved
5 the only evidence where that was happening.

6 So where is this impression that you're talking
7 about that they're always touching?

8 MS. RISTENPART: No, Your Honor. If you see
9 image after image after image of touching.

10 THE COURT: Um-hum.

11 MS. RISTENPART: The perception is is that
12 they're all touching, right? If you're going to show all
13 those clips to the jury, all you're going to see is image
14 after image of some kind of touching between Mr. Jenkins and
15 GW..

16 THE COURT: But then you're going to ask the
17 community center folks, did you watch the other video? Yes.
18 Were there other instance of this touching? And I believe the
19 answer is going to be no.

20 MS. RISTENPART: It's not the same as showing a
21 video of all the other parts of the practice that show that
22 there is no inappropriate touching, that there's appropriate
23 touching, that there's coaching going on. That's what I mean
24 about the power of image, Your Honor.

1 And that's where you can say, well, you can ask
2 those questions, Ms. Ristenpart. That's a remedy, that's
3 cross-examination, which of course, I understand. But that's
4 not as powerful as an image that I can show the Court and the
5 jury saying, look at all the two hours and 35 minutes where
6 there's been completely appropriate touching or coaching going
7 on.

8 THE COURT: So if the power of an image is so
9 powerful, then how come in your brief you state that what was
10 preserved is not probative?

11 MS. RISTENPART: Because it's taken out of
12 context, Your Honor, and that's why, because it's clipped from
13 a longer video, very clearly clipped on every single one of
14 them where it doesn't show the interactions before, it doesn't
15 show the interactions after, and therefore, because it's taken
16 out of context and only from very specific camera angles, it
17 doesn't show the full picture. And therefore, it's a biased,
18 misleading and confusing image to the jury.

19 THE COURT: Ms. Ristenpart, thank you. I might
20 have -- give me a moment. I'm going to review my notes here
21 to see if I have other questions and I'm going to turn to
22 Ms. Mazza. One thing that is also new to your argument today
23 is this idea that the senior center -- I keep saying "senior
24 center" because it's located right next to the community

1 center, but the community center.

2 New to your argument today is that they were
3 acting as a state agent and I want you to develop that point
4 as much as you can right here if -- unless -- you might have
5 already made your points as much as you wanted. But if you'd
6 like to add to that argument, you may do so.

7 MS. RISTENPART: Thank you, Your Honor. I think
8 the -- where the Court would start with analysis is *Messiah*
9 *versus United States* as to acting as an agent and what really
10 goes into that.

11 Obviously, here, it's not the typical agent paid
12 CI or some type of allegation like that, but I am stating that
13 Investigator Chrzanowski was using the support staff of the
14 Douglas County Community Center as her agents because she
15 instructed them to go get video surveillance of interaction
16 between Mr. Jenkins and GW.

17 So because of her instruction to the support
18 staff to do that, that is thereby making them agents of her
19 investigation and that's how with the case law of *Messiah*
20 *versus State* and that lineage as to what makes an agent and
21 also looking at procuring agent case law. It -- by
22 definition, it does fall underneath the agency.

23 THE COURT: Okay. All right. Ms. Ristenpart,
24 thank you.

1 Ms. Mazza, your opportunity to argue your points.

2 MS. MAZZA: Thank you, Your Honor. I think I'd
3 like to just start out with the areas where Your Honor had
4 questions for Ms. Ristenpart, first with regard to the
5 different standards. As we have in Daniels, it talks about
6 the negligence standard, the gross negligence standard and the
7 bad faith.

8 According to Black's Law Dictionary, negligence
9 standard is an omission to do something ordinary persons would
10 do or of ordinary human affairs would do in that position. So
11 in this case, I don't believe we even meet the negligence
12 standard.

13 For gross negligence, we are reckless disregard,
14 and then for bad faith, Your Honor, as you are aware from both
15 parties pleadings dishonesty of belief, purpose or motive. In
16 this case, I don't believe we have either of -- any three of
17 those, but I do believe that under the negligence standard and
18 even if no negligence is found, Ms. Ristenpart has an
19 opportunity to cross-examine witnesses regarding this topic.

20 Even if negligence isn't found, she has an
21 opportunity to cross-examine Investigator Chrzanowski or the
22 employees from the community center. There is no omission to
23 do something in this case and I believe that you can see that
24 from the stipulation in this case.

1 The State believes that the stipulation and
2 previous testimony you've heard from Investigator Chrzanowski
3 shows that she did a very detailed investigation in this case.
4 Although she received the initial video surveillance, she went
5 another step and asked the community center to gather
6 additional footage.

7 She didn't, and as you can see from our
8 stipulation, she didn't tell them to get additional footage of
9 Mr. Jenkins doing this specific thing in this specific area.
10 She said any additional surveillance footage and you can see
11 that from paragraph 12 of our stipulation, any additional
12 surveillance footage.

13 She went that extra step and did collect that
14 evidence and did ask the community center to review that
15 evidence. There is no reckless disregard because she went
16 that extra step.

17 But not only that, as you can see from our
18 stipulation in this case, she went many extra steps by
19 interviewing a significant number of witnesses in this case.
20 Witnesses whose -- who have observed Mr. Jenkins, himself,
21 just alone, who have observed Mr. Jenkins and GW together.

22 And in this case, she did a very thorough
23 investigation and the State believes none of those standards
24 apply, not even close to bad faith in this case.

1 Your Honor also asked Ms. Ristenpart to discuss
2 why didn't Investigator Chrzanowski collect what
3 Ms. Ristenpart is requesting. Any answer to that or any
4 thought on that that Ms. Ristenpart has is pure speculation.
5 The first words out of Ms. Ristenpart's mouth were "I think."
6 We have --

7 THE COURT: And in all fairness, I was asking her
8 to speculate and I -- you're right, though. I mean, you're
9 absolutely right. But the reason I asked the question is
10 because she's saying there was bad faith. I was trying to
11 give her an opportunity to inform me how she gets there.

12 But in a sense, my question was asking her to
13 speculate and I did require an answer. She knew she was
14 speculating. So I'm sorry to interrupt you, but I just wanted
15 to interject that.

16 Go ahead, Ms. Mazza.

17 MS. MAZZA: And I think with that question and
18 the response being speculative, it shows that we cannot prove
19 bad faith in this case whatsoever and we also don't have any
20 testimony from Investigator Chrzanowski as to why she didn't
21 collect it.

22 So to say it would be bad faith, we would need
23 that information as to her having an improper motive for not
24 collecting what would be possibly 120 days' worth of

1 surveillance footage if you're going from the dates which the
2 State has alleged in our information, June to September of
3 2018.

4 And, Your Honor, I think that is a huge theme
5 with regard to Defendant's motion here that we're discussing
6 today is speculation. This is asking the Court to speculate
7 on many grounds. Most importantly, the Court would be
8 speculation as to whether or not this extra video footage
9 would be material.

10 As stated by Ms. Ristenpart, the State believes
11 the controlling case in Nevada is the *Daniels v. State*.
12 Through motions and through argument, I believe there's been a
13 combination of argument with regard to whether or not this is
14 evidence destroyed or evidence not collected, and it's the
15 State's opinion as in -- put in our opposition that this is
16 evidence not collected.

17 I believe that is the controlling then -- makes
18 *Daniels* the controlling case in this scenario and then,
19 therefore, the Defendant must show that the evidence was
20 material, meaning there is a reasonable probability that had
21 the evidence been available to the defense, the result of the
22 proceedings would have been different.

23 So, first, that begs the question for the Court
24 to decide what this evidence would have shown, and it sounds

1 like from Defendant's argument here today that other coaches
2 going into the community center equipment room, Mr. Jenkins
3 with other players would show that he did not commit the acts
4 which are alleged in the Information. That is what they would
5 have to show here today.

6 And that has not been met, Your Honor, nor do we
7 even know what would be shown on that video. So they have not
8 met the standard of showing it was material by any means.

9 And as I indicated, like I said, that would be
10 nearly 120 days' worth of surveillance footage, which they're
11 asking the Court to speculate would be material to this case.

12 The Defendant has made no proffer that this
13 evidence would be favorable whatsoever. Others have even
14 pointed out that they observed the Defendant. You heard
15 testimony from Ms. Wasmer, Drees-Wasmer, that there were other
16 persons there.

17 She actually even pointed out a person that
18 you've heard testimony from in this case, Nick Lonnegren. He
19 actually had the vantage point of a different angle that
20 Ms. Ristenpart is talking about, and he actually testified in
21 line with what is seen on the video surveillance.

22 You also have heard from Ashley Gosney who
23 personally saw this interaction, which is being discussed in
24 the alcove near the arcade, and you have their testimony that

1 corroborates what is being shown on the video. You have had
2 no testimony to show that there is anything that would be
3 exculpatory in that video if it were obtained.

4 Your Honor, the State believes that Defendant has
5 not even met that first prong to actually even move forward to
6 whether or not this was negligence, gross negligence or bad
7 faith. But in that case, we do also believe that the
8 Defendant cannot show that as well.

9 Just going back to topic of material, Your Honor,
10 what is argued in the briefs as well as argued here today is
11 that this video that we have gives some sort of false image.

12 Your Honor, that video is not manipulated. It's
13 not fake. It's not staged. It's not actors. That is not a
14 false image. That is what is reported in this case by Ashley
15 Gosney and what is reported by employees of the community
16 center and what is reported by Nick Lonnegren that actually
17 led to this investigation.

18 So there's no false image portrayed by this,
19 Your Honor. And even if Your Honor were to move forward to
20 find that there to -- and analyze whether or not there was
21 gross negligence or bad faith or negligence in this case, the
22 facts as I've argued show that Investigator Chrzanowski did a
23 thorough investigation in this case. She requested video
24 surveillance a second time after it had already been obtained

1 and she interviewed many witnesses in this case.

2 Your Honor, with regard to the testimony we heard
3 on this case, the State does not believe also that there's any
4 bad faith or gross negligence or negligence that can be put on
5 the community center.

6 First, it would be the State's argument that they
7 are not state actors in this case. They're not doing the
8 bidding of the State in this case. They are obtaining
9 surveillance footage when Investigator Chrzanowski asked them
10 to provide it.

11 Just to compare, Your Honor, in a case where
12 there was a grocery store petty larceny or something like
13 that, to then take the surveillance and provide it to the
14 State, those employees are not becoming State actors in the
15 State's opinion.

16 In addition to that, when you are obtaining that
17 footage, you're also not obtaining the entire days' worth of
18 shopping at the store or the entire days' worth afterwards of
19 shopping at the store.

20 So, Your Honor, I believe that's what the defense
21 would be asking the community center to do here and we don't
22 believe that that would be any -- rise to any level that they
23 didn't do that.

24 Your Honor, I believe you previously touched on

1 this, but it's the State's opinion that suppression is not the
2 appropriate remedy in this. I believe Daniels contemplates,
3 as Your Honor indicated, cross-examination or a jury
4 instruction or dismissal, but I don't believe we rise to the
5 level of bad faith, let alone negligence in this case.

6 To put negligence on the sheriff's office for
7 their conduct in this case would be improper in the State's
8 upon. What they are asking that the sheriff's office would
9 have done is review surveillance footage when we have in our
10 stipulation and throughout testimony heard that Mr. Jenkins
11 was at the community center often, very often.

12 So what they're asking is someone to have
13 reviewed surveillance footage for every single day that
14 Mr. Jenkins was at the community center for an entire summer.

15 Your Honor, what actually happened here is we
16 have two reports, two people report conduct by Mr. Jenkins
17 with GW. Those two reports are what is searched for on the
18 surveillance footage. Those two reports are what lead forward
19 with the investigation. Those two reports are what the
20 surveillance footage was collected for.

21 Your Honor, there is no bad faith, no gross
22 negligence or negligence in not collecting every single day
23 that Mr. Jenkins and GW were there together because those were
24 not reported as improper conduct, Your Honor. What we have

1 reported here are the days that the then sheriff's office
2 obtained video surveillance for.

3 Your Honor, with regard to the argument of
4 Defense counsel, they argued and put up a slide with a quote
5 from Sergeant Williams who was a deputy at the time that he
6 told the community center to obtain more damning evidence.

7 Your Honor, I would ask that you not consider
8 that here today. We've heard no testimony from Sergeant
9 Williams and we have not watched his body cam in this case,
10 and I believe that's an improper characterization of his
11 conversations with the community center. I do not believe he
12 told them as defense argued and I don't believe you should
13 consider that here today.

14 Your Honor, just to briefly touch on the two
15 camera angles defense really harps on that were not collected
16 and would have been exculpatory -- and I apologize, one is not
17 collected and was discussed and that would be the squishy
18 room.

19 And you can see from the photo they provided in
20 their presentation as well as the photo admitted, that that
21 camera angle of the squishy room does not show the entirety of
22 that squishy room. It shows forward, looking at a portion of
23 the squishy room and the entire sides of the squishy room are
24 not in that surveillance footage.

1 In addition to that, the State really is focusing
2 bad faith on this arcade camera surveillance footage and
3 indicating it was bad faith that Ms. Drees-Wasmer testified it
4 wouldn't have captured that interaction.

5 Your Honor, I would implore you to go back and
6 look at that photo they're referring to. That does not show
7 the entire alcove and to say that it would have shown a
8 different angle of that alcove is pure speculation.

9 Your Honor, I believe also they focused on an
10 angle that would have -- another angle from the top above the
11 water fountains that would have shown that interaction in the
12 alcove as well. I believe we also saw through the testimony
13 of Scott Morgan that that angle is preserved and we do have
14 that angle.

15 Your Honor, I believe that it would be extremely
16 improper in this case to find any gross negligence, negligence
17 or bad faith on the part of the sheriff's office in this case
18 with regard to the argument that this evidence should be
19 excluded because it is -- the prejudice outweighs the
20 probative value.

21 Your Honor, I would implore you to look at the
22 standard in the Nevada -- in Nevada, and the real question is
23 whether or not the evidence will be substantially outweighed
24 by the danger of unfair prejudice. That substantially is very

1 important in this case.

2 And as the Nevada cases have shown, there would
3 be no point to present evidence if it were not prejudicial to
4 the Defendant. All evidence offered by the prosecutor is
5 prejudicial to the Defendant. There would be no offering --
6 no point in offering it if it were not.

7 And in this case, the State does not believe, by
8 any means, that we've reached the standard where it is more
9 prejudicial. It is probative to show the conduct that led to
10 the reporting of this case and led forward with the
11 investigation.

12 It is probative to also show what people were
13 seeing that -- who were there and from those angles. The
14 State believes that it is very important and should not be
15 suppressed.

16 Most importantly, Your Honor, I'd just like to
17 end with that the Nevada Supreme Court has recognized that
18 police officers generally have no duty to collect all
19 potential evidence, and in this case, that is exactly what
20 Defense is arguing the Douglas County Sheriff's Office should
21 have done.

22 Like I said, that is an entire summer that
23 they're asking for that surveillance footage to have been
24 collected of, when in this case, there were two reports and

1 the surveillance footage checked for those two reports.

2 Your Honor, I believe that this -- the Defense
3 has not met their burden in this case and would ask that you
4 deny their motion.

5 THE COURT: All right. Thank you, Ms. Mazza. By
6 going second, you had the benefit of hearing the questions I
7 asked Ms. Ristenpart and you answered quite a few of the
8 questions, at least from the State's perspective. I do have
9 some follow-up questions, though, however, for you, Ms. Mazza.

10 You referenced a couple of times the stipulation
11 that's been entered regarding Investigator Chrzanowski's
12 proposed testimony, and I'm looking at Subsection Number 9,
13 which appears on page 2 and it seemed like you were arguing
14 from that subsection.

15 You didn't reference this specific subsection,
16 but as I was listening to you and looking at the stipulation,
17 it seems like you are stating that in that Subsection 9, it
18 demonstrates that Investigator Chrzanowski requested that the
19 community center preserve any additional video surveillance
20 showing any interaction between Richard Jenkins and GW.

21 Is it your position that Investigator Chrzanowski
22 did request all the surveillance that showed interaction and
23 thought that what she was given was it in terms of
24 interactions between the two?

1 MS. MAZZA: Your Honor, that would be my argument
2 here today. I believe without testimony further -- and to
3 give the Court reference, this is essentially from the reports
4 the parties have obtained in this case.

5 And so these are the words that we have from
6 Investigator Chrzanowski, and that is the State's opinion that
7 she didn't show bad faith by saying, go find the most horrible
8 clips against Mr. Jenkins to prejudice his case, because that
9 is what it would have to be to rise to the level of bad faith.

10 It would have to be an intent to prejudice
11 Mr. Jenkins. And in this case, I believe that by Investigator
12 Chrzanowski's requesting of the surveillance footage, that
13 that has not been shown.

14 THE COURT: It was Ms. Ristenpart's recollection
15 of the testimony of Mr. Morgan that there was really no reason
16 that all of the footage couldn't have been easily preserved.
17 Is that your understanding as well?

18 MS. MAZZA: Your Honor, I would assume, like any
19 other surveillance footage, they can pick a date to another
20 date and they can record that. Yes, I believe that's correct.

21 The next step would then be someone having to sit
22 and review the entirety of that amount. So while it could be
23 easy to click record on that, that could take days for someone
24 to review that in its entirety. So I'm answering --

1 THE COURT: Does the fact, though, that it's
2 cumbersome excuse an investigator from not doing it?

3 MS. MAZZA: No, Your Honor, and that's not my
4 argument. But I also believe that what was collected, what it
5 was -- what is the important video in this case, what's been
6 recorded in this case, and those were the two instances that
7 were reported.

8 And those were the two instances which the
9 community center went back and looked for. There were no
10 other reports over the summer with regard to the community
11 center and Mr. Jenkins and GW.

12 I say that with aside from the victim in her
13 interview, what she alleges. But as far as reports of other
14 dates, specific dates to go look at, there were none.

15 So I guess ultimately to answer your question, I
16 believe -- I don't have any reason to not believe Mr. Morgan
17 that he could press record on certain dates.

18 THE COURT: And would it have been better -- and
19 I understand what you're saying about the duties involved, but
20 would it have been better to preserve all of the evidence, the
21 surveillance?

22 MS. MAZZA: Your Honor, in the State's opinion, I
23 can't say better or worse, I can't say how it would make the
24 case -- how it would impact the State's view of a case. But

1 what I can say is that it's not exculpatory and there's been
2 no showing that it is exculpatory.

3 So, no, it would not be better to have it because
4 it is not exculpatory, so it's not material. There is nothing
5 that the Defense has proven to show that that video would be
6 material, meaning Defense has not shown that that video would
7 show Defendant did not commit these acts in the areas where
8 there are no surveillance cameras.

9 So the acts as indicated are alleged to have
10 occurred in the equipment closet, which a side view,
11 Ms. Ristenpart indicates, through a door into a closet would
12 not show.

13 And also the squishy room, itself, cannot be seen
14 in its entirety. So the State believes that additional would
15 not make it better because it's not exculpatory.

16 THE COURT: You heard me asking Ms. Ristenpart
17 about her position that the clips that were preserved, her
18 position is they are not probative.

19 Do you have a different view of that?

20 MS. MAZZA: Whether the clips that are preserved
21 are probative?

22 THE COURT: Those clips that were preserved, yes.

23 MS. MAZZA: The State does believe they're
24 probative. As we argued in our motion, I disagree with

1 Defense that they show a false relationship. There's nothing
2 false about them. They show the actual conduct between GW and
3 Mr. Jenkins. I believe they're highly probative in this case
4 in addition to also show corroboration with the reports that
5 were made in this case by the witnesses.

6 So the State believes they are highly probative.

7 THE COURT: Okay. Thank you, Ms. Mazza for
8 answering my questions. Ms. Ristenpart, your opportunity to
9 rebut.

10 MS. RISTENPART: Thank you, Your Honor. I go
11 back to the charging document, Your Honor, and also the
12 timeline. Mr. Jenkins was arrested and charged on
13 November 9th of 2018.

14 He was charged specifically, even in the original
15 criminal complaint in Count II, as to alleging something
16 occurred in the equipment room, the Douglas County Community
17 Center, and Count III as to something occurring in the squishy
18 room at the Douglas County Community Center, and also Count IV
19 that something occurred in the alcove at the Douglas County
20 Community Center.

21 Your Honor, the Court's well aware because I
22 filed a motion to dismiss for lack of specificity, which was
23 denied by this court. But the way the State has charged it is
24 they're alleging that sometime between June of 2018 to

1 September of 2018, specifically September 28th if I remember
2 correctly off the top of my head, that these three incidences
3 occurred at some point at the Douglas County Community Center.

4 When we're looking at the argument the State just
5 presented forward, stating that, well, is all relevant,
6 probative because it shows exactly what the witnesses were
7 testifying to, we've got to go back to what is he actually
8 charged with?

9 And that's a lewd act, acting -- sexually
10 touching someone with the intent for sexual gratification,
11 very specifically on the buttocks or on the top, almost going
12 towards the vagina. That's what he's charged with. And this
13 whole distraction as to, well, look at all these other times
14 they're touching or interacting, none of those depict what
15 he's actually charged with.

16 And the State's argument as to, well, it shows
17 what Ashley Gosney and Nick Lonnegren, I think his last name
18 is, were talking about. It doesn't even show that. Ashley's
19 report claims that she saw Mr. Jenkins and GW kissing. None
20 of the video clips presented to you show any type of kissing.

21 So for that argument, it just fails, Your Honor.
22 It also -- the whole -- what has been shown and what the State
23 wants to show to the jury is that skewed perception as to,
24 well, they're touching here, so just believe us that they were

1 touching in the equipment room.

2 You know, there's a camera over the squishy room,
3 but it didn't capture everything. But you don't even know
4 based upon what the State has presented to this Court and
5 based upon the charging document itself, there's no specific
6 date for those three claimed instances.

7 So for their argument as to, well, it was just a
8 lot of work to collect 121 days of video surveillance, but
9 even though it may have been a lot of work, it actually
10 wasn't. It was actually described as fairly simple. He could
11 have done that I think the State essentially agreed with that.

12 And when they are charging from June to September
13 of 2018, and then at some point in November of 2018,
14 Investigator Chrzanowski directs and has the community center
15 support staff do her bidding of gathering more video
16 surveillance, why would Investigator Chrzanowski ask in
17 November after or even before -- we don't have a time frame
18 because we're relying upon her police reports and she didn't
19 state when she went back to the community center. But in her
20 police report, she did state November of 2018.

21 She went and asked them to collect more video
22 footage, the only analytical conclusion of that, Your Honor,
23 is that Investigator Chrzanowski was well aware that there was
24 additional video surveillance footage that had been stored and

1 not collected to date.

2 And, Your Honor, going back to the State's
3 argument as to, well, this is a robbery -- if it was a robbery
4 case, we wouldn't expect the police to collect all 24 hours of
5 what occurred in the 7-Eleven before the robbery.

6 Your Honor, again, the charging document is
7 alleging at some point between June and September of 2018,
8 these three things occurred at Douglas County Community
9 Center. And without specific dates, yes, that is their
10 responsibility to collect what would have been there.

11 And also, as the Court's well aware, they would
12 have collected every single camera angle, following the robber
13 around the 7-Eleven to show the actions and put in context
14 what occurred.

15 The whole discussion I just heard over and over
16 again, well, it's just a lot and that's hard. Who's going to
17 review all that? The State is charging Mr. Jenkins with, just
18 in regards to Douglas County, three counts which all are ten
19 years to life and they're making an allegation that he's
20 allegedly sexually touched GW.

21 And now they're saying it was just too hard to
22 collect everything? That is not what our criminal justice
23 system relies upon. That's not what we're here to do is that
24 they can charge someone with one of the most heinous

1 allegations in our court system and then say, well, you know
2 what, we got two days and we got approximately half an hour
3 out of those two days, so therefore -- and those two days,
4 mind you, are not even the days that are described as when
5 these lewd acts allegedly occurred because we don't have a
6 specific date and that's going to be enough for this Court and
7 for the jury.

8 Your Honor, when we're talking about the skewed
9 perception and that false image, again, I'm not arguing that
10 this isn't the actual reporting in the clip. I'm saying
11 because it's taken out of context, because it's only from one
12 camera angle and not from all the different angles showing
13 that interaction from all different angles, that it is a false
14 impression and it is leading and highly prejudicial because of
15 the way that they clipped it.

16 Going back originally, Your Honor, to the
17 argument as to the different standards, the standard is not
18 based upon the black law dictionary, Your Honor. Daniel
19 states what the standard is for bad faith and remember the
20 Court that there is the "or" portion of it, that even if
21 there's not specific malicious intent by the Government, like
22 let's say Investigator Chrzanowski went and deleted, herself,
23 all the other footage, right?

24 There's the other "or," that there is -- that it

1 was shown and known at the time that it would have been
2 exculpatory, and therefore, it just wasn't collected and lost
3 forever.

4 That is what I'm focusing on, Your Honor, here is
5 because of the time frame and because we can glean from
6 Investigator Chrzanowski's actions and lacks thereof, that she
7 knew that there was additional stored video. She directed the
8 community court (sic.) staff to do her bidding to get more
9 recordings.

10 And even then at that time, she knew that there
11 was a time frame throughout the summer based upon her
12 interview, her second interview with GW that there was not a
13 specific date or time that GW was alleging, just a specific
14 location and that the Government did absolute nothing.
15 Nothing to preserve that evidence and specifically, really,
16 the squishy room and the alcove that had cameras that directly
17 looked upon those areas.

18 And again, the Court -- the State can just keep
19 arguing, well, it didn't show the entire squishy room, but we
20 still don't have where in the squishy room GW alleges that she
21 was lewdly touched. And so therefore, they're just assuming
22 it was off camera? That's just bad faith. That is just
23 making it as to, well, it's too hard to look through 121 days.

24 With that, Your Honor, with everything you've

1 heard -- and I think a lot unfortunately because of the
2 situation, the Court's asked both the State and Defense to
3 kind of speculate as to Investigator Chrzanowski, and I think
4 that may require testimony from her if the Court's declined --
5 or erring on the side of, well, I don't think there was a bad
6 intent.

7 But I think even beyond that, Your Honor, the
8 second portion of that "or" under Daniels is that it was
9 materially relevant and exculpatory because we know that from
10 Georgianna's testimony. I just didn't record the rest of it.
11 Yes, I saw their interactions, I just didn't record it because
12 it didn't give me that uncomfortable feeling.

13 And also Georgianna testified, Your Honor, that
14 she was directed to look at those two days and record what
15 gave her an uncomfortable feeling. That was the instruction.
16 That was what she was told to do. Whether it came from Scott
17 Doerr or from Investigator Chrzanowski, I don't know. That
18 would be testimony possibly from Investigator Chrzanowski,
19 which is unavailable right now due to her medical condition.

20 But we know Georgianna testified quite clearly
21 and accurately that she was told to pick the clips that made
22 her feel uncomfortable, even though there was other
23 interactions between Mr. Jenkins and GW that didn't make her
24 feel uncomfortable that she just did not record. That's the

1 exculpatory evidence that was material, that was never
2 collected and now irrevocably lost or destroyed.

3 Thank you.

4 THE COURT: Thank you, Ms. Ristenpart. You
5 brought up potential penalty and I don't think that has any
6 relevance here, but it does spark a question for me that has
7 to do with jury selection. I am under the impression that the
8 potential penalty in this case is that it's not a life
9 sentence.

10 The reason that's all relevant here, Mr. Jenkins,
11 it has to do with how many preemptory challenges each party
12 gets during jury selection. I believe these are charged as
13 Category B felonies, not subject to life imprisonment.

14 Again, totally irrelevant to today's hearing, but
15 Counsel, I was preparing to go forward with jury selection as
16 if this were not a life case, and again, that has an impact on
17 preemptory challenges.

18 Ms. Ristenpart, what is your understanding of
19 potential penalty in this case?

20 MS. RISTENPART: Your Honor --

21 THE COURT: And, Counsel, if you need a moment to
22 answer that or if you want to do it after court, that's fine.
23 But it will have an impact on jury selection.

24 MS. RISTENPART: Your Honor, I do always forget

1 this is a Category B the way it's charged. I do --

2 THE COURT: Yeah, I believe it's four counts of
3 Category B felonies. So I can check that.

4 MS. RISTENPART: If we could just look at the law
5 together right now, Your Honor, I'd be happy to.

6 MS. MAZZA: Your Honor, I believe it's -- they're
7 all four 1 to 10 mandatory prison, but I do not believe
8 they're life cases.

9 THE COURT: Okay. I'll take a peek at the
10 Amended Information.

11 MS. MAZZA: They are charged all as Category B's.

12 THE COURT: All Category B's?

13 MS. MAZZA: Yes.

14 MS. RISTENPART: That's correct, Your Honor, on
15 my review of the amended complaint.

16 THE COURT: And I believe they're -- you know,
17 there's been a change in the law. I believe lewdness with a
18 minor was -- used to just be one possible sentence of life
19 with possibility of parole or the definite term of 25 years
20 with parole in ten.

21 But they've now made it that based on the ages of
22 the minor child, it can be a Category B felony and that's the
23 way it's charged here, and Category B felonies aren't
24 penalized by life.

1 MS. RISTENPART: I correct my argument,
2 Your Honor, in regards to the 10 to life, but it still doesn't
3 hopefully diminish that it's mandatory prison and the severity
4 of the allegation against Mr. Jenkins.

5 THE COURT: No, it -- yeah, and that's why I say
6 it really doesn't impact things here. It's a serious case
7 either way. I'm only asking it because I want to be prepared
8 for jury selection.

9 So, Counsel, I'm going to be going forward as if
10 life is not a possibility here, that that impacts the -- it
11 lessens preemptory challenges with the parties. Any party
12 have a different viewpoint of that, I would ask that you file
13 some kind of memorandum with the Court. But they are clearly
14 charged as Category B felonies.

15 MS. RISTENPART: Your Honor, meaning that we
16 would -- each side would have four preemptory challenges
17 versus the eight.

18 THE COURT: Yes, four preemptories for the jurors
19 and then I will be selecting two alternates in this case. So
20 you each get one additional preemptory challenge, so five
21 total preemptory challenges each. That goes up quite a bit if
22 it's a life case.

23 So, Ms. Mazza, are you ready to give your input
24 on that? Do you believe that the Court is correct on that or

1 do you have a different assessment?

2 MS. MAZZA: Yes, Your Honor, I believe the Court
3 is correct. As they are charged all as Category B felonies,
4 they cannot be life potential sentences.

5 THE COURT: All right. Well, I really don't want
6 to leave this issue hanging out. Ms. Ristenpart, why don't we
7 just take a moment? I think you have your computer there. I
8 can give you the statutes that are quoted in the Amended
9 Information.

10 MS. RISTENPART: Your Honor, I have the Amended
11 Information on my PowerPoint, so if the Court would just give
12 me a minute.

13 THE COURT: Yeah, take your time.

14 MS. RISTENPART: I'd like to just double check
15 because there are some arguments as to the ultimate sentence
16 can be --

17 THE COURT: Take your time and just let us know
18 when you're ready.

19 MS. RISTENPART: Thank you.

20 And, Your Honor, while we're researching -- this
21 is actually Ms. Mazza's computer, she let me borrow it for
22 today. I just inform the Court because I know that there is
23 some case law as to whether if the sentences could cumulate
24 into a life sentence, that it would then be also possibly

1 considered for preemptory challenges.

2 But I -- if my recollection is is that the Court
3 struck down and said, no, it was only as charged, not for the
4 possible sentence, but I'm not off the top of my head knowing.

5 THE COURT: Okay. And that's fine. I thank you
6 for looking. As we sit here today, again, I will be going
7 forward with the understanding that a life sentence is not
8 possible here and the parties will each get four regular
9 preemptory challenges plus one for the two alternates.

10 And again, if a party has a different viewpoint,
11 you would voice that by way of a motion or some kind of
12 memorandum filed with the Court. I think it would be best
13 that it'd be a motion for additional preemptory challenges
14 that the State could look at and the Court could as well.

15 Okay. The other question I had regarding your
16 rebuttal argument, Ms. Ristenpart, is -- and I don't know that
17 this has really anything to do with the motion either, but it
18 does -- it is important for the record.

19 You indicated very clearly that you previously
20 filed a motion to dismiss the information in this case for
21 lack of specificity. The record does not reflect any such
22 motion.

23 Are you -- is there one that you can point the
24 Court to?

1 MS. RISTENPART: Your Honor, I don't have the
2 motion in front of me.

3 MS. MAZZA: Your Honor, it was in opposition to
4 the State's motion to amend our Information in response. In
5 opposition, Ms. Ristenpart filed that motion and I believe the
6 Court addressed that.

7 THE COURT: Well, the record is what it is. I'm
8 going to tell both of you that there is no motion in front of
9 the Court or has there been a motion in front of the Court to
10 dismiss the Information.

11 MS. MAZZA: No, Your Honor, that's not what I'm
12 saying. I'm saying it was as part of the State's motion.

13 MS. RISTENPART: To file the amended criminal
14 complaint.

15 MS. MAZZA: In the State's request for relief to
16 correct clerical error in the Information, defense filed
17 opposition.

18 THE COURT: So, again, my position is: There has
19 been no motion filed by the Defense to dismiss the Information
20 and, in fact, in the opposition to the motion that you speak
21 of, even there, the Defense did not request dismissal of the
22 Information.

23 Also, the parties or the Defense should be made
24 aware of 9th Judicial District Court Rule 6, Subsection I,

1 which indicates you cannot file a new motion when you're --
2 within an opposition to another motion. You have to file an
3 entirely separate motion. Even so, the opposition did not
4 move for dismissal of the Information.

5 So, Ms. Ristenpart, if I'm mistaken and you have
6 filed a motion to dismiss, I would appreciate you telling me
7 where -- when and where that was filed.

8 MS. RISTENPART: Your Honor, it was in the
9 opposition, which I don't have in front of me, a copy of, and
10 I do believe the Court addressed that issue as to the lack of
11 specificity as I argued it in regards to why they should not
12 be allowed leave to file an amended criminal complaint. And
13 the Court addressed the specificity argument in your response.

14 THE COURT: So do you agree you've never asked
15 the Court to dismiss the Information for lack of specificity?

16 MS. RISTENPART: Your Honor, I'd have to look
17 exactly at my opposition, but I would take the Court's
18 assertion that I did not request that as the remedy in that
19 opposition.

20 THE COURT: All right. I just wanted to make
21 sure I wasn't missing something. All right. The only other
22 question I think I have regarding the pending motion is,
23 Ms. Ristenpart, you have raised some things here today for the
24 first time that were not raised in briefs. And I pointed out

1 a couple of those. The primary one being the remedy that
2 you're requesting. Until today, you had not requested the
3 remedy of dismissal. So that is new, and if I'm wrong on that
4 and your briefs say otherwise, please feel free to correct me.

5 The other being is this idea that the community
6 center was acting as an agent. It is my recollection as that
7 was not raised in the briefs and I believe today is the first
8 time I've heard that argument, and again, now is the time to
9 correct me if I'm wrong on that, because there's a question
10 about whether the State had the ability to -- whether those
11 issues are properly before the Court.

12 So if I'm wrong only that, please correct me. If
13 I'm right on that, let me know that as well. Are those new
14 things that are being raised here today for the first time?

15 MS. RISTENPART: Your Honor, as I acknowledged in
16 my argument, my request for dismissals of Count II through IV
17 is new today based upon Georgianna's testimony on Tuesday
18 where she stated that there -- the camera above the alcove
19 would not have captured any kind of imagery of the alcove
20 because it only pointed into the arcade room, which was
21 clearly a false statement based upon the other evidence that
22 was submitted to the Court and presented as the bank of
23 monitors showing that that camera angle does capture the
24 alcove.

1 THE COURT: Okay.

2 MS. RISTENPART: So I did add that based upon the
3 new evidence and testimony that this Court received on
4 Tuesday.

5 THE COURT: Thank you. And what about the agency
6 issue?

7 MS. RISTENPART: Your Honor, the case facts as
8 presented in my motion all state that Investigator Chrzanowski
9 directed the community center to get that information. But as
10 to the actual law regarding saying that this is an agency,
11 you're correct, I did not put that specifically in my motion
12 because I -- it was already kind of established by the
13 timeline and the actions and the fact that the Government
14 never countered that, saying that it wasn't a Government
15 action.

16 But, yes, you're correct, there's not case law
17 that I brought today as to *Messiah versus United States*.

18 THE COURT: Okay. Counsel, thank you for your
19 presentations and answering all of my questions here today.
20 While we're here, there are two other things that I would like
21 to address.

22 One is jury instructions are due today at 5:00.
23 The Court previously directed counsel to meet and confer
24 regarding jury instructions to try to find out what

1 instructions are going to be contested. Ms. Mazza, is the
2 State prepared to lodge their jury instructions today?

3 MS. MAZZA: Yes, Your Honor, I have brought a
4 copy to Court. I would say, though, that we just got orders
5 from the Court with regard to two pending motions and I do
6 believe that those will necessitate additional instructions
7 that I have not prepared as we got those orders essentially
8 before Court here today.

9 THE COURT: Very fair.

10 MS. MAZZA: So I would say that my instructions
11 are not complete now given those orders.

12 THE COURT: Okay. Very fair. And have you and
13 Ms. Ristenpart met and conferred to discuss the two sets of
14 proffered instructions?

15 MS. MAZZA: Your Honor, I believe our intention
16 was to confer this afternoon after our hearing.

17 THE COURT: Great.

18 MS. MAZZA: I believe we may have started a
19 little late, so we may go over. So, no, my answer is we have
20 not conferred.

21 THE COURT: Okay. But you intend to today?

22 MS. MAZZA: Yes, that would be our hope.

23 THE COURT: All right. Ms. Ristenpart, do you
24 have yours ready to proffer today?

1 MS. RISTENPART: Your Honor, I always usually go
2 upon what the State, they always have a packet. But I have
3 not received a copy of the Court's orders that were just filed
4 today.

5 So I would request if we can get a copy so I can
6 go forward with jury instruction conferment with Ms. Mazza,
7 because both of us, as we discussed earlier today, Ms. Mazza
8 and myself, we were waiting awhile for the Court's orders to
9 determine what additional special instructions may be
10 requesting.

11 THE COURT: Well, of course, jury instructions
12 are never fully settled until the end of the case. But we
13 make every effort to try to settle as much as of them as we
14 can ahead of time.

15 The Court fully understands and appreciates that
16 there might be a need to add instructions based upon motion
17 work that was recently conducted and orders, including
18 whatever order might come of today's hearing, which by the
19 way, I'm going to take under submission and I'll issue a
20 written order. So the Court understands that.

21 It does sound like both counsel are ready to
22 proffer their instructions as ordered, and I thank you for
23 that, and you're also ready to meet and confer and I
24 appreciate that as well. The meet and confer is the

1 particularly important to assisting us once the case does come
2 to a conclusion. It definitely helps us streamline things and
3 get the case to a jury in a more efficient manner.

4 So please take your time in meeting and
5 conferring and, of course, you're not required to agree on any
6 of your proposed instructions. But if there are ones that you
7 can agree on, again, that's helpful; and then to identify ones
8 where you definitely have disagreement, that's helpful as
9 well.

10 We won't be having those discussions and debates
11 with me until the end of the trial, but it definitely helps if
12 you have those discussions now.

13 So, Counsel, thank you for following the Court's
14 directive on that. I also appreciate you both being here
15 today. I do want to -- we're here, is there anything else we
16 should discuss?

17 I know there's two other motions pending. I
18 don't know if those are going to require -- well, we kind of
19 do know they might require a hearing, Hallmark hearing. I
20 know there's -- I have taken a look at the briefs that have
21 come in so far, but I know there's more that might be filed.

22 MS. RISTENPART: With the Court's indulgence.

23 THE COURT: Yes, go ahead and talk and let me
24 know what you think we ought to do.

1 MS. RISTENPART: With the Court's indulgence,
2 sorry.

3 THE COURT: Take your time. No hurry.
4 (Brief pause in proceedings.)

5 MS. RISTENPART: Your Honor, in speaking with
6 Miss Mazza, we're just speaking just about jury instructions
7 right now. Based upon the fact it's 4 o'clock, Ms. Mazza and
8 I, we would like to confer and get possibly one packet with
9 separate special instructions to the Court.

10 THE COURT: Excellent.

11 MS. RISTENPART: We would ask for permission to
12 maybe give that to the Court on Tuesday.

13 THE COURT: That is granted. Counsel in this
14 case has demonstrated on both sides the preparation and
15 following the Court's guidance, and I very much appreciate the
16 thought that you might be able to arrive at one set of
17 instructions and have set aside those that are disputed.
18 That's ideal.

19 And so, Counsel, I really appreciate that effort,
20 and yes. And frankly, if that's the goal, it's okay with me
21 if you take even more time than that because I think that is a
22 very, very worthy goal and it's why I asked for the meet and
23 confer.

24 I also know you're both going to be really busy

1 here as trial approaches. So I -- you know, again, because of
2 how counsel has been in this case, I'm not even going to put a
3 deadline on you. I trust that you're going to do what you've
4 told me you're going to do and that's good enough for me.

5 So, Counsel, thank you for that effort. I'm not
6 going to put a deadline on you. I know that you are going to
7 do your best to try to come up with that set of instructions,
8 but you have to balance out with everything else you have to
9 do to get ready for trial. So I understand that. So thank
10 you both.

11 MS. RISTENPART: Thank you, Your Honor. And also
12 speaking briefly with Ms. Mazza, there's potentially a
13 Hallmark hearing for both Mr. Chip Morgan and also for
14 Dr. Blake Carmichael, which the Court has my objection in
15 front of -- or my opposition.

16 THE COURT: Yes.

17 MS. RISTENPART: As I indicated to the Court in
18 email -- just to make my record very clear, I emailed your
19 judicial assistant and cc'd Ms. Mazza on it. On -- after our
20 hearing on Tuesday, I went back and more thoroughly reviewed
21 Ms. Mazza's motion to strike my expert witness, Chip Morgan,
22 and based upon the arguments and reflection, I really deemed
23 it better to file a written opposition to that motion versus
24 just arguing today, which have been kind of our understanding

1 on Tuesday when we left the Court.

2 THE COURT: Yes.

3 MS. RISTENPART: And I did email that in an email
4 to the Court to just alert them that I would be filing
5 opposition that we would not be arguing today.

6 THE COURT: Again, very much appreciated,
7 Counsel, in this case and your efforts to keep the Court
8 apprised. I was made aware of that, so I didn't spend time
9 today preparing for argument on that motion. So thank you.

10 Do we need to set a hearing, then, on these
11 outstanding motions? Counsel, why don't you just talk for a
12 moment and let me know if you think we -- the Court has
13 availability next week and we'll do what is needed to
14 accommodate this case if we need another setting.

15 (Brief pause in proceedings.)

16 MS. RISTENPART: Your Honor, after conferring
17 with Ms. Mazza and our schedules and the Court's indication
18 that you'd be available next Friday, April 16th, for a motion
19 hearing, we would ask if you could sleight us in for the
20 outstanding motions.

21 THE COURT: What time and how much time should we
22 set aside?

23 MS. MAZZA: Your Honor, with regard to the time,
24 if the Court is available all day, I would suggest we reach

1 out to Ms. Plante. I think I, at least, will need to contact
2 the expert and find out -- or Mr. Carmichael if he's available
3 and what time he would be available. So I can't pick a
4 specific time right now.

5 THE COURT: Okay. Fair enough. The availability
6 of the Court Reporter is also a factor here.

7 Madam Court Reporter, are you or anybody in your
8 staff available on the 16th?

9 THE REPORTER: I think so. Can I just look real
10 quick?

11 THE COURT: Yes, take your time.

12 THE REPORTER: Yeah, I've got my calendar here on
13 the phone. Oh, yeah, no problem on the 16th. We're good all
14 day, whatever time.

15 THE COURT: Excellent. Well, that's lucky.

16 So we're looking at the 16th and this is just a
17 question for Counsel: If we end up doing Hallmark hearing or
18 hearings and the experts are needed, is there any thought
19 about taking that testimony by remote means?

20 And I'm by no means pushing that, I'm just asking
21 if, you know, it might be something that assists the parties
22 and the witnesses in selecting a specific time.

23 Ms. Mazza, what are your thoughts about that?

24 MS. MAZZA: Your Honor, the State would actually

1 be requesting that Dr. Carmichael can appear by video. I
2 think that would limit our times available because he does
3 have a two-hour drive to come here from Davis, California. So
4 that would be my request with regard to our witness.

5 THE COURT: Okay.

6 MS. MAZZA: And I would have no objection to
7 defense witness appearing by remote means.

8 THE COURT: Okay. And we would do it by Zoom.
9 It would have to be by audio and video. Ms. Ristenpart, your
10 thoughts about that?

11 MS. RISTENPART: Your Honor, just
12 generalistically, I'm hesitant to agree to allow a Hallmark
13 hearing by via Zoom. Again, though, as I had actually just
14 spoken with Ms. Mazza that I need to check with my expert, but
15 also I just received notice of Dr. Blake Carmichael as their
16 expert.

17 So at this point, I'd ask that we have
18 Mr. Carmichael here in person, but I will also do more
19 research in regards to Mr. Carmichael. I may feel more
20 confident to go forward on Zoom. I know it's not a great
21 answer for the Court right now.

22 THE COURT: No, it's fine. It's an okay answer.
23 I'm not going to press either counsel into agreeing to
24 something they're not ready to agree on.

1 So here's where that leaves the Court: As it
2 stands, any witness would need to be here in person unless
3 there's an appropriate request made and authorization granted
4 or a stipulation. That's number one.

5 Number two, while the Court does have
6 availability on the 16th, I'm not going to set this for a
7 random time or an unknown time on the 16th and have the Court
8 and staff and the reporter waiting on the availability of the
9 expert.

10 So, Counsel, I'm going to ask that you touch
11 bases with your experts. My preference and hope would be we
12 could start at 9 o'clock and the experts, if both are needed,
13 could be knocked out one after the other. If there's a
14 different time of the day that works for both of the experts,
15 the Court's open to that. You've heard the Court Reporter is
16 as well.

17 I really would rather not stagger them so that we
18 have one in the morning and one in the afternoon. That is a
19 terrible use of all of our time. So, Counsel, I'm just again
20 going to trust the two of you will talk with your experts,
21 talk about whether Zoom's okay or not and talk about what time
22 we're going to have this hearing.

23 And then I would ask that you collectively -- I
24 think the best way is to both email Ms. Plante on a -- you

1 know, where you CC both the parties and let her know what time
2 is going work best on the 16th.

3 I think we need to know that -- well, I'd really
4 like to know by the 13th, what time, because it's really
5 important for all of us, including the Court Reporter, to know
6 what time this hearing is going to happen.

7 Madam Court Reporter, can you work within that
8 constraint? If we don't know for sure what time it's going to
9 be on the 16th until Tuesday, the 13th, or is that --

10 THE REPORTER: Yes. No, we're open on the 16th.
11 I'll put you in whether we have a hearing or not. So we're
12 good on the whole day.

13 THE COURT: Okay.

14 THE REPORTER: Any time is fine.

15 THE COURT: So, Counsel, again, talk with your
16 experts, let Ms. Plante know what time is going to work the
17 best and we'll see if we can't do it that way. Okay.

18 Anything else we need to discuss here today?

19 MS. RISTENPART: Judge, where is our jury
20 selection and voir dire going to take place?

21 THE COURT: Okay. Thank you. Great question.
22 It'll be taking place at the CVIC Hall and I can -- I will
23 give you the address right here in a moment.

24 It's a local town hall that can utilize for many

1 different reasons -- you know, different events. As an
2 example, the Douglas County Board of County Commissioners are
3 going to start having some meetings there to accommodate
4 social distancing.

5 Okay. Let me find the address.

6 MS. RISTENPART: I can look it up, Your Honor.
7 My client indicates he knows where it's at, so --

8 THE COURT: All right. Well, hold on. I
9 appreciate that, but I know I have it right here somewhere.
10 Let me just find it. It's in the order calling the jurors and
11 letting them know where they need to go.

12 Madam Clerk, if you know where it is.

13 THE CLERK: It was filed on March 31st.

14 THE COURT: Thank you.

15 MS. PLANTE: I have it.

16 THE COURT: Ms. Plante has it. Thank you. Your
17 question also brings up some other aspects that the Court can
18 discuss with counsel now.

19 So the CVIC Hall is located at 1604 Esmeralda
20 Avenue, Suite 101, Minden, 89423, less than five minutes from
21 here. You can probably walk there in less than five minutes
22 from here.

23 And again, on that date, we will only be doing
24 jury selection and we will only be in session over at the CVIC

1 Hall. Once the jury is impanelled, we're not coming back here
2 to start the trial. We won't do that until the next day.

3 Secondarily, the jury selection will begin at
4 10:00 a.m. Jurors are being summoned to arrive at 9:45 a.m.
5 Counsel, it is important that you alert staff, witnesses,
6 clients of the impropriety of discussing the case in that
7 venue there.

8 And so, in other words, no talking about the case
9 or witnesses or impressions except when we are on the record.
10 And of course, if there's a need for private conversations, we
11 can arrange that. But it is important that both counsel alert
12 staff as would you in any case that it's inappropriate to be
13 talking about cases out in the hallways and -- or whatnot.

14 We will be following the COVID-19 guidelines and
15 social distancing. The rules have changed to our benefit that
16 spacing will only need to be three feet apart. So we will
17 maintain that. Face masks, of course, but as I've told
18 counsel when you are speaking and addressing the Court or
19 jurors, you can remove your face mask.

20 As far as the setup over there, it's going to
21 be -- it's going to mirror pretty much what we do in here.
22 And so I'm trying to make it as much the same as we always do,
23 except just in a different location.

24 And so, Counsel, if you have tried a case here

1 before, know that when the jury first comes in, they are all
2 seated in the back. It'll be the same at the CVIC Hall. When
3 we get to a point in time of calling jurors up to the box, we
4 will have -- set aside 24 chairs for that purpose. 24 chairs
5 are the 14 jurors, plus you add in all the preemptory
6 challenges, and that box will be -- it might even be better
7 than in here, because the box instead of being off to your
8 side, like it is here, is going to be right in front of you.
9 And so will you have really good contact and visual with those
10 potential jurors.

11 So again, the setup, we're trying to make it as
12 much -- normal as possible other than just being in a
13 different space with everybody three feet apart. Jurors will
14 be supplied with masks if they need one, with hand sanitizer.
15 I think we give wipes and water and all of that, too. But in
16 any event, a good time to ask those questions if you have
17 them, I'm happy to try to answer them.

18 Ms. Ristenpart, do you have other questions about
19 jury selection or other logistics?

20 MS. RISTENPART: Jury selection, Your Honor. So
21 counsel will have obviously a table or something facing the
22 jurors?

23 THE COURT: Yes.

24 MS. RISTENPART: Will there also be a place for

1 my assistants who will be taking notes for me behind me or to
2 the side so they can also see the jurors as they would here if
3 they were looking at the jurors up here?

4 THE COURT: Okay. Great question and thank you
5 for that. Ms. Mazza, do you anticipate also having an
6 observer that would assist you in jury selection?

7 MS. MAZZA: Yes, Your Honor.

8 THE COURT: How many -- are we talking just one
9 person?

10 MS. MAZZA: Yes.

11 THE COURT: And Ms. Ristenpart, one person?

12 MS. RISTENPART: Two, Your Honor.

13 THE COURT: Two. Okay. So I think because of
14 how we are setting it up, the Court might be okay with -- the
15 tables you are going to be sitting at, each of you, are eight
16 feet long.

17 So the arrangement generally will be I'm going to
18 be sitting at an eight-foot long table with Madam Clerk and
19 the Court Reporter, and then counsel will be at eight-foot
20 long tables and client. So I believe we probably could
21 accommodate just for jury selection, having those assistants
22 sitting with you.

23 I wouldn't do that in here. I wouldn't allow
24 them to sit in front of the bar, but when I'm thinking about

1 the logistics of the CVIC Hall, I can see some benefit to that
2 if both counsel are okay with that. Ms. Mazza, would you be
3 okay with that?

4 MS. MAZZA: Yes, Your Honor.

5 THE COURT: Ms. Ristenpart, are you okay with
6 that?

7 MS. RISTENPART: Yes, Your Honor.

8 THE COURT: Okay. So that will be allowed. We
9 will add a second chair to Ms. Mazza's table and two
10 additional chairs to Ms. Ristenpart's. Please instruct those
11 who are assisting you, they are not going to be allowed to
12 speak.

13 Of course, they can talk to you privately at the
14 table and you can use them however you wish when it comes time
15 to select the jury.

16 It is my practice when it gets time to selecting
17 preemptions, we will take a recess so that you can talk and
18 talk with your assistants or whoever you want to come up
19 with your decisions.

20 And so -- and at that time, the jurors will be
21 excused from the hall so that you can have the privacy to make
22 those conversations. So I think that's a -- I'm glad you
23 raised that question today and I think we have good resolution
24 for it.

1 MS. RISTENPART: Thank you, Your Honor. The only
2 other issue I wanted to bring to the Court's attention today,
3 and I spoke with about this with Ms. Mazza earlier this
4 morning, when I was here for our court hearing on Tuesday, I
5 did notice that obviously April is child abuse month or
6 declared child abuse month.

7 In front of the courthouse at the main
8 entrance -- well, both main entrances when you come into the
9 parking lot and then also when you actually walk into the
10 courthouse doors through the only entrance, there are numerous
11 blue and silver pinwheels, which are the pinwheels for
12 prevention and also a sign posted by CASA saying April is
13 child abuse prevention month.

14 I did take pictures and, Your Honor, I have
15 provided a copy to Ms. Mazza. I would ask if I could make
16 this and mark this for the Court as my argument is because of
17 the nature of this case and also because there's the
18 allegation of, frankly, child abuse through the form of
19 lewdness, I just don't -- the perception that somehow there is
20 a child abuse prevention campaign going on and that jurors are
21 walking by it every single day causes me great concern.

22 THE COURT: Whereabouts you said they are? I'm
23 thinking I may have seen one or something out this way, but
24 I'm not sure. Where is it located?

1 MS. RISTENPART: Your Honor, if you walk out the
2 front doors --

3 THE COURT: Um-hum.

4 MS. RISTENPART: -- of 1038 Buckeye, it is right
5 in the grass if you're walking out to the direct right of the
6 doors.

7 THE COURT: Okay.

8 MS. RISTENPART: There's also another same setup
9 of the pinwheels and the sign into the grass area as you're
10 driving into the main parking lot where all the public park.

11 THE COURT: Okay.

12 MS. RISTENPART: It's on the left-hand side and
13 there are two blue ribbons that are pretty faint wrapped
14 around the two trees that are right in front of the
15 courthouse.

16 THE COURT: So it's pinwheels and ribbons on the
17 trees. Is there anything else?

18 MS. RISTENPART: Your Honor, that's all I've seen
19 so far.

20 THE COURT: Okay.

21 MS. RISTENPART: That was really directly in the
22 path of a juror walking in and I do have pictures to submit to
23 the Court.

24 THE COURT: Okay. I think that's a type of

1 motion that we can handle verbally, Ms. Mazza, if you're okay
2 with that. I would allow Ms. Ristenpart to go ahead and make
3 the motion, give the exhibit, make argument. You can make
4 argument as well.

5 If you would rather wait until our hearing next
6 week, that's fine with me, too. But I'd rather not task
7 counsel with putting that motion in writing and spending that
8 time.

9 Ms. Mazza, would you be prepared today to argue
10 that or would you prefer to wait until next week?

11 MS. MAZZA: Your Honor, I'd probably prefer to
12 wait until next week.

13 THE COURT: Okay. Are you okay with it being a
14 verbal motion or would you like to submit something in
15 writing?

16 MS. MAZZA: Verbal is agreeable to the State.

17 THE COURT: Okay. Ms. Ristenpart, are -- would
18 you like to submit something in writing other than the
19 exhibit? I mean, we can certainly brief this and that is fine
20 with the Court if counsel wants that.

21 MS. RISTENPART: I would prefer to do a verbal
22 argument, but I would like to put in a notice of exhibits
23 prior to argument of exactly what I'm describing verbally
24 pictures of.

1 THE COURT: It might be helpful to both counsel
2 and the Court to have that today, at least, Ms. Mazza, you
3 have an idea of -- and maybe you've seen it, I don't know.
4 But would you have any objection to the exhibit being
5 admitted?

6 MS. MAZZA: No, Your Honor, and I did receive
7 copies of the photos Ms. Ristenpart is discussing.

8 THE COURT: Great. Okay. So the Court in
9 addition to -- so the 16th is going to be used as a time to
10 hear pending motions. There are two that are written motions.

11 The Court will also entertain a verbal motion
12 regarding indications of child abuse prevention month and in
13 the form of pinwheels or ribbons or signage, whatever the case
14 may be.

15 So the Defense will be allowed to make a verbal
16 motion on the 16th, the State can give a verbal response. The
17 Court will go ahead and ask that -- and the clerk has already
18 marked and the Court will admit Defendant's Exhibits A and B
19 for the anticipated motion.

20 What should we call the motion?

21 MS. RISTENPART: Your Honor, I would label it
22 motion to temporarily -- because I'm not asking to take them
23 down now, Your Honor, just while the jury is here in
24 proceedings, a motion to remove signage regarding child abuse

1 prevention month.

2 THE COURT: Pen just died on me. Okay. Okay.
3 Thank you. Madam Clerk, I'm going to hold onto exhibits that
4 have been admitted for the purpose of today's hearing, which
5 was the PowerPoint presentation -- actually, it was only
6 admitted for demonstrative, so I will give that back.

7 And I'm also going to give you Exhibits A and B
8 that will be for the purpose of the motion to remove signage
9 regarding child abuse prevention month and I'll consider those
10 when we come back on the 16th.

11 Okay. Ms. Ristenpart, other questions?

12 MS. RISTENPART: Not at this time, Your Honor.

13 THE COURT: Ms. Mazza, any questions?

14 MS. MAZZA: No, Your Honor, just to confirm what
15 we are -- or currently set for Friday at 9:00 a.m. If parties
16 come to the conclusion that another time is needed, we can
17 contact the Court; is that correct?

18 THE COURT: That's not -- well --

19 MS. MAZZA: Oh, I --

20 THE COURT: That might be a good way of doing it.
21 It wasn't what I had in mind, but it might be better than what
22 I had in mind. You're saying to just go ahead and set it for
23 9:00 unless counsel indicates otherwise? Is that what you
24 were proposing?

1 MS. MAZZA: I thought I heard you say you weren't
2 going to give us a -- anytime that day and I thought I heard
3 you say 9:00 a.m., so I'll defer to the Court with that. I
4 just wanted to confirm.

5 THE COURT: Well, I appreciate the follow-up
6 question. What I don't want to have happening is nobody
7 having any idea what time it's going to start until that day.

8 So I like the thought, the more I think about it,
9 of saying it's going to be at 9 o'clock unless counsel
10 collectively provides a different time to Ms. Plante by the
11 13th.

12 And that way the Court Reporter and staff and
13 everybody can plan on it being at 9:00 unless we hear
14 something different from counsel on the 13th. And if you end
15 up picking a different time, we will notify the Court Reporter
16 and everyone. So maybe that -- I think that's the way I'd
17 like to go with that.

18 Ms. Mazza, does that -- do you have any other
19 suggestions?

20 MS. MAZZA: No, Your Honor. Thank you.

21 THE COURT: Okay. Ms. Ristenpart?

22 MS. RISTENPART: Your Honor, that is fine. My
23 expert is pretty receptive and fast at getting back to me.

24 THE COURT: Okay.

1 MS. RISTENPART: So I'll let the Court know if
2 9 o'clock is problem.

3 THE COURT: Great. Okay. All right. Counsel,
4 thank you very much. The Court stands in recess.

5 (Proceedings concluded at 4:25 p.m.)
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STATE OF NEVADA)
)
COUNTY OF DOUGLAS)

I, Michel Loomis, Certified Shorthand Reporter of
the Ninth Judicial District Court of the State of Nevada, in
and for the County of Douglas, do hereby certify:

That I was present in Department No. II of the
above-entitled Court and took stenotype notes of the
proceedings entitled herein, and thereafter transcribed the
same into typewriting as herein appears;

That the foregoing transcript is a full, true and
correct transcription of my stenotype notes of said
proceedings.

DATED: At Carson City, Nevada, this 15th day of
April, 2021.

//SHELLIE LOOMIS//
Shellie Loomis, CCR No. 228

1 Shellie Loomis
2 Capitol Reporters
3 628 East John Street #3
4 Carson City, NV, 89706
5 (775) 882-5322

6 IN THE NINTH JUDICIAL DISTRICT COURT
7
8 IN AND FOR THE COUNTY OF DOUGLAS, STATE OF NEVADA

9 STATE OF NEVADA,)
10)
11 Plaintiff,)
12)
13 vs.)
14)
15 RICHARD ALEXANDER JENKINS,)
16)
17 Defendant.)
18)
19)
20)
21)
22)
23)
24)

25 AFFIRMATION

26 Pursuant to NRS 239B.030

27 The undersigned does hereby affirm that the following
28 document **DOES NOT** contain the social security number of
29 any person?

30 //SHELLIE LOOMIS//
31 SHELLIE LOOMIS, RPR
32 NV CCR #228

33 CAPITOL REPORTERS (775) 882-5322

34 APP0561

RECEIVED

APR 15 2021

FILED

1 Case No. 19-CR-0188

Douglas County
District Court Clerk

2021 APR 15 PM 4:59

2 Dept. No. II

DOBBIE R. WILLIAMS
CLERK

3 DA 0037969/18-2152R

K. WILFERT
DEPUTY

4 This document does not contain personal information of any person

5

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

8

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

12 RICHARD ALEXANDER JENKINS,

13 Defendant.

**OPPOSITION TO MOTION TO
PRECLUDE TESTIMONY OR FOR A
HALLMARK HEARING – BLAKE
CARMICHAEL, PH.D.**

14

15 The State of Nevada, by and through Douglas County Deputy District Attorney Chelsea

16 Mazza, hereby files this Opposition to Defendant's Motion to Preclude Testimony or for a

17 Hallmark Hearing – Blake Carmichael, Ph.D. This Opposition is based on the attached

18 Memorandum of Points and Authorities, the pleadings and papers on file with the Court, and

19 any testimony adduced or oral arguments presented at a hearing on the matter.

20 ///

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28 ///

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MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL HISTORY

On November 8, 2018, RICHARD ALEXANDER JENKINS (hereinafter "Defendant") was arrested for offenses which occurred on or between July 1, 2018, and September 25, 2018. Defendant was charged by way of an Information filed December 20, 2019 (following a preliminary examination), with four counts of Lewdness with a Child Under 16 Years of Age, category B felonies. Defendant entered a not guilty plea to all charges on January 6, 2020. Defendant was charged by way of an Amended Information filed August 27, 2020 (following an Order Granting Leave to File Amended Information), with four counts of Lewdness with a Child Under 16 Years of Age, category B felonies. Defendant entered a not guilty plea to all charges April 6, 2021. The matter is set for trial to begin April 21, 2021.

The State timely filed a Notice of Intent to Offer Testimony of Expert Witness on March 31, 2021, designating one witness as an expert: Blake D. Carmichael, Ph.D., a Licensed Clinical Psychologist. Attached to the notice was curricula vitae for Dr. Carmichael.

The trial in this matter was previously continued from August 18, 2020, to April 21, 2021. In that time the expert witness previously noticed by the State became unavailable. The State filed a Notice of Intent to Offer Testimony of Expert Witness for the testimony of Dr. Carmichael and the filing was timely.

II. ARGUMENT

A. The State's Notice of Intent to Offer Testimony of Expert Witness was timely filed.

A party's notice of expert witnesses shall be filed and served upon the opposing party not less than 21 days before trial, or at such other time as the court directs. Each party has a continuing duty under NRS 174.234 to provide written notice of any expert or expert testimony the party intends to call or introduce during its case-in-chief "as soon as practicable after the party determines that the party intends to call an additional witness." NRS 174.234(3). Although the law favors allowing even late-disclosed witnesses to testify in criminal cases, Sampson v. State, 121 Nev. 820, 827, 122 P.3d 1255, 1260 (2005), courts should exclude an

1 undisclosed witness if the State's failure to notice that witness or the content of the witness's
2 testimony constitutes bad faith. NRS 174.234(3).

3 In this case, the State filed the Notice within 21 days before trial. The State provided a
4 hard copy by messenger on April 1, 2021. The State intended to serve Defendant on March 31,
5 2021, however, after further review it appears the Notice was served less than 24 hours later.
6 This does not constitute bad faith, and it has not risen to the level of "trial by ambush." By
7 mandating that parties disclose both the expert witness and the content of the witness's
8 testimony, NRS 174.234 also serves to prevent trial by ambush. "Trial by ambush traditionally
9 occurs where a party withholds discoverable information and then later presents this
10 information at trial, effectively ambushing the opposing party through gaining an advantage by
11 the surprise attack." Land Baron Invs., Inc. v. Bonnie Springs Family Ltd. P'ship, 131 Nev.
12 686, 701 n.14, 356 P.3d 511, 522 n.14 (2015).

13 Defendant cites to the request for experts to be noticed 45 day prior to trial, which was
14 made by Defendant at a hearing on March 9, 2021. However, Defendant fails to cite to the
15 response from the Court. The Court did not grant Defendant's request. As stated by the State
16 at the hearing on March 9, 2021, the State was working to confirm an expert as quickly as
17 possible. Defendant's concern stated in the March 9, 2021, hearing was the lack of time to
18 have a Hallmark hearing. However, as the Court has heard the testimony of Dr. Carmichael
19 and parties will argue Defendant's Motion on the State's proffered expert witness prior to trial,
20 as such, there has been sufficient notice to Defendant.

21 Defendant requested "all of the research and publications Blake Carmichael, Ph.D. is
22 relying upon to found his expert conclusions" on April 15, 2021, following testimony from Dr.
23 Carmichael. The State has not submitted any reports because Dr. Carmichael has not prepared
24 any reports related to the instant matter.

25 **B. Dr. Carmichael will provide relevant and reliable testimony, which will aid**
26 **the trier of fact.**

27 "The threshold test for the admissibility of testimony by a qualified expert is whether
28 the expert's specialized knowledge will assist the trier of fact to understand the evidence or

determine a fact in issue.” Townsend v. State, 103 Nev. 113, 117 (1987); see NRS 50.275 (“If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by special knowledge, skill, experience, training or education may testify to matters within the scope of such knowledge.”). Expert testimony is admissible if it meets the following three requirements, which the Nevada Supreme Court has described as the “qualification,” “assistance,” and “limited scope” requirements: (1) the expert must be qualified in an area of “scientific, technical or other specialized knowledge” (the qualification requirement); (2) his or her specialized knowledge must “assist the trier of fact to understand the evidence or to determine a fact in issue” (the assistance requirement); and (3) his or her testimony must be limited “to matters within the scope of [her or her personalized] knowledge” (the limited scope requirement.” Hallmark v. Eldridge, 124 Nev. 492, 498 (2008).

A. Qualification

The Nevada Supreme Court has identified several nonexclusive factors that are useful in determining whether a witness “is qualified in an area of scientific, technical, or other specialized knowledge” and therefore may testify as an expert. Id. at 499. Those factors include “(1) formal schooling and academic degrees, (2) licensure, (3) employment experience, and (4) practical experience and specialized training.” Id. In Perez v. State, 129 Nev. 850 (2013), the Nevada Supreme Court found a clinical psychologist was qualified to testify as an expert on grooming behaviors and the effects of such behaviors on victims of sexual abuse. In Perez, it was determined that the psychologist, who was formally educated in psychology, held a bachelor’s degree in psychology, and a doctorate degree in clinical psychology was qualified to testify as an expert. Similarly, Dr. Carmichael was formally educated in psychology, holds a bachelor’s degree in psychology, and holds a doctorate degree in clinical psychology. In Perez, it was determined that the psychologist was qualified to testify as an expert, when, for the ten years prior to trial, the psychologist conducted child custody evaluations, dealing with issues of domestic violence or sex abuse allegations. Id. During the eight years prior to trial, the psychologist in Perez conducted over 1,000

1 psychosexual evaluations on sex offenders. Id. Similarly, Dr. Carmichael has spent the past
2 twenty years working with children, including but not limited to conducting child custody
3 evaluations, conducting psychosexual evaluations, and treating children who have been
4 sexually abused. Dr. Carmichael meets the criteria to be qualified as an expert before the Court
5 and render an opinion on grooming behaviors/perpetrator conduct and the effects of sexual
6 abuse on a child, based upon his curriculum vitae and his testimony at a hearing before the
7 Court on April 15, 2021.¹

8 **B. Assistance**

9 The "assistance" requirement asks whether the expert's "specialized knowledge will
10 assist the trier of fact to understand the evidence or to determine a fact in issue." NRS 50.275
11 The "assistance" requirement has two components: whether the testimony is (1) relevant and
12 (2) the product of reliable methodology. Hallmark, 124 Nev. at 500 ("An expert's testimony
13 will assist the trier of fact only when it is relevant and the product of reliable methodology.").
14 Evidence is relevant when it tends "to make the existence of any fact that is of consequence to
15 the determination of the action more or less probable." NRS 48.015. Generally, all relevant
16 evidence is admissible. NRS 48.025. However, relevant evidence is not admissible if its
17 probative value is substantially outweighed by the danger of unfair prejudice or misleading the
18 jury, or it amounts to needless presentation of cumulative evidence. "[E]xpert testimony on
19

20 ¹ See Morris v. State, 361 S.W.3d 649, 666–67 (Tex.Crim.App.2011) ("A person can, through his
21 experience with child-sex-abuse cases gain superior knowledge regarding the grooming
22 phenomenon."); see also People v. Atherton, 406 Ill.App.3d 598, 346 Ill.Dec. 406, 940 N.E.2d 775,
23 783, 790 (2010) (child welfare supervisor who had worked as a sexual abuse therapist for over six
24 years qualified to testify about child-sexual-abuse-accommodation syndrome); Ackerman, 669 N.W.2d
25 at 824, 825 (psychotherapist with master's degree in social work and who works with sex offenders and
26 victims qualified); State v. Quigg, 72 Wash.App. 828, 866 P.2d 655, 661 (1994) (expert with 13 years'
27 experience in victims services unit, degree in child abuse and neglect, and numerous hours in intensive
28 training and specialized workshops on child abuse, who had also conducted interviews with 3,000
victims qualified to testify about grooming). Other jurisdictions have concluded that witnesses with
less academic preparation, see Haycraft v. State, 760 N.E.2d 203, 210–11 (Ind.Ct.App.2001) (detective
with experience investigating sexual abuse cases and who attended training on sexual abuse was
qualified as a "skilled witness" to discuss grooming); People v. Petri, 279 Mich.App. 407, 760 N.W.2d
882, 888 (2008) (detective with 15 years of law enforcement experience and who received training in
forensic interviews of children would have qualified to offer testimony about grooming), or less
experience, see People v. Atherton, 406 Ill.App.3d 598, 346 Ill.Dec. 406, 940 N.E.2d 775, 783, 790
(2010), were sufficiently qualified to offer expert testimony on grooming or the effect of abuse on
child victims.

1 grooming behaviors and its effect on child victims of sexual abuse may be relevant depending
2 on the circumstances of the case. Perez, 129 Nev. at 868. In this case, similar to Perez, G.W.
3 and other witnesses have testified that Defendant engaged in seemingly innocuous flirtatious
4 behavior that escalated into more overt sexual contact, which is not unlike a dating
5 relationship. In this case, it was not immediately apparent how Defendant's behavior affected
6 G.W. In particular, G.W. appeared to acquiesce to the abuse and later gave inconsistent reports
7 about the abuse. G.W.'s conduct leading up to the abuse and her inconsistent reports after the
8 abuse could have been influenced by Defendant's conduct. Therefore, the testimony of Dr.
9 Carmichael regarding grooming and conduct aimed to reduce the resistance to the abuse as
10 well as the likelihood of disclosure is beneficial to the jury in evaluating the evidence of abuse
11 and assessing the victim's credibility. See Perez, 129 Nev. at 868.²

12 1. Reliable Methodology

13 The Nevada Supreme Court has articulated five factors to use in evaluating the second
14 component of the "assistance" requirement – whether an expert's opinion is the product of
15 reliable methodology. These factors include: whether the opinion is (1) within a recognized
16 field of expertise; (2) testable and has been tested; (3) published and subjected to peer review;
17 (4) generally accepted in the scientific community (not always determinative); and (5) based
18 more on particularized facts rather than assumption, conjecture, or generalization. Hallmark,
19 124 Nev. at 500-501. These "factors may be afforded varying weights and may not apply
20 equally in every case." Higgs v. State, 126 Nev. 1, 20 (2010). In this case, Dr. Carmichael's
21 opinion is the product of reliable methodology. Specifically, Dr. Carmichael practices in a

22 ² See United States v. Hitt, 473 F.3d 146, 158–59 (5th Cir.2006) (finding no abuse of discretion by
23 district court admission of expert grooming testimony to explain "return-to-the-abuser behavior");
24 Jones v. United States, 990 A.2d 970, 978 (D.C.2010) ("The testimony helped to explain not only how
25 a child molester could accomplish his crimes without violence, but also why a child victim would
26 acquiesce and be reluctant to turn against her abuser."); Howard v. State, 281 Ga.App. 797, 637 S.E.2d
27 448, 451 (2006) (admitting evidence of grooming, even if it incidentally places defendant's character in
28 issue, to explain victim's unwillingness to disclose abuse); Ackerman, 669 N.W.2d at 825–26
(recognizing that most jurors lack knowledge of the conduct of sexual abusers and thus expert
testimony regarding grooming behavior was helpful); State v. Berosik, 352 Mont. 16, 214 P.3d 776,
782–83 (2009) (admitting expert testimony about grooming as relevant to assessing victim credibility);
see also Smith v. State, 100 Nev. 570, 572–73, 688 P.2d 326, 327 (1984) (holding that expert
testimony about family dynamics related to sexual abuse is relevant to help the jury understand
"superficially unusual behavior of the victim and her mother").

1 recognized field of expertise and he will testify about a phenomenon that courts have
2 recognized as generally accepted in the scientific community, as well as the impacts of the
3 phenomenon and child sexual abuse.³ Dr. Carmichael will base his testimony on specific facts
4 observed in his practice. Dr. Carmichael's testimony at a hearing on this matter in April 15,
5 2021, indicated his opinion based upon experience and research has been subjected to peer
6 review and was tested by those who have completed research in the area.

7 **C. Dr. Carmichael will not be improperly vouching for G.W.**

8 A witness may not vouch for the testimony of another or testify as to the truthfulness of
9 another witness. Lickey v. State, 108 Nev. 191, 196 (1992). Although an expert may not
10 comment on whether that expert believes that the victim is telling the truth about the
11 allegations of abuse, Nevada law allows an expert to testify on the issue of whether a victim's
12 behavior is consistent with sexual abuse, if that testimony is relevant. Id. at 196; see also
13 Townsend, 103 Nev. at 118. "[T]he fact that such evidence is incidentally corroborative does
14 not render it inadmissible, since most expert testimony, in and of itself, tends to show that
15 another witness either is or is not telling the truth." Davenport v. State, 806 P.2d 655, 659
16 (Okla.Crim.App.1991); Perez v. State, 129 Nev. at 862. "[E]xpert testimony by its very nature,
17 often tends to confirm or refute the truthfulness of another witness" but relevant testimony by a
18 qualified expert within that expert's field of expertise is admissible "irrespective of the
19 corroborative or refutive effect it may have on the testimony of a complaining witness" so long
20 as the expert does not "directly characterize a putative victim's testimony as being truthful or
21 false." Perez, 129 Nev. at 862 (citing Townsend, 103 Nev. at 118-19.).

22 Dr. Carmichael will not vouch for the veracity of G.W. Dr. Carmichael will offer a
23 general opinion of the impact of sexual abuse on children, the methods of disclosure and
24

25 ³ See Ackerman, 669 N.W.2d at 824, 825 (noting that psychotherapist who works with sex offenders is
26 "clearly qualified in a recognized discipline"); Morris, 361 S.W.3d at 656 (recognizing study of
27 behavior of sex offenders to be a legitimate field of expertise); see Morris, 361 S.W.3d at 668
28 (concluding that grooming as a phenomenon exists); see also State v. Stafford, 157 Or.App. 445, 972
P.2d 47, 54 (1998) (noting that observations about grooming behavior not drawn from testing or
scientific methodology but derived from personal observations made in light of education, training,
and experience constituted admissible evidence based on specialized knowledge); Bryant v. State, 340
S.W.3d 1, 9 (Tex.App.2010) (same).

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1 perpetrator conduct or grooming. Dr. Carmichael will not offer a specific opinion as to whether
2 he believes G.W. is telling the truth.

3 **III. CONCLUSION**

4 For the foregoing reasons, the State respectfully requests the Court deny Defendant's
5 Motion.

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11 DATED this 15 day of April, 2021.

12 MARK B. JACKSON
13 DISTRICT ATTORNEY

14 By: _____

15 Chelsea Mazza
16 Deputy District Attorney
17 1038 Buckeye Road
18 Minden, NV 89423
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1 Case No. 19-CR-0188

2 Dept No. II

3 DA 0037969

4 This document does not contain personal information of any person

5
6 IN THE JUSTICE COURT OF TAHOE TOWNSHIP
7 IN THE COUNTY OF DOUGLAS, STATE OF NEVADA

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

CERTIFICATE OF SERVICE

12 RICHARD ALEXANDER JENKINS,

13 Defendant.
14

15 Pursuant to NRCP 5(b), I certify that I am an employee of the District Attorney for
16 Douglas County, Nevada, and that I deposited for delivery a true copy of OPPOSITION TO
17 MOTION TO PRECLUDE TESTIMONY OR FOR A HALLMARK HEARING – BLAKE
18 CARMICHAEL, PH.D. addressed to:

19 Theresa Ristenpart, Esq.
20 464 South Sierra Street
21 Reno, Nevada 89501
22 theresa@ristenpartlaw.com

23 ☐ Email

24 ☒ Reno/Carson Messenger

25 DATED this ____ day of April, 2021.
26
27
28

APP0570

CERTIFIED
COPY

Case No. 19-CR-0188

Department No. II

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS
THE HONORABLE THOMAS W. GREGORY

-oOo-

STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
RICHARD ALEXANDER JENKINS,)
)
Defendant.)
_____)

TRANSCRIPT OF PROCEEDINGS

MOTIONS HEARING

THURSDAY, APRIL 15, 2021

MINDEN, NEVADA

Reported by:

Shellie Loomis, RPR
Nevada CCR #228

CAPITOL REPORTERS (775) 882-5322

APP0571

1 **APPEARANCES/INDEX**

2

3 For the State: Chelsea Mazza,
4 Deputy District Attorney
Minden, Nevada

5

6 For the Defendant: Theresa Ristenpart, Esq.
Reno, Nevada

7

8 (INDEX LOCATED AT THE BACK OF THE TRANSCRIPT.)

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1 MINDEN, NEVADA, THURSDAY, APRIL 15, 2021, A.M. SESSION

2 -oOo-

3
4 THE COURT: All right. This is Case Number
5 19-CR-188, State of Nevada versus Richard Alexander Jenkins.

6 We are convening here today for the purpose of --
7 I think we have three motions pending. I show the appearance
8 of Chelsea Mazza on behalf of the State.

9 Good morning, Ms. Mazza.

10 MS. MAZZA: Good morning, Your Honor.

11 THE COURT: Theresa Ristenpart is appearing on
12 behalf of the Defendant.

13 Good morning, Ms. Ristenpart.

14 MS. RISTENPART: Good morning, Your Honor.

15 THE COURT: Both counsel are appearing remotely.

16 Ms. Ristenpart, is Mr. Jenkins going to be
17 joining us?

18 MS. RISTENPART: Your Honor, it was my
19 understanding he was and that he had downloaded the Zoom app
20 yesterday. I have my assistant testing right now to see where
21 he's at in the process.

22 THE COURT: I'm guessing he -- so we do have
23 somebody in the waiting room that might be him. It's just --
24 the name is Rick, so I'm wondering if that might be him.

1 MS. RISTENPART: That would be Mr. Jenkins. I
2 can't see the waiting room, Your Honor, from my viewpoint.

3 THE COURT: Okay. Let's go ahead and invite in
4 Rick.

5 Mr. Jenkins, are you there?

6 THE DEFENDANT: Yes. Can you hear me?

7 THE COURT: I can hear you. We cannot see you.
8 Can you turn on your camera, please?

9 THE DEFENDANT: Okay. I'm looking. Oh, start
10 video.

11 THE COURT: There we go.

12 THE DEFENDANT: Oh, there I am.

13 THE COURT: All right.

14 THE DEFENDANT: Okay. Sorry. Never done Zoom
15 before.

16 THE COURT: Good morning, Mr. Jenkins.

17 So in this situation where counsel are appearing
18 remotely, as is the Defendant, Ms. Ristenpart, if there comes
19 a time where you need to speak with Mr. Jenkins privately,
20 please make that request and we'll make sure that happens.

21 Mr. Jenkins, same for you. Please don't talk
22 unless your counsel asks to you do so. And if there comes a
23 time where you need talk to Ms. Ristenpart privately, just
24 make that request and we'll ensure that that happens.

1 So there are --

2 THE DEFENDANT: Thank you, Your Honor.

3 THE COURT: -- three motions still pending and
4 I'm not sure -- we also had the hearing continuing into
5 tomorrow. I'm not sure which of the motions we're addressing
6 here today.

7 What we have left is Plaintiff's -- a hearing
8 regarding Plaintiff's expert, a hearing regarding Defendant's
9 expert and then a verbal or oral motion to remove some
10 indications out front of the courthouse of child abuse
11 prevention month.

12 Ms. Mazza, which of these motions will we be
13 addressing today?

14 MS. MAZZA: Your Honor, I believe today we will
15 only be addressing the testimony of Dr. Blake Carmichael. I
16 believe we've set aside an hour with the Court's calendar due
17 to Dr. Carmichael's schedule, and then I believe tomorrow we
18 will be addressing testimony of the other motions as well as
19 argument.

20 THE COURT: Okay. And would we -- when would we
21 be addressing the child abuse implements that are out front of
22 the courthouse?

23 MS. MAZZA: Your Honor, if we have time after
24 Dr. Carmichael's testimony, we can address those today or

1 address those tomorrow. I believe we had scheduled those for
2 tomorrow and just scheduled today's hearing due to the
3 unavailability of Dr. Carmichael.

4 THE COURT: Okay. Ms. Ristenpart, are you on the
5 same page with all of that?

6 MS. RISTENPART: That's correct, Your Honor. We
7 made some extraordinary efforts to accommodate Mr. -- or
8 excuse me, Dr. Carmichael's whose schedule is difficult and so
9 that is why parties agreed to appear via Zoom with the Court
10 just for the purpose of taking testimony from Dr. Carmichael
11 today. We could argue it tomorrow on all three pending
12 motions.

13 THE COURT: Okay. Very good. So what we are
14 going for then on first is Defendant's motion to preclude
15 testimony or for a Hallmark hearing regarding Blake
16 Carmichael, Ph.D., which is -- who is the State's proposed
17 expert.

18 (Brief discussion off the record.)

19 THE COURT: So, counsel, I'm going to ask that
20 you speak up as much as possible so that the Court Reporter
21 can get everything down.

22 Madam Reporter, is there anything that we need to
23 repeat that we've covered so far?

24 THE REPORTER: No.

1 THE COURT: Okay. So I'm just going to ask, and
2 I think this is true in any Zoom meeting, take it slow,
3 pronounce, speak up and make sure your witnesses are doing
4 so as well.

5 And, Madam Reporter, if you're having difficulty
6 or further difficulty, please let me know and we'll see what
7 further action we can take.

8 Okay. So the motions actually brought by the
9 defense, but it is a Hallmark hearing and so my thought would
10 be -- it looks like Ms. Mazza's expert is in the waiting room.

11 I'm guessing we'd go ahead and take his testimony
12 and he would be subject to direct examination by Ms. Mazza and
13 then cross-examination by Ms. Ristenpart.

14 Ms. Mazza, are you good with that?

15 MS. MAZZA: Yes, Your Honor.

16 THE COURT: Ms. Ristenpart?

17 MS. RISTENPART: Yes, Your Honor.

18 THE COURT: Okay. Let's go ahead and invite in
19 Blake Carmichael, Dr. Carmichael.

20 Good morning, sir. Are you Dr. Carmichael?

21 THE WITNESS: I am. And I'll change my
22 background.

23 THE COURT: Okay. Mr. Carmichael, these
24 proceedings are being recorded by a Court Reporter and it is

1 difficult -- as we are all becoming accustomed to using Zoom,
2 it's a little bit difficult at times for the Court Reporter to
3 pick up everything.

4 So during your testimony, I'm going to ask that
5 you keep it slow as much as possible, enunciate and speak up
6 as much as you can also.

7 I am going to ask that you raise your right hand
8 and get --

9 DR. BLAKE CARMICHAEL,
10 called as a witness on behalf of the
11 STATE, was duly sworn and
12 testified as follows:

13 THE COURT: Thank you. All right.

14 Ms. Mazza, go ahead.

15 MS. MAZZA: Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 BY MS. MAZZA:

18 Q. Sir, can you please state your full name and
19 spell your last name for the Court Reporter?

20 A. Sure. My name is Blake Carmichael,
21 C-A-R-M-I-C-H-A-E-L.

22 Q. And, Mr. Carmichael, how are you employed?

23 A. I'm a clinical psychologist at the UC Davis
24 Children's Hospital at a clinic called the CAARE Center and

1 that stands for the Child Adolescent Abuse Resource Evaluation
2 Diagnostic and Treatment Center.

3 While there, I have a number of different roles
4 and titles. I am the evaluation program manager. I am also a
5 volunteer clinical faculty and I'm also one of the primary
6 supervisors in our APA accredited internship program. So I do
7 a number of different things there at the CAARE Center.

8 Q. Can -- and with those different titles that you
9 have, can you just briefly describe for the Court the
10 different duties that you have?

11 A. Sure. I continue to see clients of my own and
12 most of the clientele that we see here at the CAARE Center
13 have some form of maltreatment or trauma, which includes
14 sexual abuse, physical abuse, neglect, in that realm.

15 I'm also a supervisor, one of the primary
16 supervisors, so I am overseeing the clinical work of two
17 predoctoral interns, a postdoctoral fellow and two staff
18 members that work clinically with clients directly.

19 In addition to the therapy component, I do
20 evaluations and so I also supervise those evaluations done by
21 those same staff and trainees.

22 I also teach classes, do didactic training, both
23 internally here at the CAARE Center and externally with
24 regards to child sexual abuse, trauma impact. So San

1 Francisco Behavioral Health, different sheriff's departments
2 and social service workers with regards to child maltreatment,
3 including sexual abuse.

4 Q. All right. And how long have you been employed
5 in that current position that you hold?

6 A. Well, I've -- I started in -- 20 years ago as a
7 post-doctoral fellow and then grew into some of these roles.
8 But I would say over the last 15 years or so, I've been doing
9 the things that I just mentioned full time.

10 Q. All right. And as far as your education, can you
11 describe that for the Court?

12 A. Sure. I got my bachelor's in clinical -- or
13 excuse me, bachelor's in psychology at UC Davis in 1995. From
14 there, I went on to get my master's and my doctorate, a Ph.D.
15 in clinical psychology at Alliant University, San Francisco
16 Bay Area.

17 And while you're doing those degrees, you're not
18 just studying and taking tests, you're starting to see
19 clients. And so I focused my work on kids who were in foster
20 care, exposed to trauma and treating and doing assessments for
21 that population in various capacities.

22 Q. Okay. And as far as your prior employment, have
23 you spent that prior employment also working in the same
24 capacity?

1 A. Yes. Primarily with juvenile sex offenses,
2 assessment for court recommendation with regards to children
3 who have had trauma and abuse. So I really focused my
4 training and career in that area.

5 Q. And just to specifically discuss the area of
6 child sexual abuse, have you received any training
7 specifically to that area?

8 A. Certainly. During your academic training,
9 there's courses. There's actually licensure requirements to
10 have some child maltreatment training.

11 I've certainly done far more than minimal because
12 of the training I got at my internship site at Alameda County
13 Juvenile Hall as well as my postdoctoral fellowship here at
14 the CAARE Center, more intensive training, course work,
15 literature and client direct treatment and assessment, very
16 much in this realm of child sexual abuse, the impacts of
17 sexual abuse on children, child sexual abuse disclosure. So a
18 lot of different types of aspects of this population.

19 Q. With that population we're discussing, have you
20 conducted any research on your own of that area?

21 A. I have. I've been published in peer review
22 journals and different book chapters, primarily in the area of
23 assessment for doing child welfare evaluations, kids who are
24 in dependency, making recommendations to court about their

1 treatment needs, family reunification. And so that would be
2 general trauma dependency, but that certainly includes child
3 sexual abuse.

4 So I've done a little over 500, almost 700
5 evaluations in that area and supervised more as well.

6 Q. As far as your research and publications, have
7 you done any publications on the area of child sexual abuse
8 and disclosure?

9 A. Not specifically with regards to that, although
10 I've done a number of presentations to attorneys, social
11 service workers, law enforcement, in that area.

12 Q. And with regard to as we've talked about child
13 sexual abuse, have you testified as an expert in that area
14 before?

15 A. Yes, I have.

16 Q. And where was that?

17 A. Probably 14 or 15 different counties in
18 California. I believe there -- a number of them are listed on
19 my CV, but I've been qualified as an expert in courts over 200
20 times specific to child sexual abuse, probably over 100 times.
21 That's a general estimate.

22 Q. And now just going back to the research and
23 studies that you've done on child sexual abuse, have you
24 researched and reviewed personally in the area of the impacts

1 of child sexual abuse?

2 A. Absolutely. Here at the CAARE Center, we're part
3 of the University system and so we have access to hundreds of
4 journals, thousands of articles. And because we are a
5 training program, we have to make sure that we're on top of
6 the current literature with regards to what we do.

7 And so in order to train people on what is
8 effective for evaluations and treatment, we do need to stay on
9 top of the research with regards to child sexual abuse, the
10 impact of sexual abuse on children, disclosure of sexual
11 abuse, myths and misconceptions about people who have
12 expectations about kids who have been abused, so lots of
13 different facets of child sexual abuse, disclosure and impact
14 that we stay on top of.

15 Q. And now just going back to specifically victims
16 of child sexual abuse and disclosure, what is your research,
17 that is what is your opinion on -- with regard to how a child
18 may disclose child sexual abuse?

19 A. Well, professional experience, but also research
20 in that area is very clear. Kids have a variety of ways that
21 they can experience and disclose being sexually abused and
22 there's a lot of research in that area and that shows that
23 people still have misconceptions about or expectations about
24 how a kid may or may not act when, in fact, kids do lots of

1 different things that people may not expect and so educating
2 people about those things remains important.

3 I come across that in my daily work with kids and
4 families who have been sexually abused and it's actually part
5 of -- I'm a nationally certified trauma focused cognitive
6 behavioral therapist in educating people about those myths and
7 misconceptions, a primary component of that treatment. So it
8 really is clinically useful to do so and guided by research to
9 make sure that happens.

10 Q. And is that a commonly expected route of approach
11 to addressing the effects of child sexual abuse?

12 A. Oh, absolutely. TF-CBT, that's the acronym, has
13 been around for a better part of 20 years and it's one of the
14 only evidence-based therapies or treatments for kids who have
15 had trauma. It was actually originally developed for kids who
16 had been sexually abused.

17 So lots of research in that area, Deblinger,
18 Cohen, Mannarino, the developers, in disseminating that
19 treatment, and again, it's one of the primary if not the first
20 component of treating kids and educating people about sexual
21 abuse.

22 Q. And with child sexual abuse and disclosure, is it
23 a common misconception that children will disclose
24 immediately?

1 A. A lot of people hold that hope, but the reality
2 is most kids don't disclose quickly and there are a lot of
3 reasons for that.

4 But, yes, still today, talking to people about
5 their hopes or anticipation that a child would tell them right
6 away despite being told or educated say no, run, tell someone.
7 Kids who have that directive or education are regularly not
8 telling quickly or right away.

9 Q. Now, are you able -- based upon your research and
10 experience and commonly accepted standards in your field, are
11 you able to educate with regard to impact or signs of child
12 sexual abuse?

13 A. It's a good question and it's kind of tricky to
14 answer because there are no uniform set of behaviors or
15 standards that kids who have been sexually abused will look
16 like or tell.

17 And it goes back to my original testimony here
18 that there are a variety of ways that kids can and do behave
19 or talk or appear after being abused.

20 And so I can absolutely speak to why there is
21 that variability and the importance understanding why that can
22 differ from child to child even if they've suffered or been
23 abused in similar ways by the same person.

24 So it's important to understand those facets of

1 child sexual abuse and reactions to being abused.

2 Q. And then we did discuss the misconception with
3 regard to delayed disclosure. Are there other misconceptions
4 with regard to child abuse?

5 A. Absolutely, yes.

6 Q. And can you explain some of those to the Court?

7 A. Sure. A lot of people are still incredulous or
8 in disbelief that someone who cares about the child, is close
9 to the child would abuse them when, in fact, the reality is
10 that most child sexual abuse occurs within the context of a
11 close, ongoing, even caring, loving relationship, and that can
12 be a difficult thing for people to understand.

13 It's also a misconception that all kids will
14 appear angry, upset or otherwise sad when abuse is occurring.
15 We have a lot of research and practical experience that shows
16 kids can appear as typical because they have other parts of
17 their life that they're engaged in.

18 Another misconception that all kids will try to
19 avoid their abuser. Oftentimes they enjoy lots of parts of
20 that relationship and rely on that person. And so those are
21 just a couple examples of misconceptions that I continue to
22 talk to people about today in my work.

23 Q. And so when you talk about those misconceptions
24 and the person -- the perpetrator, do you have any experience

1 or research in the area of grooming or treatment of an
2 offender upon a child sexual abuse?

3 A. Yes. I'm actually part of the Sacramento County
4 juvenile expert panel. I do risk assessments for juveniles
5 who have been adjudicated for committing a sexual offense.

6 I've also worked with adult perpetrators of
7 sexual abuse, the assessments with them, risk assessments, and
8 also the literature around grooming behavior, perpetrator
9 behavior. There's a rich literature around that and I'm aware
10 of and continue to refer to as it develops.

11 And so there are a lot of relationship-based
12 behaviors and connections between a perpetrator and their
13 victim that perpetrators have talked about and so it's
14 important to be aware of those things as well.

15 Q. And being aware of those things, what are those
16 things that you're referring to? Like can you explain what
17 grooming would be to the Court?

18 A. Sure. So, again, understanding that
19 fundamentally child sexual abuse is not just the acts that the
20 child endures. The actions that are occurring to the child
21 within the context of the relationship they have with their
22 perpetrator, again, often loving, trusting relationship.

23 And so the perpetrator can do a number of
24 different things to gain access to the child, gain their trust

1 and have ongoing sexual access to the child out of the
2 awareness of other people.

3 So, again, the child can enjoy spending time with
4 that person. The perpetrator can provide material support to
5 them, enjoyable activities, things that can maintain the
6 relationship in ways that the child enjoys that.

7 And then as that relationship has been
8 established, the perpetrator can then start integrating sexual
9 content, inappropriate sexual touch, sometimes within the
10 confines of doing those enjoyable activities.

11 So now the child has kind of been habituated to
12 enjoying something, feeling special with this person while
13 inappropriate touch is integrated into their relationship.

14 The perpetrator can then also use coercion to
15 tell the child, don't tell anybody, this is our little secret,
16 or if you tell, then bad things will happen to help maintain
17 that secrecy and ongoing sexual access to the child without
18 other people knowing.

19 So those are just some examples of how that
20 grooming process can take place. Obviously there are multiple
21 ways that perpetrators identify their victims or potential
22 victims and maintain their access, but that's generally what
23 we talk about with regards to grooming.

24 Q. Now, talking about that grooming topic or

1 perpetrator action and impact or how a child sexual abuse
2 victim may act, are there misconceptions in both areas?

3 A. Oh, yes, absolutely. We talked a little bit
4 about some of the child -- or misconceptions about the child's
5 reactions, and certainly misconceptions about perpetrators
6 like, you know, oftentimes people hear, you know, it's a
7 stranger or it's the person that's, you know, enticing kids
8 with candy and things like that.

9 Reality is that the vast majority of kids are not
10 abused by strangers. The other thing, too, is that it doesn't
11 take a lot to make a child remain quiet.

12 There's a misconception that there has to be
13 forcible aggressive or punitive warnings or harm threatened to
14 the child for a child to not talk about what's happening, but
15 again, we have to get back to the fact that a child can trust
16 this person. They've been taught to obey this person and they
17 may feel bad or guilty about getting that person in trouble.

18 So it's a misconception that forcible or coercive
19 actions are taken by perpetrators to maintain secrecy of this
20 sexual relationship.

21 Q. And now these misconceptions that we've talked
22 about, are these commonly accepted in your field?

23 A. Well, commonly encountered for sure. It's,
24 again, something that we continue to educate kids and families

1 about and parents are still surprised how these kinds of
2 things actually happen.

3 Again, talking to parents that they're beating
4 themselves up for not seeing the signs or they should have
5 known when, in fact, there may not have been something to
6 notice, and so educating people about these things in that
7 regard continues to happen.

8 Q. And you experienced that not with your research,
9 but also with your experience with clients; is that correct?

10 A. Absolutely, yes.

11 Q. Now, these topics we've been discussing, why is
12 it important to educate people about this?

13 A. Well, the reality is that we're talking about
14 kids who we know have been sexually abused and that's the
15 research, where it's come from and my clinical experience.

16 And oftentimes when there are unconvincing
17 disclosures or people have disbelief about a child victim
18 who's come forward, what we know is that the longer abuse
19 occurs, the less that they feel supported or believed, longer
20 term negative outcomes occur for those kids. Greater
21 emotional problems, behavioral problems, academic problems,
22 excuse me, cognitive problems.

23 So educating people to understand the importance
24 of supporting child victims of sexual abuse remains something

1 that all systems need education so that people can be
2 receptive and responsive to child victims.

3 Q. And then in a case of child sexual abuse, would
4 it be important for persons to understand the different
5 misconceptions of how this case may have unfolded?

6 A. Yes, because people, adults, even well meaning
7 adults can be dismissive of a child's concern that's brought
8 up. And oftentimes when a person is not receptive to a
9 child's disclosure, their dismissal or telling someone, oh,
10 don't worry about it, that didn't happen when, in fact, the
11 child's been abused can leave a child in an abusive
12 relationship.

13 And so while there's nothing that can -- you can
14 point to to say abuse occurred, educating people about why
15 their own misperception or why their own preconceived notions
16 may not actually fit all cases for kids who have been abused,
17 getting people aware of that helps them be more open to and
18 responsive to legitimate child victims.

19 Q. And these misconceptions, they have been observed
20 through your field of study, through your experience and
21 research?

22 A. Yes.

23 MS. MAZZA: Your Honor, I have no further
24 questions. Thank you.

1 THE COURT: All right. Ms. Ristenpart,
2 cross-examination.

3 Ms. Ristenpart, I think you are on mute.

4 MS. RISTENPART: I didn't realize that,
5 Your Honor. Thank you.

6 CROSS-EXAMINATION

7 BY MS. RISTENPART:

8 Q. Dr. Carmichael, you testified you graduated from
9 Alliant University California?

10 A. Yes.

11 Q. And that's a for-profit university; correct?

12 A. Private, yes.

13 Q. And what was your dissertation for your Ph.D.?

14 A. It was children's perceptions of their coaches
15 and the impact on their self-esteem, self-efficacy and
16 anxiety, 22 years ago or so. I think that's close.

17 Q. Was your dissertation ever published?

18 A. No.

19 Q. Was it ever peer reviewed?

20 A. By three people in the field that had to sign off
21 on it, absolutely.

22 Q. So the people at your university who was giving
23 you the Ph.D.?

24 A. No. Actually we have external faculty from

1 different universities that are on that panel, so that would
2 not be accurate.

3 Q. So your dissertation had nothing to do with
4 offender psychology; correct?

5 A. Correct.

6 Q. Had nothing to, quote, "grooming;" correct?

7 A. My dissertation did not, correct.

8 Q. Had nothing to do with sexual abuse offender
9 dynamics; correct?

10 A. The dissertation, no.

11 Q. Had nothing to do with the dynamics of child
12 sexual abuse victims; correct?

13 A. No, it did not.

14 Q. Had nothing to do with how sexual abuse could
15 impact a child; correct?

16 A. No, the -- yeah, the research that I focused on
17 was on those areas 23 years ago.

18 Q. It had nothing to do with delayed disclosure for
19 child of sexual assault victims; correct?

20 A. No, my dissertation did not focus on sexual abuse
21 disclosure.

22 Q. And you testified for the State that you have
23 been published; correct?

24 A. Yes.

1 Q. And just for the Court's edification, what do you
2 mean when you say "published" in your field?

3 A. In a journal, I wrote an article that was peer
4 reviewed and submitted -- excuse me, submitted and then peer
5 reviewed and then published in a journal. I think there were
6 two different journal articles and a book chapter in forensic
7 psychology.

8 Q. When was the last time you have been published?

9 A. I think it was five years ago.

10 Q. And what was that that was published?

11 A. It was a book chapter about -- I think it was
12 termination of parental rights, doing evaluations for forensic
13 reporting, doing evaluations in that realm.

14 Q. So the last time you were published had nothing
15 to do with offenders psychology; correct?

16 A. That's correct.

17 Q. And --

18 A. Well, actually I'll take that back. Because when
19 you're evaluating a client or family system, you're often
20 doing evaluations on people who have perpetrated abuse. That
21 includes sexual abuse, it includes physical abuse, domestic
22 violence.

23 So I think it would be inaccurate to say it has
24 nothing to do with offender behavior or assessment because

1 it's actually pretty common to do evaluations on people who
2 have perpetrated abuse in those assessments.

3 And so I think that's a more accurate reflection
4 about what that book chapter was and actually the prior
5 submissions to the journals.

6 Q. Well, you didn't research for that book chapter,
7 you just merely contributed; correct?

8 A. I don't -- well, research is -- there was no
9 scientific study, but I researched quite a bit the literature
10 that was published prior to that time.

11 And, in fact, the peer reviews are there to
12 ensure that you're contributing or furthering the field based
13 off of the foundations leading up to that point.

14 So while I did not do a research study, it was
15 well researched and supported by research and cited in those
16 book chapters and journals. So I think that's a more adequate
17 to describe what that is in terms of research versus a
18 scientific study.

19 Q. What was the title of the book?

20 A. Inside Forensic Psychology, I believe.

21 Q. And who published it?

22 A. I don't recall.

23 Q. So based upon your curriculum vitae and your
24 testimony, Doctor, you've never published any articles

1 regarding grooming; correct?

2 A. Not specific to grooming, no.

3 Q. And you've never published any articles regarding
4 specifically late disclosure of sexual assault victims;
5 correct?

6 A. No, I haven't written an article specifically
7 about that.

8 Q. In regards to research, you keep saying that
9 you're basing this upon your experience and the fact that
10 you've done, you know, 15-plus years of therapy with
11 individuals at UC Davis; correct?

12 A. Well, 20 years that I've done and actually prior
13 to that was seeing sexually abused kids prior to that time.
14 So -- and it's based on -- but what I've talked about is based
15 on my professional experience working with that population,
16 but then also the research that has been published about kids
17 who have been sexually abused.

18 So it's really both. It's -- you know, a lot of
19 people who do research in this area never see a client. They
20 do research. I -- we use the research that's available to us
21 by those researchers, implement that into our treatment and
22 education and that's kind of the scientific -- science
23 practitioner model.

24 So you use the science available to you to help

1 improve, augment and further the treatment and work that you
2 do.

3 Q. So you are basing your testimony and expertise
4 upon others' research and general articles that you remain
5 caught up on; correct?

6 A. In part, correct in that, you know, that it's
7 fact and clinical professional work that I've done for the
8 last 20-plus years.

9 Q. You, yourself, have never done any research,
10 empirical research, statistical research, any kind of research
11 of your own into the allegation of grooming; correct?

12 A. Can you tell me what you mean by "allegation of
13 grooming"?

14 Q. Into the -- your guys' psychology of grooming?

15 A. I don't -- I haven't done scientific studies,
16 although I've read the research in that area to help inform
17 the work that we do. That's a pretty typical thing for
18 practitioners.

19 Q. Have you done any scientific studies into the
20 concept of late disclosure by victims of child sexual assault?

21 A. Again, I don't do original research. I haven't
22 done that. So, again, being a consumer and up to date on
23 those things so that you can train people effectively and
24 based on current literature and science, that's what -- that's

1 how I use that information.

2 Q. Doctor, are you certified in any specialties?

3 A. I'm a nationally certified trauma focused
4 cognitive behavioral therapist. I have presented to national
5 conferences, American Psychological Association, American
6 professional society on the abuse of children, part of the
7 Sacramento County juvenile expert panel.

8 I served on the Sacramento County juvenile -- or
9 excuse me, psychological testing program. So I do a lot of
10 oversight and direct clinical work.

11 Q. I'm asking specifically about certifications.
12 You just gave me a lot of work experience. What are your
13 actual certifications beyond your TC -- TF-CVT?

14 A. So that's the one that I'm nationally certified
15 in and I have my license in California. So those are the
16 certifications that I currently hold.

17 Q. Are you certified with the American Psychologist
18 Association?

19 A. Well, I'm a member of the APA and I've been
20 licensed in California.

21 Q. You're not certified with them?

22 A. I guess I don't know what you mean by that.

23 Q. In your curriculum vitae, Dr. Carmichael, you
24 plug in a full chapter of the state's expert witness

1 qualification history; correct?

2 A. A chapter?

3 Q. Yeah, that's my word.

4 A. Okay.

5 Q. A list of expert witness qualification history?

6 A. Yeah, it's a listing of some areas in which
7 courts have qualified me as an expert.

8 Q. And as you've testified, you've been qualified
9 several times in California; right?

10 A. I have.

11 Q. But never outside the State of California, have
12 you?

13 A. Correct.

14 Q. And definitely never in the State of Nevada;
15 right?

16 A. That would be outside of California, correct.

17 Q. And you've never been qualified in federal court,
18 have you?

19 A. No, I have not.

20 Q. And in regards to your listed expert witness
21 qualification history, you do not have anything regarding
22 offender dynamics, do you?

23 A. I've certainly testified about grooming behavior,
24 offender dynamics in my testimony. Whether or not I was

1 qualified specifically in advance by the Court, I don't
2 recall.

3 Q. And you don't list anything in regards to
4 grooming expertise in your expert witness qualification, did
5 you?

6 A. I've certainly been talking about grooming
7 behavior in my expert witness appearances. Whether or not I
8 was qualified or used those words in advance, again, that's up
9 to the attorneys and the judge to work that out.

10 So those are just examples of areas that I've
11 testified to. That's why it's there, so people understand the
12 areas that I've testified to. And it's not an exhaustive
13 list, it's what I recall from leaving court and that's the
14 best way I can characterize that.

15 Q. Doctor, have you reviewed any reports in regards
16 to this specific case?

17 A. No.

18 Q. Have you interviewed anyone in regards to this
19 specific case?

20 A. I have not.

21 Q. Do you even know the nature of the allegation in
22 this case?

23 A. Only that it might have to do with sexual abuse
24 since we're talking about that. But aside from that, I don't.

1 Q. Have you viewed any of the recorded interviews of
2 the alleged complaining -- well, I'll just say the complaining
3 witness in this case?

4 A. No.

5 Q. So all the testimony you just gave to the State
6 about, quote, "misconceptions," you don't know if any of those
7 relate specifically to this case; correct?

8 A. I don't have any information about this case.

9 Q. And also, Doctor, all the people that you have
10 treated, the victims as you stated and testified to, that's
11 after it's been shown or proven that there has been some kind
12 of actual sexual abuse; correct?

13 A. I guess it's impossible to answer that yes or no,
14 because while a number of kids have been found to have been
15 sexually abused by some other authority, criminal conviction,
16 medical findings, social services, certainly those kids have
17 come to my attention, referred that way and I treat them.

18 There are other cases, though, where kids come to
19 me and I start treating them for some behavior issue or
20 something like that and then they then disclose that they had
21 been sexually abused, in which case I would make a CPS
22 referral and so that the appropriate authorities could do
23 their investigations.

24 So while some kids come to me with some sort of

1 adjudication, others have not, and so I think that's a better
2 way to think about the referral stream for kids that I treat
3 who have suffered some form of abuse.

4 Q. Doctor, have you ever treated anyone who is a
5 compulsive liar?

6 A. Can you tell me what you mean by "compulsive
7 liar"? I'm not familiar with that diagnosis or --

8 Q. Someone who has lied repeatedly about something?

9 A. I've treated people that lie about things.

10 Q. Have you ever treated any individuals who made a
11 false allegation of sexual abuse?

12 A. I'm not aware of any that have -- that I've
13 treated in that regard. Like I said, if someone comes to me
14 and makes a disclosure, I then refer them to law enforcement,
15 CPS, so that the appropriate authorities can make those kinds
16 of determinations and go through the Court process.

17 MS. RISTENPART: With the Court's indulgence.

18 THE COURT: Yes.

19 THE WITNESS: I'm sorry?

20 THE COURT: She's just asking for a moment,
21 Doctor.

22 MS. RISTENPART: No further questions,

23 Your Honor. Thank you.

24 THE COURT: Redirect?

1 MS. MAZZA: Thank you, Your Honor.

2 **REDIRECT EXAMINATION**

3 BY MS. MAZZA:

4 Q. Dr. Carmichael, just to go back through a couple
5 areas. Even if your dissertation wasn't on the child sexual
6 abuse, have you -- did you learn about child sexual abuse
7 through your studies?

8 A. Yes. It's interesting, thanks for both your
9 interest in the dissertation. It's pretty typical that people
10 will do different things in their careers than their
11 dissertation for various reasons.

12 So by no means did that guide my career. It was
13 something that I was interested in and was able to get my
14 degree getting it done.

15 So even while I was doing the dissertation, I was
16 working with kids who were sexually abused, treating kids who
17 had been sexually abused, focused my work on foster care
18 abuse, kids who were -- had been adjudicated in the juvenile
19 system and really committed my career to it at that time even
20 prior to my dissertation.

21 Q. And with regard to your testimony on this topic
22 of child sexual abuse and/or perpetrator actions or grooming,
23 have you recently testified on that as an expert?

24 A. Oh, absolutely, because again, it's the

1 relationship, the context of a relationship that we look at
2 child sexual abuse and because that relationships are formed
3 in various ways, including the integration of grooming or
4 otherwise relationship sustaining behaviors, that's why those
5 are so intertwined and why they're relevant for each other.

6 Q. How recently have you testified as an expert on
7 these topics?

8 A. Last Thursday.

9 Q. So Ms. Ristenpart asked you about your
10 publications and the titles of those. Have you done
11 presentations in addition to publications?

12 A. Oh, yes.

13 Q. And are you presenting to a group of persons?

14 A. Yes. Multiple different kinds of professional
15 students, yes.

16 Q. On those presentations, have you presented on the
17 topic of child sexual abuse?

18 A. Yes.

19 Q. And the impact of child sexual abuse?

20 A. Absolutely.

21 Q. And delayed disclosure?

22 A. Yes.

23 Q. And perpetrator conduct?

24 A. Yes.

1 Q. And, Dr. Carmichael, in your field, would it be
2 common for someone to rely upon research in making -- in their
3 experience in how they go forward with treating clients?

4 A. Absolutely. And I actually think it's essential
5 to make sure people are doing quality evidence-based practice.
6 It's been an effort in our field, a very strong effort in our
7 field for a number of years, but certainly in the past ten for
8 sure.

9 Q. And you stay up to date on research?

10 A. Oh, yes.

11 Q. In fact, you probably have to because you're a
12 teaching psychologist; correct?

13 A. Yes. Part of the role here is to train others to
14 do effective work. We have students coming here from all over
15 the country to get trained here at the CAARE Center.

16 They obviously bring their fund of knowledge and
17 exposure from their academic institutions, so it's important
18 that we are all on top of current contemporary literature
19 guiding our training, but then also our clinical assessment
20 work.

21 Q. And just with regard to every client you take, do
22 all of them go to court?

23 A. No.

24 Q. And with regard to your testimony here today, in

1 general, are you testifying to the commonly accepted standards
2 in your field?

3 A. Yes. I'm aware of a lot of different standards.
4 I know a lot about the disagreement about the field and that's
5 why it's important to stay on top of all aspects, not just one
6 angle being looked at. So that's why it's important to stay
7 up on that and the work we do.

8 MS. MAZZA: Your Honor, I have no further
9 questions. Thank you.

10 THE COURT: Ms. Ristenpart, any
11 cross-examination -- or recross, I should say?

12 MS. RISTENPART: Thank you, Your Honor.

13 **RECROSS-EXAMINATION**

14 BY MS. RISTENPART:

15 Q. Doctor, you testified that you just recently
16 testified last Thursday in regards to this grooming and also
17 fetter dynamics; right?

18 A. Well, I believe it was asked in the context of
19 child sexual abuse, impact on children and also grooming, not
20 just specific to that grooming, at least that's how I
21 understood the question. But, yes, that was most recently
22 last Thursday.

23 Q. What was the case name?

24 A. I don't recall. I was in Redding.

1 Q. Who was the prosecutor?

2 A. Kristen Gohn, G-O-H-N, I believe.

3 Q. And you just testified for the State here that
4 you've put on -- maybe you haven't published a lot, but you've
5 put on a lot of presentations; right?

6 A. A lot, it's an abstract concept, right? More
7 than many and less than some, so I present regularly as part
8 of my work.

9 Q. And a presentation is putting together
10 information collected from elsewhere and presenting it to
11 individuals; right?

12 A. It includes that. I mean, certainly venting
13 professional experience and context for my experience as a
14 professional in discussing those and how I work with those
15 concepts or provide opinions about those concepts. That's all
16 part of the presentation.

17 I also do consultation for people who do the same
18 kind of work, so it's a lot of different capacities that
19 you're training and educating others.

20 Q. A presentation is different than publication,
21 though; correct?

22 A. Yes.

23 Q. A presentation is not subject to peer review;
24 right?

1 A. No, not like -- not in the way that a journal
2 accepts things, no.

3 Q. And you've repeatedly testified today that you
4 have relied a lot on research done by others and have kept up
5 on the newest research; correct?

6 A. I do my best to keep up on contemporary research,
7 yes.

8 Q. Have you provided a list of that research to the
9 prosecutor that you relied upon to make these conclusions
10 about misconceptions?

11 A. No.

12 MS. RISTENPART: No further questions, Your
13 Honor.

14 THE COURT: Okay. Thank you. Ms. Mazza, may
15 this witness be excused?

16 MS. MAZZA: Yes, Your Honor.

17 THE COURT: Ms. Ristenpart?

18 MS. RISTENPART: Yes, Your Honor.

19 THE COURT: All right. Dr. Carmichael, thank you
20 for joining us here today. We're going to go ahead and excuse
21 you from the meeting.

22 THE WITNESS: Thank you very much.

23 THE COURT: Ms. Mazza, is there any other
24 evidence that you wish to present before we go to argument?

1 MS. MAZZA: No, Your Honor, and just to clarify,
2 would we -- was your intention for us to argue here today or
3 argue tomorrow?

4 THE COURT: Either way is fine with the Court. I
5 would like to use our time wisely and I would certainly be
6 ready to hear argument today, but if counsel would rather wait
7 until tomorrow, that's fine with the Court.

8 Ms. Mazza what is your preference?

9 MS. MAZZA: Your Honor, the State is prepared to
10 argue here today if the Court would like to do so.

11 THE COURT: Okay. Ms. Ristenpart?

12 MS. RISTENPART: Your Honor, Ms. Mazza and I had
13 informed the Court also of this. I have a 12 o'clock
14 appointment that I pushed to do this hearing for Ms. Mazza and
15 Dr. Carmichael. I'd be prepared to argue tomorrow,
16 Your Honor, given it's 11:52 a.m.

17 THE COURT: Absolutely. Sounds like a good plan.

18 And so the Court will not make any decision on
19 this motion. We'll have closing argument or argument on the
20 motion tomorrow. We will also take up the other pending
21 motions regarding the defense expert.

22 Ms. Ristenpart, a question on your experts. I
23 know you initially indicated that you would be calling
24 Dr. Lippert and I noticed in your opposition to the State's

1 motion that you did not mention Dr. Lippert. Has she been
2 removed from -- do you still desire to call Dr. Lippert?

3 MS. RISTENPART: I don't believe I'll call
4 Dr. Lippert tomorrow, Your Honor.

5 THE COURT: Okay. All right. So with that,
6 Ms. Mazza, anything further for today's purpose?

7 MS. MAZZA: No, Your Honor. Thank you.

8 THE COURT: Ms. Ristenpart?

9 MS. RISTENPART: No, Your Honor. Thank you.

10 THE COURT: Okay. Thank you. That concludes the
11 hearing and we'll go ahead and exit out of the Zoom meeting.
12 Thank you.

13 THE WITNESS: Thank you.

14 (Proceedings concluded at 11:54 a.m.)
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1 STATE OF NEVADA)
2 COUNTY OF DOUGLAS)

3

4 I, Michel Loomis, Certified Shorthand Reporter of
5 the Ninth Judicial District Court of the State of Nevada, in
6 and for the County of Douglas, do hereby certify:

7 That I was present in Department No. II of the
8 above-entitled Court and took stenotype notes of the
9 proceedings entitled herein, and thereafter transcribed the
10 same into typewriting as herein appears;

11 That the foregoing transcript is a full, true and
12 correct transcription of my stenotype notes of said
13 proceedings.

14 DATED: At Carson City, Nevada, this 20th day of
15 April, 2021.

16

17 //SHELLIE LOOMIS/
18 Shellie Loomis, CCR No. 228

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2 Capitol Reporters
3 628 East John Street #3
4 Carson City, NV, 89706
5 (775) 882-5322

6 IN THE NINTH JUDICIAL DISTRICT COURT
7
8 IN AND FOR THE COUNTY OF DOUGLAS, STATE OF NEVADA

9 STATE OF NEVADA,)
10)
11 Plaintiff,)
12)
13 vs.)
14)
15 RICHARD ALEXANDER JENKINS,)
16)
17 Defendant.)
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25 AFFIRMATION

26 Pursuant to NRS 239B.030

27 The undersigned does hereby affirm that the following
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29 any person?

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INDEX

Witnesses	Direct	Cross	Redirect	Recross
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Carmichael				

1 Case No. 2019-CR-00188

2 Dept. No. II

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APR 19 2021

Douglas County
District Court Clerk

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2021 APR 19 AM 8:29

BOBBIE R. WILLIAMS
CLERK

DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 RICHARD ALEXANDER JENKINS,

13 Defendant.

ORDER REGARDING DEFENDANT'S
MOTION TO PRECLUDE TESTIMONY
OF BLAKE CARMICHAEL

14
15 THIS MATTER comes before the Court on Defendant's Motion to
16 Preclude Testimony or for a Hallmark Hearing - Blake Carmichael,
17 Ph.D. The motion was filed on April 8, 2021. The State filed an
18 opposition on April 15, 2021. A hearing on the motion was held on
19 April 15, 2021. Defendant, Defendant's counsel, counsel for the
20 State and the witness all appeared remotely by way of ZOOM, the
21 audio-video platform utilized by the Court. Arguments were
22 presented on April 16, 2021 in open court with the parties
23 present. The parties agreed to the admission of an exhibit not
24 previously entered. Good cause appearing, the Court finds and
25 orders as follows:

26 Procedural and Factual Background

27 Defendant is charged with four counts of lewdness with a
28 child under 16 years of age. Amended Information. Trial is set.

1 to begin on Wednesday, April 21, 2021.

2 On July 28, 2020, the State filed a *Notice of Intent to Offer*
3 *Testimony of Expert Witness*. The State indicated an intent to
4 call John S. Pacult to testify regarding grooming, victim dynamics
5 and offender dynamics. *Notice of Intent to Offer Testimony of*
6 *Expert Witness*. Subsequently, Mr. Pacult became unavailable.
7 During a hearing held on March 9, 2021, the State indicated it was
8 attempting to obtain another expert.

9 On Wednesday, March 31, 2021, the State filed a *Notice of*
10 *Intent to Offer Testimony of Expert Witness*. Dr. Carmichael's
11 *curriculum vitae* is attached as an exhibit. Therein, the State
12 indicated an intent to call Blake D. Carmichael, Ph.D., to testify
13 regarding the dynamics of child sexual abuse victims, offender
14 dynamics, disclosure, and render an opinion that G.W.'s conduct
15 was consistent with child sexual abuse. *Notice of Intent to Offer*
16 *Testimony of Expert Witness*. A *Certificate of Service* attached to
17 the Notice reflects service of the Notice on defense counsel on
18 March 31, 2021 by way of email and Reno/Carson Messenger.

19 Dr. Carmichael testified at the hearing. The parties jointly
20 offered the messenger service receipt reflecting the messenger
21 service received the Notice from the State on March 31, 2021 at
22 4:20 p.m. and delivered the Notice to defense counsel's office on
23 April 1, 2021 at 4:19 p.m. Defense counsel's assistant signed for
24 the documentation, indicating April 2 as the date received. The
25 parties did not present any other witnesses or evidence.

26 In closing argument and in their opposing brief, the State
27 corrected a factual misrepresentation. Specifically, the
28 certificate of service attached to the Notice reflects service by

1 way of email and messenger service on March 31, 2021. The State
2 did not email the *Notice*.

3 Defendant objects to Dr. Carmichael testifying at trial on
4 procedural and substantive grounds.

5 Procedural Issues

6 Defendant argues the *Notice* was untimely served. Defendant
7 was not served with the *Notice* until April 2, 2021, 19 days before
8 trial, in violation of the 21-day deadline set by NRS 174.234(2).
9 As a sanction, Defendant argues the State should be prohibited
10 from calling Dr. Carmichael at trial.

11 The State argues that it timely filed the *Notice* and did not
12 act in bad faith in having the same served on Defendant. The
13 State cites NRS 174.234(3). The State argues Defendant had
14 sufficient notice of the expert and will not be ambushed or
15 otherwise prejudiced if the expert is allowed to testify.

16 NRS 174.234(2) provides that a party intending to call an
17 expert witness must file and serve notice to the opposing party
18 not less than 21 days before trial. NRS 174.234(2). Thereafter,
19 the party has a continuing duty to supplement to the notice with
20 additional witnesses the party intends to call in its case in
21 chief and any required expert witness information. NRS
22 174.234(3). The supplemental notice shall be accomplished "as
23 soon as practicable" after the party determines that the party
24 intends to call an additional witness or obtains the information.
25 NRS 174.234(3)(a) and (b). The Court "shall prohibit" the witness
26 or information upon a finding of bad faith. *Id.*

27 Here, the State filed its initial expert notice months before
28 the 21-day deadline. The grooming expert became unavailable and

1 the State was duty bound to supplement its expert notice "as soon
2 as practicable" after the State determined to call another
3 witness. NRS 174.234(3). From the record, it is apparent that
4 the State had yet to secure a replacement expert as of the hearing
5 held on March 9, 2021. The State filed its second *Notice* on March
6 31, 2021. These facts suggest the State acted as soon as
7 practicable upon retaining Dr. Carmichael and did not act in bad
8 faith. Defendant did not present any evidence to the contrary.
9 The Notice of was timely filed and served. NRS 174.234(3).

10 Even if the 21-day deadline were applicable, the evidence
11 proves the State filed its second *Notice* on March 31, 2021, 21
12 days prior to trial, and gave a copy to a messenger service for
13 delivery to defense counsel on the same day. The messenger
14 receipt provides conflicting evidence as to whether the second
15 *Notice* was delivered to defense counsel's office on April 1 or
16 April 2. Assuming the latter, the defense had the second *Notice*
17 no less than 19 days prior to trial.

18 Notably, the 21-day deadline is focused on filing and service
19 as opposed to filing and delivery. See, e.g., NRCP 5(b)(2)(C).
20 Had the State put the filed *Notice* in the mail on Wednesday, March
21 31, it would have met the 21-day deadline for filing and service
22 even though three days is assumed for mail delivery. See, e.g.,
23 NRCP 6(d). Given the intervening weekend, it is likely Defendant
24 would not have received the mailed *Notice* until Monday, April 5,
25 16 days prior to trial. Because the State chose personal
26 delivery, Defendant most likely received the *Notice* earlier than
27 if it had been mailed.

28 Possible sanctions for a violation of the 21-day deadline

1 include a continuance, prohibiting the witness from testifying at
2 trial or any other order the court "deems just under the
3 circumstances." NRS 173.234(6)(b); NRS 174.295(2). Here, if the
4 21-day deadline were applicable, and if it were proven that the
5 State violated the deadline, the Court would not preclude the
6 witness as a sanction. Defendant has not demonstrated prejudice
7 and, again, there is no evidence of bad faith. Defendant was put
8 on notice as early as July 28, 2020 that the State intends to call
9 a grooming expert witness. Defendant knew the identity of the
10 expert at least 19 days prior to trial. A *Hallmark* hearing was
11 held on April 15, 2021 wherein Dr. Carmichael testified and was
12 subject to cross-examination. The policy favoring witness
13 exclusion, i.e., avoiding trial by ambush, would not be served by
14 precluding Dr. Carmichael.

15 Substantive Issues

16 Generally, the State seeks to elicit expert testimony from
17 Dr. Carmichael regarding grooming, victim dynamics and offender
18 dynamics. The State also seeks to elicit an opinion from Dr.
19 Carmichael that G.W.'s conduct is consistent with child sexual
20 abuse.

21 Defendant opines that Dr. Carmichael's testimony is not
22 relevant or reliable and that the Notice is overly broad.
23 Defendant primarily relies on NRS 50.275, *Hallmark v. Eldridge*,
24 124 Nev. 492 (2008), and *Higgs v. State*, 126 Nev. 1 (2010).

25 In opposition, the State relies heavily on *Perez v. State*,
26 129 Nev. 850 (2013). *Perez* represents judicial acceptance that,
27 on a case-by-case basis, expert testimony related to sex offender
28 grooming behavior and the effect such behavior has on a child

1 victim is admissible. *Perez*, 129 Nev. at 853. See also, *Johnson*
2 *v. State*, 2016 WL 1558152 (Unpublished, Nevada Supreme Court No.
3 66201, April 14, 2016).

4 Both parties fail to cite the Nevada Legislature's post-*Perez*
5 acceptance of expert grooming testimony, NRS 50.350:

6 NRS 50.350 Expert testimony which concerns behavior
7 of defendant in preparing child or
8 vulnerable person for sexual abuse.

9 1. In any criminal or juvenile delinquency action,
10 expert testimony offered by the prosecution or
11 defense which concerns the behavior of a defendant
12 in preparing a child under the age of 18 years or
13 a vulnerable person as defined in NRS 200.5092 for
14 sexual abuse by the defendant is admissible for
15 any relevant purpose. Such expert testimony may
16 concern, without limitation:

17 (a) The effect on the victim from the defendant
18 creating a physical or emotional relationship
19 with the victim before the sexual abuse; and
20 (b) Any behavior of the defendant that was
21 intended to reduce the resistance of the
22 victim to the sexual abuse or reduce the
23 likelihood that the victim would report the
24 sexual abuse.

25 2. As used in this section, "sexual abuse" has the
26 meaning ascribed to it in NRS 432B.100.

27 NRS 50.350. "Sexual abuse" includes the charged conduct in this
28 case, i.e., lewdness with a child under NRS 201.230. NRS
432B.100.

29 In deciding on the admissibility of Dr. Carmichael's
30 testimony, the Court has, in addition to consideration of NRS
31 50.350, cautiously considered the rubric laid out in NRS 50.275,
32 *Hallmark v. Eldridge*, 124 Nev. 492 (2008), and *Higgs v. State*, 126
33 Nev. 1 (2010). The Court has also paid heed to *Perez*, including
34 points made by the dissent.

1 The Court has already held admissible prior acts associated
2 with grooming behavior. *See, Order Regarding State's Motion to*
3 *Admit Evidence of Prior Acts*, April 9, 2021. The Court
4 incorporates its findings by reference and does not fully restate
5 the findings herein. The findings include an assessment of the
6 probative value of the evidence as against unfair prejudice.

7 The State's Notice is sufficiently specific to comply with
8 the requirement of NRS 174.234(2). The Court finds that
9 specialized knowledge associated with grooming and its impact will
10 assist the jury in this case in assessing the prior acts and that
11 Dr. Carmichael is qualified as an expert with such special
12 knowledge, skill, experience, training and education. NRS 50.275.

13 Specifically, Dr. Carmichael has a bachelor's degree in
14 psychology and a Ph.D. in clinical psychology. Dr. Carmichael has
15 over 20 years of experience directly related to his proposed
16 testimony and has testified as an expert over 100 times regarding
17 child sexual abuse. This gives just a glimpse of Dr. Carmichael's
18 expertise as his curriculum vitae and testimony provide more
19 details. Based on his academic degrees, employment experience,
20 practical experience and specialized training, Dr. Carmichael is
21 well qualified.

22 Dr. Carmichael's testimony will assist the trier a fact, as
23 it did the Court at the hearing, in understanding the evidence.
24 Expertise regarding grooming in the context of child sexual abuse
25 is recognized as a field of expertise and has general acceptance.
26 *See, e.g., Perez.* In *Perez*, use of expert grooming testimony at
27 trial was upheld under the facts and circumstances that are not
28 materially distinguishable from the present case. If anything,

1 Dr. Carmichael's level of education and experience makes him a
2 stronger expert than the one allowed in *Perez*.

3 Here, the alleged victim was 13 years of age going on 14 when
4 the alleged crimes occurred. G.W.'s stepfather had recently
5 succumbed to cancer and Defendant immediately developed a close
6 relationship with her. The investigation was not initiated by any
7 report by G.W., but rather by the reporting of the observed
8 relationship between G.W. and Defendant. Witnesses described the
9 relationship as being flirtatious and acting like a couple. G.W.
10 initially denied that Defendant had touched her inappropriately
11 but later disclosed the charged offenses. More than two years
12 have passed. The proffered testimony of Dr. Carmichael is
13 relevant to explaining grooming behavior and its impact for the
14 same reasons cited in *Perez*, 129 Nev. at 858-59, *Johnson*, 2016 WL
15 1558152 at 1 and the Court's *Order Regarding State's Motion to*
16 *Admit Evidence of Prior Acts*. NRS 50.350.

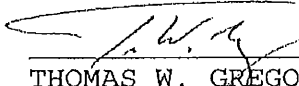
17 The relevance of Dr. Carmichael's testimony is not
18 substantially outweighed by unfair prejudice. NRS 48.035. Dr.
19 Carmichael's testimony will be limited to the scope of his
20 expertise. Further, while hypotheticals will be allowed, the
21 Court will not allow Dr. Carmichael to render a specific opinion
22 that "G.W.'s conduct is consistent with child sexual abuse." Dr.
23 Carmichael has not had any contact with G.W. and has not been
24 supplied any reports, interviews, transcripts, etc. Dr.
25 Carmichael has no basis to evaluate G.W.'s conduct, unobserved by
26 him, and render an opinion that G.W.'s conduct is consistent with
27 child sexual abuse.

28 ///

1 Except as limited herein, Dr. Carmichael will be allowed to
2 testify as an expert in the upcoming trial.

3 IT IS SO ORDERED.

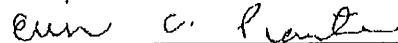
4 DATED this 19th day of April, 2021.

5
6 
7 THOMAS W. GREGORY
8 DISTRICT JUDGE

9 Copies served by mail/hand delivery/email on April 19th, 2021,
10 addressed to:

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Case No. 19-CR-0188

Department No. II

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

THE HONORABLE THOMAS W. GREGORY

-oOo-

STATE OF NEVADA,

Plaintiff,

vs.

RICHARD ALEXANDER JENKINS,

Defendant.

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL, VOLUME I

WEDNESDAY, APRIL 21, 2021

MINDEN, NEVADA

Reported by:

Shellie Loomis, RPR
Nevada CCR #228

CAPITOL REPORTERS (775) 882-5322

APP0623

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APPEARANCES:

For the State:

Chelsea Mazza,
Deputy District Attorney

For the Defendant:

Theresa Ristenpart, Esq.
Reno, Nevada

1 MINDEN, NEVADA, WEDNESDAY, APRIL 21, 2021, A.M. SESSION

2 -oOo-

3
4 THE COURT: Good morning. Thank you for being on
5 time and being here to participate even despite COVID. Like
6 many of you, I've done a lot of things in this building,
7 whether it's been attending concerts or parties or theater
8 events or any of that. I'm not sure a jury has been selected
9 in this building.

10 So you're here today for a very important reason.
11 In my view, jury selection continues to be one of the most
12 important aspects of our free system. So, again, thank you
13 for coming here today.

14 I'm mindful of the inconvenience and that you all
15 have other things to be doing in your lives, so we're going to
16 get right to it. I appreciate that you've all been quiet and
17 it is important that we do that so that we can all hear and as
18 we proceed here today. So, again, we're going to -- we're
19 going to cut right into it.

20 The first thing we're going to do is I'm going to
21 ask Madam Clerk, here, to call roll. When you hear your name
22 called, please give a nice loud audible so that we know you're
23 here. And you'll find out in a minute what happens for those
24 folks who are not here today, even though they received a

1 summons.

2 Madam Clerk.

3 THE CLERK: Good morning. If I mispronounce your
4 name, please just let me know so that I can make sure I
5 pronounce it correctly, and we're just going to start
6 alphabetically here.

7 So Daphne Abrams.

8 A PROSPECTIVE JUROR: Here.

9 THE CLERK: Cynthia Aiazzi.

10 A PROSPECTIVE JUROR: Here.

11 THE CLERK: Robert Albonico?

12 A PROSPECTIVE JUROR: Here.

13 THE CLERK: Sarah Anderson.

14 A PROSPECTIVE JUROR: Here.

15 THE CLERK: Madison Ashbaugh-Komp.

16 A PROSPECTIVE JUROR: Here.

17 THE CLERK: John Bennett.

18 A PROSPECTIVE JUROR: Here.

19 THE CLERK: Leah Bergquist.

20 A PROSPECTIVE JUROR: Here.

21 THE CLERK: Miguel Berumen-Ramos.

22 A PROSPECTIVE JUROR: Here.

23 THE CLERK: Charles Bonnet.

24 A PROSPECTIVE JUROR: (No response.)

1 THE CLERK: Mairi Boyd?
2 A PROSPECTIVE JUROR: Here.
3 THE CLERK: Richard Cannon.
4 A PROSPECTIVE JUROR: Here.
5 THE CLERK: Marshall Carter. Marshall Carter.
6 A PROSPECTIVE JUROR: (No response.)
7 THE CLERK: Benjamin Cecchettini.
8 A PROSPECTIVE JUROR: (No response.)
9 THE CLERK: Bulmaro Cervantes-Bernal.
10 A PROSPECTIVE JUROR: (No response.)
11 THE CLERK: Heather Clanton.
12 A PROSPECTIVE JUROR: (No response.)
13 THE CLERK: Patrick Coons.
14 A PROSPECTIVE JUROR: Here.
15 THE CLERK: Kenneth Crawford.
16 A PROSPECTIVE JUROR: (No response.)
17 THE CLERK: Mark Dieter.
18 A PROSPECTIVE JUROR: Here.
19 THE CLERK: Glenn Diggan.
20 A PROSPECTIVE JUROR: Here.
21 THE CLERK: Darleen Dils.
22 A PROSPECTIVE JUROR: Here.
23 THE CLERK: Jesus Duarte-Graciano.
24 A PROSPECTIVE JUROR: Here.

1 THE CLERK: Jane Falcke.
2 A PROSPECTIVE JUROR: Falcke.
3 THE CLERK: Falcke, thank you.
4 Lynn Falcone.
5 A PROSPECTIVE JUROR: Falcone.
6 THE CLERK: Falcone.
7 Madeline Feldman.
8 A PROSPECTIVE JUROR: (No response.)
9 THE CLERK: Lacey Ficklin.
10 A PROSPECTIVE JUROR: (No response.)
11 THE CLERK: Judy Fletcher.
12 A PROSPECTIVE JUROR: Here.
13 THE CLERK: Daniel Fredrickson.
14 A PROSPECTIVE JUROR: (No response.)
15 THE CLERK: Jonathan Gibson.
16 A PROSPECTIVE JUROR: Here.
17 THE CLERK: Adriane Gilham.
18 A PROSPECTIVE JUROR: (No response.)
19 THE CLERK: Joseph Gmuender.
20 A PROSPECTIVE JUROR: Here.
21 THE CLERK: Nora Gomez.
22 A PROSPECTIVE JUROR: (No response.)
23 THE CLERK: Kimberly Gray.
24 A PROSPECTIVE JUROR: Here.

1 THE CLERK: Ralph Hackett, Jr.
2 A PROSPECTIVE JUROR: (No response.)
3 THE CLERK: Engel Hal.
4 A PROSPECTIVE JUROR: (No response.)
5 THE CLERK: Avery Harris.
6 A PROSPECTIVE JUROR: (No response.)
7 THE CLERK: Evelyn Heath.
8 A PROSPECTIVE JUROR: Here.
9 THE CLERK: Donald Henderson.
10 A PROSPECTIVE JUROR: Here.
11 THE CLERK: Scott Henricksen.
12 A PROSPECTIVE JUROR: Here.
13 THE CLERK: Stephanie Henricksen.
14 A PROSPECTIVE JUROR: Here.
15 THE CLERK: Angelita Hensley.
16 A PROSPECTIVE JUROR: (No response.)
17 THE CLERK: Laraine Heuring.
18 A PROSPECTIVE JUROR: Here.
19 THE CLERK: Daniel Hickey.
20 A PROSPECTIVE JUROR: (No response.)
21 THE CLERK: Troy Hickey.
22 A PROSPECTIVE JUROR: (No response.)
23 THE CLERK: Curtis Hoffman.
24 A PROSPECTIVE JUROR: Here.

1 THE CLERK: Harold Holland.
2 A PROSPECTIVE JUROR: Here.
3 THE CLERK: Andrew Huber.
4 A PROSPECTIVE JUROR: Here.
5 THE CLERK: Jacob Irvin.
6 A PROSPECTIVE JUROR: (No response.)
7 THE CLERK: Antoinette Jacobs.
8 A PROSPECTIVE JUROR: Here.
9 THE CLERK: Timalynn Jaynes.
10 A PROSPECTIVE JUROR: Here.
11 THE CLERK: Clayton Johnson, Jr.
12 A PROSPECTIVE JUROR: Here.
13 THE CLERK: Corey Johnson.
14 A PROSPECTIVE JUROR: (No response.)
15 THE CLERK: Jacqueline Johnson.
16 A PROSPECTIVE JUROR: Here.
17 THE CLERK: Lauren Johnson.
18 A PROSPECTIVE JUROR: Here.
19 THE CLERK: Ledene Johnson.
20 A PROSPECTIVE JUROR: Here.
21 THE CLERK: Kimberly Jongsma.
22 A PROSPECTIVE JUROR: Here.
23 THE CLERK: Brian Jordan.
24 A PROSPECTIVE JUROR: (No response.)

1 THE CLERK: Brittany Kane.
2 A PROSPECTIVE JUROR: Here.
3 THE CLERK: Jennelle Keith.
4 A PROSPECTIVE JUROR: Here.
5 THE CLERK: Margaret Kersten.
6 A PROSPECTIVE JUROR: Here.
7 THE CLERK: William Kingman.
8 A PROSPECTIVE JUROR: Here.
9 THE CLERK: Stephanie Kirk.
10 A PROSPECTIVE JUROR: Here.
11 THE CLERK: Catherine Kite.
12 A PROSPECTIVE JUROR: Here.
13 THE CLERK: Laura Kolbe.
14 A PROSPECTIVE JUROR: Here.
15 THE CLERK: Julie Kriss.
16 A PROSPECTIVE JUROR: Here.
17 THE CLERK: Rita Krupp.
18 A PROSPECTIVE JUROR: Here.
19 THE CLERK: Ty Anthony Lambert.
20 A PROSPECTIVE JUROR: (No response.)
21 THE CLERK: Amanda Lang.
22 A PROSPECTIVE JUROR: Here.
23 THE CLERK: Kara Levario.
24 A PROSPECTIVE JUROR: Here.

1 THE CLERK: David Lindsey.
2 A PROSPECTIVE JUROR: Here.
3 THE CLERK: Roberto Lopez-Hernandez.
4 A PROSPECTIVE JUROR: (No response.)
5 THE CLERK: Kathleen Lugone.
6 A PROSPECTIVE JUROR: Lugone.
7 THE CLERK: Lugone.
8 Douglas Lundquist.
9 A PROSPECTIVE JUROR: Lundquist. Here.
10 THE CLERK: Lundquist.
11 Tilda Martin.
12 A PROSPECTIVE JUROR: Here.
13 THE CLERK: Karissa Martindale.
14 A PROSPECTIVE JUROR: (No response.)
15 THE CLERK: William McCulloch.
16 A PROSPECTIVE JUROR: Here.
17 THE CLERK: Jerome McManus.
18 A PROSPECTIVE JUROR: Here.
19 THE CLERK: Suzanne Merritt.
20 A PROSPECTIVE JUROR: Here.
21 THE CLERK: Joshua Morrow.
22 A PROSPECTIVE JUROR: (No response.)
23 THE CLERK: Byran Moss.
24 A PROSPECTIVE JUROR: It's Byran.

1 THE CLERK: Byran Moss.
2 Tracey Muetzenberg.
3 A PROSPECTIVE JUROR: Muetzenberg.
4 THE CLERK: Muetzenberg.
5 Sterling Nelson.
6 A PROSPECTIVE JUROR: Here.
7 THE CLERK: Bo Northcutt.
8 A PROSPECTIVE JUROR: Bo Young Northcutt.
9 THE CLERK: Bo Young Northcutt. Thank you.
10 Meagan Osmer.
11 A PROSPECTIVE JUROR: Here.
12 THE CLERK: Morgan Ovard.
13 A PROSPECTIVE JUROR: Here.
14 THE CLERK: Michael Parga.
15 A PROSPECTIVE JUROR: (No response.)
16 THE CLERK: Hayley Paronish.
17 A PROSPECTIVE JUROR: (No response.)
18 THE CLERK: Alan Peters.
19 A PROSPECTIVE JUROR: Here.
20 THE CLERK: Virginia Peterson.
21 A PROSPECTIVE JUROR: Here.
22 THE CLERK: Tatianna Petri.
23 A PROSPECTIVE JUROR: Here.
24 THE CLERK: Margaret Porter.

1 A PROSPECTIVE JUROR: (No response.)
2 THE CLERK: Mary Quintard.
3 A PROSPECTIVE JUROR: Quintard.
4 THE CLERK: Quintard.
5 Gervin Ramos-Argueta.
6 A PROSPECTIVE JUROR: What was that?
7 THE CLERK: Gervin Ramos -- or, I'm sorry, Gervin
8 Ramos-Argueta?
9 A PROSPECTIVE JUROR: (No response.)
10 THE CLERK: Helene Rhodes.
11 A PROSPECTIVE JUROR: Here.
12 THE CLERK: Mitchell Rittiman.
13 A PROSPECTIVE JUROR: (No response.)
14 THE CLERK: Jessica Rivas-Zavala.
15 A PROSPECTIVE JUROR: Here.
16 THE CLERK: Eve Roberts-Tobey.
17 A PROSPECTIVE JUROR: Here.
18 THE CLERK: Tana, Tana Runacres.
19 MS. MAZZA: Runacres.
20 THE CLERK: Runacres, Tana Runacres.
21 A PROSPECTIVE JUROR: (No response.)
22 THE CLERK: Josephine Sanguinetti.
23 A PROSPECTIVE JUROR: Here.
24 THE CLERK: Robert Shewbridge.

1 A PROSPECTIVE JUROR: (No response.)
2 THE CLERK: Robert Signor.
3 A PROSPECTIVE JUROR: Here.
4 THE CLERK: Sandra Spates.
5 A PROSPECTIVE JUROR: Here.
6 THE CLERK: Marty Stoner.
7 A PROSPECTIVE JUROR: Here.
8 THE CLERK: Juliet Strahan.
9 A PROSPECTIVE JUROR: (No response.)
10 THE CLERK: Jack Sturm.
11 A PROSPECTIVE JUROR: Here, Sturm.
12 THE CLERK: Sturm.
13 A PROSPECTIVE JUROR: Here.
14 THE CLERK: John Summers.
15 A PROSPECTIVE JUROR: Here.
16 THE CLERK: Candace Supiran.
17 A PROSPECTIVE JUROR: Here.
18 THE CLERK: Thomas Taflin.
19 A PROSPECTIVE JUROR: (No response.)
20 THE CLERK: Billie Tedsen.
21 A PROSPECTIVE JUROR: (No response.)
22 THE CLERK: Ronda Teruya.
23 A PROSPECTIVE JUROR: Here.
24 THE CLERK: John Tobey.

1 A PROSPECTIVE JUROR: Here.
2 THE CLERK: Steven Tumlin.
3 A PROSPECTIVE JUROR: (No response.)
4 THE CLERK: Ronald Valdespino.
5 A PROSPECTIVE JUROR: (No response.)
6 THE CLERK: Herbert Weihskopf.
7 A PROSPECTIVE JUROR: Here.
8 THE CLERK: Kathy Weiland.
9 A PROSPECTIVE JUROR: (No response.)
10 THE CLERK: Michelle Weldon.
11 A PROSPECTIVE JUROR: Here.
12 THE CLERK: Robert Wheeler.
13 A PROSPECTIVE JUROR: Here.
14 THE CLERK: Shawn Wight.
15 A PROSPECTIVE JUROR: (No response.)
16 THE CLERK: Ronald Wilkerson.
17 A PROSPECTIVE JUROR: (No response.)
18 THE CLERK: Guy Williams.
19 A PROSPECTIVE JUROR: Here.
20 THE CLERK: Denise Wishney.
21 A PROSPECTIVE JUROR: (No response.)
22 THE CLERK: Kristina Wose.
23 A PROSPECTIVE JUROR: Here.
24 THE CLERK: Suzanne Yanz.

1 A PROSPECTIVE JUROR: (No response.)

2 THE CLERK: And that's everybody.

3 THE COURT: All right. So for folks who were
4 summoned, but did not appear here today, Madam Clerk will
5 prepare a list of those names for my review.

6 Folks who do not appear are subject to being held
7 in contempt of court, and so each of those folks will be
8 summonsed into court and they'll be given an opportunity to
9 explain why they didn't appear here today. If they are held
10 in contempt of court, they can be sanctioned up to \$500.

11 You are all prospective jurors in this case. Of
12 course, you are not all going to be seated ultimately as
13 jurors. You are prospective jurors.

14 This is a criminal case, which means it is
15 brought by the State of Nevada against an individual person.
16 I'm now going to ask the attorney for the State of Nevada to
17 introduce herself.

18 MS. MAZZA: Good morning, ladies and gentlemen.
19 My name is Chelsea Mazza. I'm a deputy district attorney for
20 the Douglas County District Attorney's office. I also have
21 with me William Hellman and Brian Putzer from the District
22 Attorney's office as well. Thank you for being here this
23 morning.

24 THE COURT: There is one Defendant in this case

1 and I'm going to ask that his counsel introduce herself as
2 well her client.

3 MS. RISTENPART: Good morning, ladies and
4 gentlemen. My name is Theresa Ristenpart. I represent
5 Mr. Richard Jenkins and also you'll see some of my staff,
6 Natashja and Emily at the end of the table. Good morning.

7 THE COURT: In this case, the State of Nevada has
8 made a formal allegation, alleging that the Defendant has
9 committed certain criminal offenses.

10 Madam Clerk, I'm going to ask that you read the
11 formal allegations to the jury as it's been submitted to us in
12 the form of the Amended Information. An Amended Information
13 is not evidence in the case. It's simply the -- it simply
14 states the nature of the allegations made against the
15 Defendant. The Defendant, in all criminal cases, is presumed
16 to be innocent.

17 Madam Clerk, would you please read the charging
18 document?

19 THE CLERK: In the Ninth Judicial District Court
20 of the State of Nevada in and for the County of Douglas, Case
21 Number 19-CR-0188, the State of Nevada, Plaintiff, versus
22 Richard Alexander Jenkins, Defendant.

23 Chelsea Mazza, deputy district attorney within
24 and for the County of Douglas, State of Nevada, in the name

1 and by the authority of the State of Nevada, informs the Court
2 that Richard Alexander Jenkins has committed the crimes of
3 four counts of lewdness with a child under 16 years of age,
4 violations of NRS 201.230 Subsection 1(a) and 3, all Category
5 B felonies.

6 The Defendant, on or between July 1st, 2018, and
7 September 25th, 2018, and before the filing of this
8 information, at and within the County of Douglas, State of
9 Nevada, Count I, lewdness with a child under 16 years of age,
10 a violation of NRS 201.230 Subsection 1(a) and 3, a Category B
11 felony, being a person who was 18 years of age or older, did
12 willfully, unlawfully and lewdly commit any lewd or lascivious
13 act other than acts constituting the crime of sexual assault
14 upon or with the body or any part or member thereof with a
15 child under the age of 16 years with the intent of arousing,
16 appealing to, or gratifying the lust or passion for sexual
17 desires of the Defendant or the child to wit did place his
18 hand or hands down the front of the pants or shorts and
19 underneath the underwear of Corey Collins, a 14-year-old
20 child, and did touch and/or rub her pubic area and/or did
21 touch and/or rub his hands or hand on her buttocks while they
22 were together at the Defendant's residence with the intent of
23 arousing, appealing to, or gratifying his own lust, passion,
24 or sexual desires, all of which occurred in the County of

1 Douglas, State of Nevada.

2 Count II, lewdness with a child under 16 years of
3 age, a violation of NRS 201.230 Subsection 1(a) and 3, a
4 Category B felony, being a person who was 18 years of age or
5 older, did willfully, unlawfully, and lewdly commit or any
6 lewd or lascivious act other than acts constituting the crime
7 of sexual assault upon or with the body or any part or member
8 thereof, with a child under the age of 16 years with the
9 intent of arousing, appealing to, or gratifying the lust or
10 passions or sexual desires of the Defendant or the child.

11 To wit: Did place his hand and hands down the
12 front of the pants or shorts and underneath the underwear of
13 Corey Collins, a 14-year-old child, and did touch and/or rub
14 her pubic area and/or did touch and/or rub his hand or hands
15 on her buttocks while they were together inside the equipment
16 room at the Douglas County Community Center with the intent of
17 arousing, appealing to, or gratifying his own lust, passion,
18 or sexual desires, all of which occurred in the County of
19 Douglas, State of Nevada.

20 Count III, lewdness with a child under 16 years
21 of age, a violation of NRS 201.230 Subsection 1(a) and 3, a
22 Category B felony, being a person who was 18 years of age or
23 older, did willfully, unlawfully and lewdly commit any lewd or
24 lascivious act other than acts constituting the crime of

1 sexual assault upon or with the body or any part or member
2 thereof with a child under the age of 16 years with the intent
3 of arousing, appealing to, or gratifying the lust or passions
4 or sexual desires of the Defendant or the child.

5 To wit: Did place his hand or hands down the
6 front of the pants or shorts and underneath the underwear of
7 Corey Collins, a 14-year-old child, and did touch and/or rub
8 her pubic area and/or did touch and/or rub his hand or hands
9 on her buttocks while they were together in the multi-purpose
10 silo room, commonly referred to as the "squishy floor room,"
11 inside the Douglas County Community Center, with the intent of
12 arousing, appealing to, or gratifying his own lust, passion,
13 or sexual desires, all of which occurred in the County of
14 Douglas, State of Nevada.

15 Count IV, lewdness with a child under 16 years of
16 age, a violation of NRS 201.230 1(a) and 3, a Category B
17 felony, being a person who was 18 years of age or older, did
18 willfully, unlawfully, and lewdly commit any lewd or
19 lascivious act other than acts constituting the crime of
20 sexual assault upon or with the body or any part or member
21 thereof with a child under the age of 16 years, with the
22 intent of arousing, appealing to, or gratifying the lust or
23 passions or sexual desires of the Defendant or the child.

24 To wit: Did place his hand or hands down the

1 front of the pants or shorts and underneath the underwear of
2 Corey Collins, a 14-year-old child, and did touch and/or rub
3 her pubic area and/or did touch and/or rub his hand or hands
4 on her buttocks while they were together behind a set of
5 stairs inside the Douglas County Community Center with the
6 intent of arousing, appealing to, or gratifying his own lust,
7 passion, or sexual desires, all of which occurred in the
8 County of Douglas, State of Nevada, against the peace and
9 dignity of the State of Nevada, the Complainant prays the
10 Defendant be dealt with according to law as to which the
11 Defendant entered a plea of not guilty on April 6th, 2021.

12 THE COURT: Thank you, Madam Clerk.

13 After hearing the charges in this case, there
14 might be folks in attendance who believe they know something
15 about the case. If that happens to be you, please keep your
16 information to yourself at the moment.

17 There will come a time in these proceedings, if
18 you are a person that ends up in one of these chairs up here,
19 that we may need to have a conversation with you in private
20 outside the presence of other jurors to see what it is that
21 you might know in the case.

22 So, again, if you have any information on the
23 case, at this time, please keep that to yourself, and again,
24 we will address that later on as we proceed here today.

1 For scheduling purposes, I fully expect we will
2 have a jury selected today, by the end of today. The trial in
3 this case would then commence tomorrow back in the courtroom.
4 And so the only folks that would need to come back tomorrow
5 will be the 14 that are selected. The rest of you will be
6 excused.

7 Again, for scheduling purposes, I will tell you
8 that in criminal jury trial cases, we can guess at the length
9 of a trial, but we cannot tell you for certain what -- how
10 long the trial's going to go. Trials are not scripted. I can
11 tell you that it's my expectation that this case would be
12 concluded sometime next week.

13 In a moment, you will be sworn to tell the truth
14 and then you will be subjected to questioning by myself and
15 the attorneys in this case. It is important that you be
16 truthful.

17 The purpose of this process is to secure a jury
18 that will be fair and impartial. At the end of jury
19 selection, as I've discussed, there will be 14 of you folks
20 who will be selected to serve.

21 At this time, I'm going to ask Madam Clerk to
22 swear you in, so please stand and raise your right hand.

23 (The prospective jury panel sworn.)

24 THE COURT: Thank you. Please be seated. It's

1 come to my attention that two folks arrived late here today,
2 and it is important that you as potential jurors hear
3 everything that we talk about.

4 So I do need to ascertain, important here is that
5 all of you were able to hear the charges that were read by the
6 clerk.

7 Karissa Martindale is somebody, I believe, who
8 walked in late. Ms. Martindale, where are you at?

9 A PROSPECTIVE JUROR: Here. Yes, I was here
10 during role --

11 THE COURT: Okay. What -- I don't -- and I'm not
12 trying to embarrass you, ma'am. It's important that I know
13 about when you walked in.

14 Did you hear the charges being read?

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Okay. Thank you. And Suzanne Yanz.

17 A PROSPECTIVE JUROR: Yes.

18 THE COURT: Thank you, ma'am. And were you able
19 to hear the charges that were read?

20 A PROSPECTIVE JUROR: Excuse me?

21 THE COURT: Were you able to hear the charges
22 that were read by the clerk?

23 A PROSPECTIVE JUROR: No, I was late.

24 THE COURT: Okay. So, Ms. Yanz, I'm going to

1 excuse you. Thank you for coming. You might get called again
2 for jury service in the future. Thank you. You can go ahead
3 and exit.

4 By statute, there are several items that we need
5 to review to see if you are qualified to be jurors, and so
6 we're going to go through those at this time.

7 First of all, you -- to be qualified, you have to
8 be a citizen of the United States. Is there anybody here as a
9 prospective juror who is not a citizen of the United States?
10 Please raise your hand if that applies to you.

11 THE PROSPECTIVE JURY PANEL: (No hands raised.)

12 THE COURT: I see no hands. Next, it is a
13 requirement that you be a resident of Douglas County. Is
14 there anybody here as a prospective juror who is not a
15 resident of Douglas County?

16 THE PROSPECTIVE JURY PANEL: (No hands raised.)

17 THE COURT: No hands. Next, it is required that
18 you have sufficient knowledge of the English language so that
19 you can understand the proceedings.

20 Is there anybody here that believes they do not
21 have sufficient knowledge of the English language to be able
22 to sit as a juror? If that applies to you, please raise your
23 hand.

24 Okay. We have a couple folks on the end here.

1 I'm going to ask that you stand one at a time and give us your
2 name.

3 A PROSPECTIVE JUROR: Jesus Duarte-Graciano.

4 THE COURT: Sir, did you bring an interpreter
5 with you here today?

6 A PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay. And who is that?

8 A PROSPECTIVE JUROR: That's my daughter.

9 THE COURT: All right. Ma'am, could you go ahead
10 and stand as well? What is your name?

11 MS. GONZALEZ: My name is Patricia
12 Duarte-Gonzalez.

13 THE COURT: Okay. My question for him is, as
14 I've indicated, whether he has a sufficient command of the
15 English language, to be able to hear and understand what is
16 happening in the courtroom without use of an interpreter.

17 MS. GONZALEZ: He will need one. He does not
18 understand English fully.

19 THE COURT: He does not?

20 MS. GONZALEZ: He does not understand it fully.

21 THE COURT: Okay. Thank you. Ms. Mazza, would
22 you have any objection to dismissing this juror?

23 MS. MAZZA: No, Your Honor.

24 THE COURT: Ms. Ristenpart?

1 MS. RISTENPART: No objection.

2 THE COURT: All right. Sir, thank you for coming
3 in, and I'm happy your daughter came with you as well. You
4 are excused.

5 MS. GONZALEZ: Thank you.

6 PROSPECTIVE JUROR: Thank you.

7 THE COURT: Anybody else that that applies to?

8 Next, you cannot sit on a jury if you have
9 suffered a felony conviction and have not had your civil
10 rights restored.

11 Is there anybody appearing here as a prospective
12 juror who has suffered a felony conviction and has not had his
13 or her civil rights restored.

14 Please raise your hand if that applies to you.

15 THE PROSPECTIVE JURY PANEL: (No hands raised.)

16 THE COURT: I see none.

17 Next, it is important that you not be rendered
18 incapable due to physical or mental infirmity. Is there
19 anybody here that suffers from physical or mental infirmity
20 such that they could not serve as a juror?

21 Please raise your hand if that applies to you.

22 A PROSPECTIVE JUROR: What does that mean?

23 THE COURT: Oftentimes that -- somebody asked,
24 what does that mean. It can be a variety of things. One of

1 the things, though, as an example, would be hearing. In the
2 courtroom, we do have hearing devices that would assist jurors
3 to be able to hear if you have hearing issues.

4 But even in this context today, it's very
5 important that you be able to hear everything that's going on.
6 We've been doing our best here today to speak up as much as
7 possible and we've even been using microphones in certain
8 cases. That would be an example.

9 Another example would be vision. It is important
10 that you be able to see what is happening as it transpires in
11 the courtroom. So those would be two examples.

12 Other examples would be, there are -- there will
13 be chunks of time when you will need to be seated in the
14 courtroom so that you can watch what happens. And we do try
15 to take recesses, but there are times when you need to be able
16 to sit and watch what happens throughout the course of the
17 day. Those are just examples. Of course, there could be many
18 others.

19 But is there anybody here that believes they have
20 a physical or mental infirmity that would prohibit you from
21 serving? We have a hand in the back.

22 Ma'am, would you please stand and give us your
23 name.

24 A PROSPECTIVE JUROR: Evelyn Heath.

1 THE COURT: Can you state the last name?

2 A PROSPECTIVE JUROR: Heath, like the candy bar.

3 THE COURT: Thank you. Ma'am, go ahead and tell
4 us what your situation is.

5 A PROSPECTIVE JUROR: I'm going to have another
6 neck surgery and I am at this point where my lower back
7 problem where I have to have surgery on.

8 THE COURT: Okay. Are you in -- and these --
9 none of these questions, folks, are intended to embarrass
10 anybody. I appreciate you sharing and that's what we ask you
11 to do. Are you in any -- are you in pain?

12 A PROSPECTIVE JUROR: Yes. I forgot to bring my
13 cushion. It's in my car.

14 THE COURT: Are you able to sit for long periods
15 of time?

16 A PROSPECTIVE JUROR: For about 15 minutes.

17 THE COURT: When does your -- when do you have
18 your surgery scheduled?

19 A PROSPECTIVE JUROR: I have my first one on my
20 mouth next Friday, the -- next Thursday, the 29th, I believe
21 it is, and then I have another neck surgery that I'm going to
22 have in probably two -- I'm trying to do it within two months.
23 COVID postponed it last year.

24 THE COURT: Okay.

1 A PROSPECTIVE JUROR: So I've already had one. I
2 need to have two more to fuse the whole thing.

3 THE COURT: Ms. Mazza, do you have any other
4 questions for Ms. Heath regarding her physical limitations?

5 MS. MAZZA: No, Your Honor.

6 THE COURT: Ms. Ristenpart?

7 MS. RISTENPART: No, your Honor. And for the
8 record, Ms. Heath did hold up her medical unit.

9 A PROSPECTIVE JUROR: Yes, it's in my -- it's in
10 my --

11 THE COURT: Thank you, Ms. Heath.

12 MS. RISTENPART: No further questions.

13 THE COURT: All right. Ms. Mazza, any objection
14 to me excusing Ms. Heath?

15 MS. MAZZA: No objection, Your Honor.

16 THE COURT: Ms. Ristenpart?

17 MS. RISTENPART: No objection.

18 THE COURT: Ms. Heath, thank you for sharing and
19 you are excused.

20 A PROSPECTIVE JUROR: Do you need the paperwork?

21 THE COURT: What's that?

22 A PROSPECTIVE JUROR: Do you need the paperwork?

23 THE COURT: I would not need any paperwork. You
24 might get called as a juror again, though, and hopefully by

1 then you'll have been through your surgery and you'll be ready
2 to serve. Thank you. Anybody else?

3 All right. Ma'am, over here to my left, would
4 you stand and state your name?

5 A PROSPECTIVE JUROR: Jane Falcke. I have a
6 pre-op appointment on Friday for knee surgery a week from
7 Tuesday.

8 THE COURT: Okay. So you have an appointment.
9 Can the appointment be rescheduled?

10 A PROSPECTIVE JUROR: Well, my knee can't sit for
11 a long time.

12 THE COURT: Okay.

13 A PROSPECTIVE JUROR: Unless I'm in an aisle
14 seat.

15 THE COURT: So the problem isn't the appointment,
16 the problem is you can't sit.

17 A PROSPECTIVE JUROR: Well, a little bit of both,
18 but --

19 THE COURT: Okay.

20 A PROSPECTIVE JUROR: Any other time would be
21 perfect, but --

22 THE COURT: All right.

23 A PROSPECTIVE JUROR: I have knee --

24 THE COURT: Give me an idea of what that means.

1 If we were to be convened in trial, would that work at all for
2 you?

3 A PROSPECTIVE JUROR: What do you mean? I'm
4 sorry, I --

5 THE COURT: Well, if you were asked to come sit
6 as a juror --

7 A PROSPECTIVE JUROR: Yeah.

8 THE COURT: -- are you telling us you would be
9 unable to do that?

10 A PROSPECTIVE JUROR: Well, if -- I'll have to
11 change the pre-op appointment, which I -- you know, during
12 COVID, had to change it.

13 THE COURT: Other than the appointment.

14 A PROSPECTIVE JUROR: Okay.

15 THE COURT: What --

16 A PROSPECTIVE JUROR: Then I could probably.

17 THE COURT: Well --

18 A PROSPECTIVE JUROR: If I have an aisle seat.

19 THE COURT: What's that?

20 A PROSPECTIVE JUROR: I just need to stretch out
21 my knee a lot.

22 THE COURT: How often?

23 A PROSPECTIVE JUROR: I can't sit straight for --

24 THE COURT: We usually go about an hour to an

1 hour and a half.

2 A PROSPECTIVE JUROR: Yeah.

3 THE COURT: Before taking a recess.

4 A PROSPECTIVE JUROR: Okay. That's --

5 THE COURT: Are you able to do that?

6 A PROSPECTIVE JUROR: A car ride, I have to get
7 out probably an hour, hour and a half, so --

8 THE COURT: Okay. Again, thank you for
9 disclosing that. I'm going to have you remain for now.

10 A PROSPECTIVE JUROR: Okay.

11 THE COURT: The attorneys might have other
12 questions along those lines for you as we proceed.

13 A PROSPECTIVE JUROR: Okay. So I should probably
14 change the appointment?

15 THE COURT: Well, I would suggest you -- what
16 time is your appointment?

17 A PROSPECTIVE JUROR: 9:40 -- 10:45.

18 THE COURT: Today?

19 A PROSPECTIVE JUROR: In Reno, Friday.

20 THE COURT: Friday. Okay. So just stay.

21 A PROSPECTIVE JUROR: I'm okay today.

22 THE COURT: And we'll see, yeah.

23 A PROSPECTIVE JUROR: Okay.

24 THE COURT: We'll see how things go. Anybody

1 else? Sir, right here in the middle, please stand and state
2 your name.

3 A PROSPECTIVE JUROR: Robert Signor.

4 THE COURT: Last name?

5 A PROSPECTIVE JUROR: Last name is Signor,
6 S-I-G-N-O-R.

7 THE COURT: Thank you.

8 A PROSPECTIVE JUROR: And I'm hearing impaired.

9 THE COURT: Okay. And I have noticed, sir, that
10 you've kind of been touching your ear throughout --

11 A PROSPECTIVE JUROR: Correct.

12 THE COURT: -- which did give me some indication
13 you are having a hard time hearing. Have you had difficulty
14 hearing me today?

15 A PROSPECTIVE JUROR: Pardon?

16 THE COURT: Okay. Are you joking or are --

17 A PROSPECTIVE JUROR: I'm sorry. I didn't hear
18 anything you said.

19 THE COURT: It's okay. And, sir, I don't mean to
20 make light of your situation at all, and I thank you for
21 bringing it up.

22 Have you had difficulty hearing me here today?

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: Even as I -- with my mask removed?

1 A PROSPECTIVE JUROR: And the clerk, too.

2 THE COURT: Okay. Thank you for letting us know
3 that. Ms. Mazza, do you have any questions for this
4 gentleman?

5 MS. MAZZA: No, Your Honor. Thank you.

6 THE COURT: Mr. Ristenpart?

7 MS. RISTENPART: No, Your Honor. Thank you.

8 THE COURT: Ms. Mazza, may this gentleman be
9 excused?

10 MS. MAZZA: Yes, Your Honor.

11 THE COURT: Ms. Ristenpart?

12 MS. RISTENPART: Yes, Your Honor.

13 THE COURT: Sir, thank you for -- thank you for
14 coming today. You are excused.

15 A PROSPECTIVE JUROR: Okay. Thank you.

16 THE COURT: Thank you. All right. I think I saw
17 some other hands. Over here, sir, please stand. And what is
18 your name?

19 A PROSPECTIVE JUROR: Alan Peters.

20 THE COURT: All right. Mr. Peters.

21 A PROSPECTIVE JUROR: I'm 75 years old and I have
22 a little difficulty hearing.

23 THE COURT: Okay. I might as well bring this up
24 now, but if you are somebody who is 70 years of age or older,

1 you can choose to be exempted from jury service, meaning you
2 get to decide, not me.

3 And so if you're 75 years of age or old -- or
4 70 years of age or older and you desire not to serve, you
5 simply need to tell me that and you'll be excused.

6 A PROSPECTIVE JUROR: I choose not to serve.

7 THE COURT: Okay. Sir, thank you. You are
8 excused due to the exemption. All right. I think I saw some
9 other hands regarding physical and mental infirmity.

10 All right. Let's start right here. Sir, you're
11 about three rows back. Right here. Well, okay, that's fine.
12 Either one.

13 A PROSPECTIVE JUROR: We're playing musical
14 chairs.

15 THE COURT: All right. What is your name?

16 A PROSPECTIVE JUROR: My name is Herbie Weihskopf
17 and I have a collapsed ear drum in my left ear and I hear
18 about 45 percent in my right. I've been a musician for
19 50 years and I'm a diabetic and I have two heart attacks,
20 heart surgery, and I just got out of the hospital with
21 pneumonia about a week ago. So I'm not doing real great, but
22 I'm doing better.

23 THE COURT: Again, thank you for sharing. On the
24 hearing side of things, have you been able to hear me so far?

1 A PROSPECTIVE JUROR: I can.
2 THE COURT: Okay. All right.
3 A PROSPECTIVE JUROR: But --
4 THE COURT: Well, thank you, and it sounds like
5 you just got through pneumonia on top of all that.
6 Ms. Mazza, do you have any questions?
7 MS. MAZZA: Mr. Weihskopf?
8 A PROSPECTIVE JUROR: Yes.
9 MS. MAZZA: Have you been able to hear me
10 throughout? I think I have a little bit of a lower voice than
11 the Court, so my question is: Do you have a hard time hearing
12 me?
13 A PROSPECTIVE JUROR: I hear you okay.
14 MS. MAZZA: Okay.
15 A PROSPECTIVE JUROR: If I blow my nose, it opens
16 it up for about a minute and then it closes again.
17 MS. MAZZA: So you would have to be blowing your
18 nose constantly; is that --
19 A PROSPECTIVE JUROR: I didn't hear that.
20 MS. MAZZA: In order to hear properly, would you
21 have difficult throughout the time of trial?
22 A PROSPECTIVE JUROR: Yeah, yeah.
23 MS. MAZZA: No further questions.
24 THE COURT: Ms. Ristenpart, any questions for

1 Mr. Weihskopf?

2 MS. RISTENPART: No questions.

3 THE COURT: And does either counsel object to
4 having Mr. Weihskopf relieved?

5 MS. MAZZA: No, Your Honor.

6 THE COURT: Ms. Ristenpart?

7 MS. RISTENPART: Based upon that, no, Your Honor.

8 THE COURT: All right. Mr. Weihskopf, thank you.
9 You are excused.

10 A PROSPECTIVE JUROR: If you ever need a pianist,
11 let me know.

12 THE COURT: All right. Okay. Let's go with the
13 other gentleman there. What is your name?

14 A PROSPECTIVE JUROR: Guy Williams. I have
15 multiple levels of lower stenosis and multiple levels of
16 cervical degeneration. I can't sit or stand for long periods
17 of time.

18 THE COURT: How long can you sit?

19 A PROSPECTIVE JUROR: I can't. I'm constantly
20 moving all the time.

21 THE COURT: Okay. When you stand, how long do
22 you stand?

23 A PROSPECTIVE JUROR: No more than about 15,
24 20 minutes.

1 THE COURT: Okay. Do you believe that would
2 present difficulty for you serving as a juror in this case?

3 A PROSPECTIVE JUROR: I believe my doctor would,
4 because I'm under pain management.

5 THE COURT: You're under pain management?

6 A PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: Okay. Ms. Mazza, do you have
8 questions?

9 MS. MAZZA: Mr. Williams, are you taking those
10 pain meds here today to be able to sit through today?

11 A PROSPECTIVE JUROR: Yes.

12 MS. MAZZA: If the Court was able to allow you to
13 stand up throughout the day, would that help?

14 A PROSPECTIVE JUROR: Yes, it would. As long as
15 I'm not sitting continuously, because I would be constantly
16 moving and I know I'll start bugging everybody else.

17 MS. MAZZA: Your Honor, no further questions.
18 Thank you.

19 THE COURT: All right. Ms. Ristenpart,
20 questions?

21 MS. RISTENPART: And, Mr. Williams, you work at
22 Starbucks; correct?

23 A PROSPECTIVE JUROR: No, I work at Mary's Gone
24 Crackers in Reno.

1 MS. RISTENPART: And that job, you're constantly
2 moving all the time?

3 A PROSPECTIVE JUROR: Yes, I am. I sit behind a
4 desk, and plus, I have to go out on the floor. I'm the safety
5 coordinator there. So I'm either on my feet or I'm sitting
6 down, but I'm not doing both. I mean, I'm not doing one for
7 long periods of time.

8 MS. RISTENPART: Understood. And you have to
9 take pain medication all day long?

10 A PROSPECTIVE JUROR: Yes.

11 MS. RISTENPART: Heavy pain medication,
12 prescription --

13 A PROSPECTIVE JUROR: What's that?

14 MS. RISTENPART: Prescription pain medication?

15 A PROSPECTIVE JUROR: Yes, Percocet and morphine.

16 MS. RISTENPART: No further questions. Thank
17 you.

18 THE COURT: Ms. Mazza, do you have any objection
19 to excusing Mr. Williams?

20 MS. MAZZA: No objection, Your Honor.

21 THE COURT: Ms. Ristenpart?

22 MS. RISTENPART: No objection.

23 THE COURT: Mr. Williams, you are excused. Thank
24 you. Others who believe you have a physical or mental

1 infirmity? Way in the back there, sir, please --

2 A PROSPECTIVE JUROR: Your Honor, this young lady
3 to the right of me just informed me that she doesn't speak
4 English.

5 THE COURT: Thank you.

6 A PROSPECTIVE JUROR: So she obviously didn't
7 understand when you were asking that question earlier.

8 THE COURT: Thank you. Ma'am, could you please
9 stand?

10 A PROSPECTIVE JUROR: (Complies.)

11 THE COURT: Are you able to understand the
12 English language?

13 A PROSPECTIVE JUROR: Just a little bit.

14 THE COURT: All right. Have you had any
15 difficulty hearing and understanding me here today?

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: Do you have a job?

18 A PROSPECTIVE JUROR: Yes.

19 THE COURT: What is the job?

20 A PROSPECTIVE JUROR: The Mexican restaurant.

21 THE COURT: Okay. What is your name?

22 A PROSPECTIVE JUROR: Jessica Rivas.

23 THE COURT: What was the last name?

24 A PROSPECTIVE JUROR: Rivas.

1 THE COURT: Do you typically utilize an
2 interpreter?
3 A PROSPECTIVE JUROR: I don't know.
4 THE COURT: Okay. Do you -- how long have you
5 resided here in Douglas County?
6 A PROSPECTIVE JUROR: Six or seven years.
7 THE COURT: Do you have family?
8 A PROSPECTIVE JUROR: Yes.
9 THE COURT: And what language do you communicate
10 in with your family?
11 A PROSPECTIVE JUROR: Spanish.
12 THE COURT: Ms. Mazza, do you have any questions?
13 MS. MAZZA: No, Your Honor.
14 THE COURT: Ms. Ristenpart?
15 MS. RISTENPART: No, Your Honor.
16 THE COURT: Does either counsel wish to have this
17 prospective juror excused?
18 MS. MAZZA: Your Honor, the State does, and based
19 upon her questionnaire, I believe she indicated she had
20 difficulty with the English language.
21 THE COURT: Thank you, Ms. Mazza.
22 Ms. Ristenpart, any objection?
23 MS. RISTENPART: No objection.
24 THE COURT: Ma'am, you are excused. Thank you

1 for letting us know. All right. And thank you, sir, in the
2 pack for assisting. Anybody else? Physical or mental
3 infirmity?

4 THE PROSPECTIVE JURY PANEL: (No hands raised.)

5 THE COURT: All right. I see no other hands.

6 Okay. Those are the qualifications for jury
7 service. We're next going to move to exemptions. You've
8 already heard one of the exemptions.

9 If you're 70 years of age or older, you can
10 choose to be exempted. I can tell you, I'm always amazed at
11 how many folks who are over that age still choose to serve and
12 we welcome that as well. Either way is fine with the Court.
13 It's your choice.

14 Is there anybody here who is 70 years of age or
15 older that wishes to be exempted from service? What is your
16 name?

17 A PROSPECTIVE JUROR: Darleen Dils.

18 THE COURT: Ms. Dils, how old are you?

19 A PROSPECTIVE JUROR: 77.

20 THE COURT: Do you wish to be excused?

21 A PROSPECTIVE JUROR: Yes, please.

22 THE COURT: You are excused then. Thank you,
23 ma'am.

24 A PROSPECTIVE JUROR: Thank you.

1 THE COURT: Anybody else 70 years of age or older
2 that wishes to be excused?

3 THE PROSPECTIVE JURY PANEL: (No hands raised.)

4 THE COURT: All right. I don't see any other
5 hands. You also can claim an exemption if you are 65 years of
6 age or older if you live 65 miles or more from the courthouse.

7 I've always wondered whether that could even
8 really apply in Douglas County, but I ask the question
9 anyways.

10 Anybody here who is 65 years of age or older who
11 live more than 65 miles from the courthouse who does not wish
12 to serve?

13 THE PROSPECTIVE JURY PANEL: (No hands raised.)

14 THE COURT: No hands. Police officers are also
15 exempt from jury duty. Is anybody here a current sworn peace
16 officer that wishes to be exempted? Sir, could you please
17 give us your name?

18 A PROSPECTIVE JUROR: Sterling Nelson, I was a
19 reserve Los Angeles police officer back in the 70's.

20 THE COURT: Okay. But you are not a current
21 sworn officer?

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Okay. Thank you for letting us know
24 that information, but the exemption does not apply. If you

1 are a member of the legislature, when the legislature is in
2 session, which they are, you also can claim an exception.

3 Any members of the legislature who wish to be
4 exempted?

5 THE PROSPECTIVE JURY PANEL: (No hands raised.)

6 THE COURT: Appears to be none. I should say and
7 make clear, that also applies to employees of the legislature
8 and also folks that work for the Legislative Counsel Bureau.

9 Any of those folks here that wish to ask for an
10 exemption?

11 THE PROSPECTIVE JURY PANEL: (No hands raised.)

12 THE COURT: All right. I don't see any hands.

13 This next one is very similar to one we already
14 discussed, but again, it is my duty to ask and that is whether
15 you have sickness or physical disability.

16 Again, it's very similar to what we've already
17 talked about, but anybody here that has sickness or a physical
18 disability that would prohibit you from serving? Ma'am,
19 please --

20 A PROSPECTIVE JUROR: I don't know if this
21 applies. My husband has multiple myeloma and he's in hospice
22 right now. I'm his caregiver and I really cannot be away from
23 him because I take care of all his medication and everything.

24 THE COURT: Let's go ahead and have that

1 discussion, because two steps down --

2 A PROSPECTIVE JUROR: Right.

3 THE COURT: -- is whether you are a caregiver.
4 So somebody who is a 24-hour caregiver to somebody that needs
5 that level of attention can be exempted.

6 Ma'am, what is your name?

7 A PROSPECTIVE JUROR: Cathy Quintard.

8 THE COURT: Ms. Quintard, does your husband
9 require 24-hour service?

10 A PROSPECTIVE JUROR: He does.

11 THE COURT: And are you the provider?

12 A PROSPECTIVE JUROR: I am the provider.

13 THE COURT: Okay. So the exemption applies to
14 you and unless there's any objection, I will excuse you.

15 Ms. Mazza, any objection?

16 MS. MAZZA: No objection from the State,
17 Your Honor.

18 THE COURT: Ms. Ristenpart?

19 MS. RISTENPART: No objection.

20 THE COURT: All right. Ma'am, thank you. You
21 are excused.

22 A PROSPECTIVE JUROR: Thank you.

23 THE COURT: I don't think I saw any other hands
24 on that, but I'll pause here to see if there are any.

1 THE PROSPECTIVE JURY PANEL: (No hands raise.)

2 THE COURT: Okay. No other hands.

3 Has anybody here had -- suffered from a recent
4 serious illness or had a death of an immediate family member?
5 Anybody going through that right now? Up on the stage there,
6 ma'am, would you please stand and give us your name?

7 A PROSPECTIVE JUROR: Michelle Weldon.

8 THE COURT: What is your circumstance?

9 A PROSPECTIVE JUROR: My sister died last month.

10 THE COURT: Last month.

11 A PROSPECTIVE JUROR: (Nodded head.)

12 THE COURT: Okay. And I'm going to go ahead --
13 thank you for sharing that with us.

14 Ms. Mazza, do you have any questions?

15 MS. MAZZA: Ms. Weldon, I'm sorry for your loss.
16 Do you think that circumstance may impact your ability to give
17 Mr. Jenkins or the State a fair trial?

18 A PROSPECTIVE JUROR: I think it is on my mind.
19 I think a bigger problem with it, I have a ten-year-old
20 daughter and --

21 MS. MAZZA: And your ten-year-old daughter --

22 A PROSPECTIVE JUROR: My sister was abused and I
23 don't think that I could be impartial.

24 MS. MAZZA: Your Honor, I have no further

1 questions.

2 THE COURT: All right. Are you asking to excuse
3 this juror --

4 MS. MAZZA: Yes, Your Honor.

5 THE COURT: -- for cause? Ms. Ristenpart, any
6 objection?

7 MS. RISTENPART: And just for the record, I did
8 see Ms. Weldon and her becoming emotional and defense has no
9 objection.

10 THE COURT: All right. The Court would note the
11 emotion as well for the record.

12 Ma'am, thank you for sharing. Sorry for your
13 loss. You are excused. Anybody else that that applies to?

14 THE PROSPECTIVE JURY PANEL: (No hands raised.)

15 THE COURT: Okay. I see no hands.

16 So a moment ago, we excused Ms. Weldon because
17 she was a caregiver. That would apply to anybody else who is
18 a caregiver. It has to be for somebody who needs 24 hours of
19 care and you are the primary caregiver and there's no
20 substitute.

21 Does that apply to anybody?

22 Front row, please tell us your name.

23 A PROSPECTIVE JUROR: Kristina Wose.

24 THE COURT: Last name again, please.

1 A PROSPECTIVE JUROR: Wose.

2 THE COURT: Thank you.

3 A PROSPECTIVE JUROR: I have three young children
4 and my husband was able to take today off, but I don't know if
5 he'd be able to get any more time off. I have my husband at
6 home, but, you know, we have kids. They need me 24-hours a
7 day.

8 THE COURT: How old are your children?

9 A PROSPECTIVE JUROR: My son is eight, my
10 daughter is five and my other son is three.

11 THE COURT: But what was the youngest, the
12 other -- the last one?

13 A PROSPECTIVE JUROR: Three.

14 THE COURT: Okay. Do they go to school?

15 A PROSPECTIVE JUROR: Only one of them.

16 THE COURT: Okay. And when they're at home, who
17 is there to watch them?

18 A PROSPECTIVE JUROR: My husband is at home right
19 now.

20 THE COURT: And --

21 A PROSPECTIVE JUROR: He's working from home, but
22 he is currently working and trying to watch the two children.

23 THE COURT: Okay. So childcare, of course, can
24 be an issue. Do you have substitute child care other than

1 your husband that can help out?

2 A PROSPECTIVE JUROR: Not really. I mean, I have
3 somebody who might be able to pick up my son from school, but
4 that's pretty much it.

5 THE COURT: Okay. I'm going to have you stay for
6 now. The attorneys might have more questions for you about
7 that later.

8 A PROSPECTIVE JUROR: Okay.

9 THE COURT: But I thank you for letting us know
10 that. Anybody else?

11 THE PROSPECTIVE JURY PANEL: (No hands raised.)

12 THE COURT: Okay. I don't see any other hands.

13 Okay. So what's going to happen now is the Court
14 Clerk is going to call 24 names at random. If your name is
15 called, we're going to have you come up and fill these chairs
16 here and you're going to start by filling the first chair here
17 where Deputy Lindsey is at and you'll go away across the eight
18 chairs and then we will fill the second row in the same manner
19 and the third row in the same manner. And it is important
20 that you have a seat in the order in which you are called.

21 So we'll call the names slowly and give folks a
22 chance to get up there and be seated. Go ahead, Madam Clerk.

23 THE CLERK: All right. This is the old fashioned
24 way now. Josephine Rene Sanguinetti.

1 THE COURT: And, folks, I'm actually going to --
2 we're going to fill the seats differently than what I just
3 stated, only because the clerk made us a nice seating chart.
4 Having the seats filled from the back, forward. So go to
5 where Deputy Lindsey is at and he'll show you where to have a
6 seat.

7 THE CLERK: Cynthia Aiazzi. Evelyn Heath -- oh,
8 she was excused. Sorry. Harold Holland. Harold Holland.
9 Oh. Jonathan Gibson. Brittany Kane. Kristina Wose. Ronda
10 Teruya. William Kingman. Jessica Zavala-Rivas, and she was
11 excused. I apologize. Okay. Eve Roberts-Tobey. Eve Diana
12 Roberts-Tobey. Meagan Osmer. Judy Fletcher. Byran Moss.
13 William McCulloch. Lynn Falcone. Robert Albonico. Jane
14 Falcke. She was excused. Oh, no, she's here. Sorry about
15 that.

16 Glenn Diggan. Clayton Johnson. Tatianna Petri.
17 Sandra Spates. Patrick Coons. Mark Dieter. Alan Peters.
18 Oh, was Alan Peters excused? Oh, okay. I'm sorry.

19 THE COURT: He was exempted.

20 THE CLERK: He was -- okay. Jacqueline Johnson.
21 Josef Gmuender.

22 MS. MAZZA: Judge, may I please have the last
23 name again or the final name?

24 THE COURT: In a moment, I'm going to have the

1 clerk reread all of the names.

2 THE CLERK: Okay. Tell me when you're ready.

3 I'll read what I have.

4 THE COURT: Madam Clerk, when you read it, please
5 read it slow and with a pause in between so counsel and myself
6 can make sure that we have the correct names.

7 THE CLERK: So I have Josephine Sanguinetti.

8 THE COURT: And please speak up.

9 THE CLERK: Yes, okay. I'm going to look at her
10 so you can -- Josephine Sanguinetti. Cynthia Aiazzi. Harold
11 Holland. Jonathan Gibson. Brittany Kane. Ronda Teruya. I'm
12 sorry if I'm not saying that right.

13 A PROSPECTIVE JUROR: It's Teruya.

14 THE CLERK: Thank you. William McCulloch.
15 Robert Albonico.

16 THE COURT: Hold on. Madam Clerk, take a moment,
17 make sure that you're reading them in the order as which they
18 were called.

19 THE CLERK: Okay. And I may -- on mine --

20 THE COURT: Just take a moment to yourself.

21 THE CLERK: Okay. I may have --

22 (Brief pause in proceedings.)

23 THE COURT: All right. Here's what we're going
24 to do, folks. I'm going to have -- in the manner in the order

1 in which you are seated, I'll have you stand and give your
2 name, have a seat and we'll go to the next one.

3 It's important to counsel and the Court that we
4 have the seating arrangement correct.

5 THE CLERK: Thank you.

6 THE COURT: So we're going to start with
7 Ms. Sanguinetti and we'll work our way across. So just stand,
8 give your -- pronounce (sic) your name for us.

9 A PROSPECTIVE JUROR: Josephine Sanguinetti.

10 THE COURT: Thank you. And we'll just go right
11 across that aisle there.

12 A PROSPECTIVE JUROR: Cynthia Aiazzi.

13 THE COURT: Thank you.

14 A PROSPECTIVE JUROR: Harold Holland.

15 THE COURT: Thank you, sir.

16 A PROSPECTIVE JUROR: Jonathan Gibson.

17 THE COURT: Thank you.

18 A PROSPECTIVE JUROR: Brittany Kane.

19 THE COURT: Thank you.

20 A PROSPECTIVE JUROR: Christina Wose.

21 THE COURT: Thank you.

22 A PROSPECTIVE JUROR: Ronda Teruya.

23 THE COURT: Thank you.

24 A PROSPECTIVE JUROR: William Kingman.

1 THE COURT: Thank you, sir. Now we're going to
2 come back over here, I think, with Ms. Tobey.
3 A PROSPECTIVE JUROR: Eve Roberts-Tobey.
4 THE COURT: Thank you.
5 A PROSPECTIVE JUROR: Meagan Osmer.
6 THE COURT: Thank you.
7 A PROSPECTIVE JUROR: Judith Fletcher.
8 THE COURT: Thank you.
9 A PROSPECTIVE JUROR: Byran Moss.
10 A PROSPECTIVE JUROR: William McCulloch.
11 THE COURT: Thank you.
12 A PROSPECTIVE JUROR: Lynn Falcone.
13 THE COURT: Thank you.
14 A PROSPECTIVE JUROR: Robert Albonico.
15 THE COURT: Thank you.
16 A PROSPECTIVE JUROR: Jane Falcke.
17 THE COURT: Thank you. Now we should be at
18 Mr. Diggan.
19 A PROSPECTIVE JUROR: Glenn Diggan.
20 THE COURT: Thank you.
21 A PROSPECTIVE JUROR: Clayton Johnson.
22 THE COURT: Thank you.
23 A PROSPECTIVE JUROR: Tatianna Petri.
24 THE COURT: Thank you.

1 A PROSPECTIVE JUROR: Sandra Spates.
2 THE COURT: Thank you.
3 A PROSPECTIVE JUROR: Patrick Coons.
4 THE COURT: Thank you.
5 A PROSPECTIVE JUROR: Alan Peters.
6 THE COURT: Thank you.
7 A PROSPECTIVE JUROR: Jacqueline Johnson.
8 THE COURT: Thank you.
9 A PROSPECTIVE JUROR: Josef Gmuender.
10 THE COURT: Thank you. All right. Thank you,
11 folks.

12 Ms. Mazza, did you get all of the names?

13 MS. MAZZA: Yes. Thank you, Your Honor.

14 THE COURT: You're welcome.

15 Ms. Ristenpart?

16 MS. RISTENPART: I did, Your Honor. Thank you.

17 THE COURT: Great. So those of you who are now
18 in the 24, the focus will now become mostly on you folks.

19 It's important that all the rest of you continue
20 to listen, however, because if one of the folks that's seated
21 in the 24 positions is excused, then we will call another name
22 at random to fill that position. So please continue to listen
23 and be engaged.

24 At this time, I'm going to have each of the

1 jurors who are in the 24 seats here, one by one, you're going
2 to stand and I'm going to ask you to repeat your name again,
3 sorry for doing that again. But I want you to give your
4 occupation. If you are retired, please say what you did
5 before you retired. If you are married, let us know that and
6 tell us what your spouse does or used to do.

7 And then I'm going to ask you whether you have
8 ever been a juror, and if so, was it a civil case or a
9 criminal case and whether or not you reached a verdict. I
10 will not be asking you to say what your verdict was, and I'd
11 ask that you not share that.

12 So we're going to start in the manner in which
13 you were seated, so Ms. Sanguinetti would go first. And, Ms.
14 Sanguinetti, I'll kind of direct you, and then the rest of you
15 will kind of get the flow of it as we go.

16 So go ahead and state your name.

17 A PROSPECTIVE JUROR: Josephine Sanguinetti.

18 THE COURT: What do you do for a living?

19 A PROSPECTIVE JUROR: I am a security guard.

20 THE COURT: Okay. And are you married?

21 A PROSPECTIVE JUROR: Recently divorced.

22 THE COURT: Okay. And have you ever sat on a
23 jury trial before?

24 A PROSPECTIVE JUROR: No.

1 THE COURT: Okay. Are you aware of anything that
2 would prevent you from being a fair and impartial juror in
3 this case?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Thank you. Go ahead and have a seat.
6 Ms. Aiazzi, go ahead.

7 A PROSPECTIVE JUROR: My name is Cynthia Aiazzi.
8 I'm a manufacturer of soap and skin care products.

9 THE COURT: Are you married?

10 A PROSPECTIVE JUROR: I'm married. I've been
11 married for 30 years.

12 THE COURT: What does your spouse do for a
13 living?

14 A PROSPECTIVE JUROR: My spouse is currently a
15 manager ditch rider for the Element Ditch Company.
16 Previously, he retired -- he's retired law enforcement for the
17 State of Nevada. He was undersheriff in Lyon County and was
18 chief of police in the City of Yerington. He was jointly
19 employed by the sheriff and district attorney as a special
20 investigator in Douglas County.

21 He's a graduate of the FBI National Academy. He
22 was a lieutenant commander of the Washoe County organized
23 crime unit and finally chief of enforcement for the Nevada
24 Gaming Control Board state wide. This all happened before I

1 married him and I've been married to him for 30 years.

2 THE COURT: Okay. There was a lot there. What
3 is his current position?

4 A PROSPECTIVE JUROR: Manager ditch rider for the
5 Element Ditch Company, irrigation company.

6 THE COURT: Thank you. Have you ever sat on a
7 jury before?

8 A PROSPECTIVE JUROR: I have not, Your Honor.

9 THE COURT: Are you aware of anything that would
10 prevent you from being a fair and impartial juror in this
11 case?

12 A PROSPECTIVE JUROR: No, Your Honor.

13 THE COURT: Thank you. Go ahead and have a seat.
14 Mr. Holland, your name.

15 A PROSPECTIVE JUROR: Harold Holland.

16 THE COURT: What do you do for a living?

17 A PROSPECTIVE JUROR: Carpenter.

18 THE COURT: Are you married?

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: What does your wife do for a living?

21 A PROSPECTIVE JUROR: Background checks.

22 THE COURT: What specifically for, privately

23 or --

24 A PROSPECTIVE JUROR: For companies, background

1 checks for hiring.

2 THE COURT: Okay. Have you ever sat on a jury
3 before?

4 A PROSPECTIVE JUROR: Once, a long time ago.

5 THE COURT: Was that here in Douglas County?

6 A PROSPECTIVE JUROR: No, that was in Colorado.

7 THE COURT: Do you remember if it was a civil or
8 a criminal case?

9 A PROSPECTIVE JUROR: I do not.

10 THE COURT: And do you remember, yes or no,
11 whether you've reached -- were able to reach a verdict?

12 A PROSPECTIVE JUROR: I believe we did, but it
13 didn't do any good.

14 THE COURT: Okay. So is there anything that
15 you're aware of that would prevent you from being a fair and
16 impartial juror in this case?

17 A PROSPECTIVE JUROR: I'm not real -- I would
18 have to say I wouldn't be very partial with a child
19 molestation case.

20 THE COURT: Okay. So one of the things I want to
21 say about that is earlier I told you, you might know something
22 about this case or if there might be something about this case
23 that you have strong feelings about.

24 And there may come a time here where we meet with

1 some folks individually to have those types of conversations
2 or it might be here in a few minutes. The attorneys follow
3 up -- I appreciate you sharing that. They might have some
4 questions about that.

5 A PROSPECTIVE JUROR: Okay.

6 THE COURT: Here in a bit. Okay?

7 A PROSPECTIVE JUROR: (Nodded head.)

8 THE COURT: So it sounded like it was the nature
9 of the case that gave you some concern.

10 A PROSPECTIVE JUROR: Yeah.

11 THE COURT: Okay. All right. Thank you for
12 sharing that. We'll keep going with Mr. Gibson.

13 A PROSPECTIVE JUROR: Jonathan Gibson,
14 manufacturing operator at Knolls.

15 THE COURT: Are you married?

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Have you ever sat on a jury before?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Any reason why you cannot be a fair
20 and impartial juror in this case?

21 A PROSPECTIVE JUROR: I don't think so.

22 THE COURT: Thank you, sir.

23 Brittany Kane.

24 A PROSPECTIVE JUROR: Brittany Kane. I'm a

1 teacher.

2 THE COURT: Is that in Douglas County?

3 A PROSPECTIVE JUROR: Carson City.

4 THE COURT: Okay. What grade do you teach?

5 A PROSPECTIVE JUROR: Second grade.

6 THE COURT: Are you married?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Have you ever served on a jury

9 before?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: Any reason you cannot be a fair and
12 impartial juror in this case?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: All right. Thank you. Ms. Wose.

15 A PROSPECTIVE JUROR: Kristina Wose.

16 THE COURT: What do you do for a living?

17 A PROSPECTIVE JUROR: I am a stay-at-home mom.

18 THE COURT: All right. Are you married?

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: What does your spouse do?

21 A PROSPECTIVE JUROR: He's an IT professional for
22 the hospital.

23 THE COURT: Okay. And is that here in Douglas
24 County or somewhere else?

1 A PROSPECTIVE JUROR: Yeah, he does like Barton
2 and EMT for the surrounding hospitals.

3 THE COURT: All right. Have you ever sat on a
4 jury before?

5 A PROSPECTIVE JUROR: No, sir.

6 THE COURT: Any reason you cannot be fair and
7 impartial?

8 A PROSPECTIVE JUROR: No, sir.

9 THE COURT: Thank you. Ms. Teruya.

10 A PROSPECTIVE JUROR: Ronda.

11 THE COURT: Yes.

12 A PROSPECTIVE JUROR: Ronda Teruya. I'm an RN
13 for Renown.

14 THE COURT: Are you married?

15 A PROSPECTIVE JUROR: I'm divorced.

16 THE COURT: Okay. Thank you. Have you ever sat
17 on a jury before?

18 A PROSPECTIVE JUROR: No, Your Honor.

19 THE COURT: Any reason you cannot be a fair and
20 impartial juror in this case?

21 A PROSPECTIVE JUROR: I don't think so.

22 THE COURT: Okay. Thank you. Go ahead and have
23 a seat.

24 All right. Mr. Kingman.

1 A PROSPECTIVE JUROR: William Kingman, retired.
2 THE COURT: What are you retired from?
3 A PROSPECTIVE JUROR: Radio broadcasting.
4 THE COURT: Good. It's always fascinating. One
5 of the best parts of jury selection is hearing what everybody
6 in our community does and so it's always interesting.
7 Are you married?
8 A PROSPECTIVE JUROR: No.
9 THE COURT: Have you ever sat on a jury before?
10 A PROSPECTIVE JUROR: Yes, I have.
11 THE COURT: How long ago was that?
12 A PROSPECTIVE JUROR: That was in the 1980's.
13 THE COURT: Was that here in Douglas County?
14 A PROSPECTIVE JUROR: No, El Dorado County.
15 THE COURT: Do you recall whether it was a civil
16 or a criminal case?
17 A PROSPECTIVE JUROR: Some of each.
18 THE COURT: A civil case?
19 A PROSPECTIVE JUROR: One was civil.
20 THE COURT: Okay. Oh.
21 A PROSPECTIVE JUROR: And if I remember, one was
22 criminal.
23 THE COURT: Oh, so you've sat on two?
24 A PROSPECTIVE JUROR: Three.

1 THE COURT: Three. Wow. Okay. So in those
2 cases, I -- we don't need to know what the verdict was, but
3 let's take the first case you sat on as a juror, were you able
4 to reach a verdict? Just yes or no, if you remember.

5 A PROSPECTIVE JUROR: The first case was a
6 question of drunken driving. I don't remember the verdict.

7 THE COURT: Okay. And the second case, was it a
8 civil or criminal case?

9 A PROSPECTIVE JUROR: It was a case of a box
10 falling off the shelf and hitting somebody in the arm.

11 THE COURT: Okay.

12 A PROSPECTIVE JUROR: I guess that's civil.

13 THE COURT: Sounds like a civil case. Do you
14 recall whether you were able to reach a verdict, yes or no.

15 A PROSPECTIVE JUROR: I'm sorry?

16 THE COURT: Were you able to reach a verdict, yes
17 or no or don't remember?

18 A PROSPECTIVE JUROR: Yes, we did.

19 THE COURT: And the third case, was it civil or
20 criminal.

21 A PROSPECTIVE JUROR: Criminal.

22 THE COURT: And were you able to reach a verdict,
23 yes or no?

24 A PROSPECTIVE JUROR: Yes.

1 THE COURT: Okay. Thank you. Any reason,
2 Mr. Kingman, why you cannot be a fair and impartial juror in
3 this case?

4 A PROSPECTIVE JUROR: I can be impartial.

5 THE COURT: Okay. Thank you, Mr. Kingman. Go
6 ahead and have a seat. We'll go with -- next step would be
7 Ms. Tobey. Go ahead, state your name.

8 A PROSPECTIVE JUROR: Eve Tobey, Roberts-Tobey.

9 THE COURT: What do you do for a living?

10 A PROSPECTIVE JUROR: I'm retired.

11 THE COURT: What did you retire from?

12 A PROSPECTIVE JUROR: I was a geologist.

13 THE COURT: And what -- are you married?

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: What does your spouse do for a
16 living?

17 A PROSPECTIVE JUROR: He's retired.

18 THE COURT: From what?

19 A PROSPECTIVE JUROR: Software engineering.

20 THE COURT: Have you ever sat on a jury before?

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: How long ago?

23 A PROSPECTIVE JUROR: A long time ago.

24 THE COURT: Was it in Douglas County?

1 A PROSPECTIVE JUROR: No.

2 THE COURT: Do you recall whether it was a civil
3 or a criminal case?

4 A PROSPECTIVE JUROR: Criminal.

5 THE COURT: And do you know or recall whether you
6 were able to reach a verdict?

7 A PROSPECTIVE JUROR: We were not.

8 THE COURT: Okay. Thank you. Any reason why you
9 cannot be a fair and impartial juror?

10 A PROSPECTIVE JUROR: I can't be fair one
11 honestly, no.

12 THE COURT: Cannot be fair?

13 A PROSPECTIVE JUROR: Cannot.

14 THE COURT: And is that based on the type of case
15 or why don't you think you could be fair?

16 A PROSPECTIVE JUROR: Well, my friend -- my best
17 friend --

18 THE COURT: Let me just --

19 A PROSPECTIVE JUROR: Well --

20 THE COURT: I'm just trying to get a sense of --

21 A PROSPECTIVE JUROR: I said my best friend's
22 daughter had that happen to her and --

23 THE COURT: Okay.

24 A PROSPECTIVE JUROR: It destroyed their family

1 and hurt our family. It was not good.

2 THE COURT: Well, thank you for sharing that with
3 us. The attorneys might have some follow-up questions on that
4 in a bit. Ms. Tobey, other than that, any other reasons you
5 couldn't be a fair juror in this case?

6 A PROSPECTIVE JUROR: Just that.

7 THE COURT: Okay. Thank you. We'll go over to
8 Ms. Osmer.

9 A PROSPECTIVE JUROR: I'm Meagan Osmer. I work
10 for the State of Nevada in accounting. I'm married. He's an
11 engineer for the State of Nevada. I've never been on a jury.
12 I think that's all the questions.

13 THE COURT: Thank you. Yeah, I think you got it
14 all. You're getting the hang of this. Any reason you cannot
15 be fair and impartial?

16 A PROSPECTIVE JUROR: I don't think so. I have
17 three small children, so I might get emotional, but I think I
18 could be fair.

19 THE COURT: Okay. Thank you very much.
20 Ms. Fletcher.

21 A PROSPECTIVE JUROR: I'm Judy Fletcher. What's
22 the next one?

23 THE COURT: Are -- what do you do for a living or
24 what did you do for a living?

1 A PROSPECTIVE JUROR: Oh, I'm retired and I was
2 an officer manager.

3 THE COURT: All right. Was that here in Douglas
4 County?

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: What was the office you were in?

7 A PROSPECTIVE JUROR: It was for an author.

8 THE COURT: Okay. Is your -- are you married?

9 A PROSPECTIVE JUROR: Yes.

10 THE COURT: What does your spouse do?

11 A PROSPECTIVE JUROR: He's -- he retired from
12 owning a landscaping company.

13 THE COURT: Okay. And have you ever sat on a
14 jury before?

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Was that here in Douglas County?

17 A PROSPECTIVE JUROR: No.

18 THE COURT: Do you recall, about how long ago was
19 it?

20 A PROSPECTIVE JUROR: It was in the mid 80's.

21 THE COURT: Do you recall whether it was a civil
22 or a criminal case?

23 A PROSPECTIVE JUROR: Criminal.

24 THE COURT: And do you recall whether or not you

1 were able to reach a verdict?

2 A PROSPECTIVE JUROR: Yes, we did.

3 THE COURT: Okay. Any reason you cannot be a
4 fair and impartial juror in this case?

5 A PROSPECTIVE JUROR: No.

6 THE COURT: Thank you. Go ahead and have a seat.
7 Mr. Moss.

8 A PROSPECTIVE JUROR: My name is Byran Moss. I'm
9 a water system operator.

10 THE COURT: Thank you.

11 A PROSPECTIVE JUROR: I'm single.

12 THE COURT: Have you ever sat on a jury?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Any reason why you cannot be fair and
15 impartial?

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Thank you.

18 Mr. McCulloch.

19 A PROSPECTIVE JUROR: William McCulloch. I own a
20 trucking company. I'm married. Wife works for Douglas County
21 clerk's office.

22 THE COURT: Is that -- there are two clerks'
23 offices and I just want to be clear.

24 A PROSPECTIVE JUROR: The one over in --

1 THE COURT: Is it -- there's the county --

2 A PROSPECTIVE JUROR: -- yeah.

3 THE COURT: There's the county clerk's office and
4 then there's the court --

5 A PROSPECTIVE JUROR: County clerk's office.

6 THE COURT: Okay. So she does not work for the
7 court clerk's office.

8 A PROSPECTIVE JUROR: No, she does not.

9 THE COURT: Okay. Have you ever sat on a jury
10 before?

11 A PROSPECTIVE JUROR: No, I have not.

12 THE COURT: Any reason why you cannot be fair and
13 impartial?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Thank you, sir. Ms. Falcone.

16 A PROSPECTIVE JUROR: Sir, Lynn Falcone. I am
17 not married, although I've been with the same person for
18 18 years. I own the chocolate shop here in town and my
19 husband works with me, my "husband" works with me. Never sat
20 on a jury.

21 I think I could be fair and impartial, but -- and
22 I don't know, so forgive me, Your Honor, if this is the wrong
23 time to say it. But I think you are aware that there are
24 many, many issues with employees and during this time, I may

1 have to actually close the store and I wouldn't be able to --

2 THE COURT: Okay. So -- and thank you. It's
3 okay to voice those things.

4 A PROSPECTIVE JUROR: Okay.

5 THE COURT: So it sounds like you were trying to
6 say you might have a financial hardship in sitting. Did I --

7 A PROSPECTIVE JUROR: Well, I don't want to
8 exaggerate to the Court. I would -- I do have other employees
9 that I would not pay while we are closed and we are getting --
10 today is a holiday and it's Administrative Professionals Day
11 and I'm not there for that and Mother's Day is upon us and it
12 would significantly cut into the business.

13 THE COURT: So if you were asked to serve and the
14 trial went through next week at some point, would that fact
15 alone cause you to close the business?

16 A PROSPECTIVE JUROR: Not permanently.

17 THE COURT: Okay.

18 A PROSPECTIVE JUROR: And I may have a skeleton
19 crew there, but certainly the duties that I perform, which are
20 all the shipping, which we ship strawberries next week and --
21 well, as well as running certain equipment, that would not be
22 able to be done without me there.

23 THE COURT: So there are certain functions that
24 only you can do?

1 A PROSPECTIVE JUROR: Yes, sir. Unfortunately,
2 yes.

3 THE COURT: Okay. And then you mentioned
4 shipping strawberries. What -- you don't have other staff
5 that help with that? That's all on you?

6 A PROSPECTIVE JUROR: No, that's all on me.

7 THE COURT: Okay.

8 A PROSPECTIVE JUROR: And it's because we're
9 short-staffed because it's so difficult to hire right now.

10 THE COURT: Okay. And it sounds like -- you
11 mentioned strawberries. Is there something about the timing
12 of this case that is particularly hard on you or is it --

13 A PROSPECTIVE JUROR: Because it's right before
14 Mother's Day.

15 THE COURT: Okay.

16 A PROSPECTIVE JUROR: Mother's Day is a week --
17 two weeks from Sunday and so people -- and it's not just
18 strawberries, it's chocolates. It's the sort of things that
19 people want shipped to arrive --

20 THE COURT: All right.

21 A PROSPECTIVE JUROR: -- the week before Mother's
22 Day.

23 THE COURT: So the reason I'm asking these
24 things, sometimes it's not the best timing for somebody to sit

1 as a juror. If you're excused today, you might very well get
2 called for the next trial.

3 A PROSPECTIVE JUROR: Your Honor --

4 THE COURT: And so that's why we're -- you know,
5 weighing these things.

6 A PROSPECTIVE JUROR: Truthfully, I'm going to be
7 64 years old next month. I have wanted to sit on a jury my
8 entire life. I was so excited to get a summons and then
9 realized the timing of it. So I would be honored to be called
10 back.

11 THE COURT: Ms. Falcone, thank you.

12 A PROSPECTIVE JUROR: Thank you.

13 THE COURT: You know, there's times in any of
14 these trial settings where somebody says something that kind
15 of makes you feel proud to be here in Douglas County and
16 serving, and so thank you for offering that.

17 A PROSPECTIVE JUROR: Yes, Your Honor.

18 THE COURT: I'm going to ask counsel if they have
19 other questions for you that are along the lines of your
20 financial hardship.

21 A PROSPECTIVE JUROR: Okay.

22 THE COURT: And we'll see where that might lead.

23 Ms. Mazza, do you have any questions about the
24 financial hardship that Ms. Falcone has expressed?

1 MS. MAZZA: Ms. Falcone, was COVID an impact upon
2 your business over this last year?

3 A PROSPECTIVE JUROR: Oh, absolutely, yeah.

4 MS. MAZZA: Your Honor, I have no further
5 questions.

6 THE COURT: Okay. Ms. Ristenpart, any questions?

7 MS. RISTENPART: Just because of the timing,
8 Ms. Falcone, with Administrative Day and Mother's Day, would
9 another time serving on a jury be more opportunistic with your
10 business?

11 A PROSPECTIVE JUROR: Yes, and I would be most
12 proud to serve if you -- yes. I mean, I know I can't ask the
13 Court to say, but you know, the month of July would be
14 perfect.

15 THE COURT: We'll get you scheduled in.

16 A PROSPECTIVE JUROR: Thank you, Your Honor.

17 MS. RISTENPART: No further questions,
18 Your Honor.

19 THE COURT: All right. Does either counsel
20 object to having Ms. Falcone excused? Ms. Mazza.

21 MS. MAZZA: Your Honor, based upon the financial
22 impact and the business impact, the State has no objection to
23 excusing Ms. Falcone.

24 THE COURT: Thank you. Ms. Ristenpart?

1 MS. RISTENPART: Your Honor, the same. Based
2 upon the timing, we have no objection.

3 A PROSPECTIVE JUROR: Thank you.

4 THE COURT: Ms. Falcone, thank you for being here
5 today. You are excused.

6 A PROSPECTIVE JUROR: Thank you, Your Honor.

7 THE COURT: Madam Clerk, when you get a chance,
8 go ahead and call somebody else at random.

9 THE CLERK: Ledene Johnson.

10 THE COURT: Ms. Johnson, before you have a seat,
11 have you been able to hear all the questions that the Court
12 has been asking?

13 A PROSPECTIVE JUROR: I have.

14 THE COURT: Okay. So before you have a seat, I
15 will let you go ahead and give your name and tell us a little
16 bit about what you do and if you're married and all the things
17 we've been talking about.

18 A PROSPECTIVE JUROR: The name is Ledene Johnson.
19 I'm retired. I retired from IBM after 33 years. My husband
20 is retired also. He worked as a division leader for Lawrence
21 Livermore Labs. What's the next one?

22 THE COURT: Have you been on a jury before?

23 A PROSPECTIVE JUROR: I have not.

24 THE COURT: Any reason you cannot be a fair and

1 impartial juror in this case?

2 A PROSPECTIVE JUROR: No reason.

3 THE COURT: Thank you. Go ahead and have a seat.
4 Mr. Albonico.

5 A PROSPECTIVE JUROR: My name is Robert Albonico.
6 I'm retired. I was a certified public accountant. I'm
7 married. My wife works in retail, never been on a jury, and I
8 can be impartial.

9 THE COURT: Thank you, sir. Go ahead and have a
10 seat. Ms. Falcke.

11 A PROSPECTIVE JUROR: My name is Jane Falcke.
12 I'm an office manager for my husband's construction -- general
13 construction business and I've never been on a jury before
14 and --

15 THE COURT: Any reason --

16 A PROSPECTIVE JUROR: I'm not sure I can be
17 impartial, Your Honor.

18 THE COURT: You aren't sure or you are sure?

19 A PROSPECTIVE JUROR: I'm not sure.

20 THE COURT: Not sure.

21 A PROSPECTIVE JUROR: Yeah.

22 THE COURT: Just give me a little sense of why
23 that is. Is it the nature of the case?

24 A PROSPECTIVE JUROR: Yes.

1 THE COURT: Or something else?

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: Okay. And earlier -- I'm just going
4 to check on your knee. How are you doing?

5 A PROSPECTIVE JUROR: Oh, I'm stretching it and
6 popping it.

7 THE COURT: Okay.

8 A PROSPECTIVE JUROR: So --

9 THE COURT: All right. Ms. Falcke, go ahead and
10 have a seat. Thank you.

11 A PROSPECTIVE JUROR: Thank you.

12 THE COURT: Mr. Diggan.

13 A PROSPECTIVE JUROR: My name is Glenn Diggan.
14 I'm a heavy equipment operator for California state parks. My
15 wife works from home. She's a workman's comp claim processor.
16 I've never served on a jury before.

17 I'm -- I really don't know if I can be impartial
18 and I had some things happen when I was young that this case
19 could bring up and I don't know if I could be impartial. I
20 doubt -- I highly doubt it. I have some very strong feelings.

21 THE COURT: Okay. Again, thank you for sharing.
22 Again, it's not always pleasant to share, but we need you to
23 share and I thank you for doing that. Most likely, there will
24 be some follow-up questions with you in a bit.

1 Mr. Johnson.

2 A PROSPECTIVE JUROR: Clayton Johnson, retired
3 U.S. Air Force software engineer, a retired State of Nevada
4 software engineer. Yes, I -- well, two military general court
5 marshals. I guess it would both be considered criminal. One
6 was for adultery and the other was a case very similar to
7 this.

8 THE COURT: Okay.

9 A PROSPECTIVE JUROR: And I have four daughters
10 at home, so it -- I don't know if that would affect me or not.

11 THE COURT: All right. Are you married?

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: What does your spouse do?

14 A PROSPECTIVE JUROR: She stays at home.

15 THE COURT: Okay. Other than the concerns you
16 just mentioned, any other reason why you could not be a fair
17 and impartial juror?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: And the court marshals, were those --
20 did they have juries or did the --

21 A PROSPECTIVE JUROR: Yes, panels.

22 THE COURT: Okay. Do you recall whether verdicts
23 were reached, just yes or no?

24 A PROSPECTIVE JUROR: Yes, both guilty.

1 THE COURT: Okay. Thank you, sir. Go ahead and
2 have a seat.

3 A PROSPECTIVE JUROR: My name is Tatianna Petri.
4 I'm single, full-time student, work at Carson Valley Vet and
5 Dr. Park's dental office.

6 THE COURT: All right.

7 A PROSPECTIVE JUROR: I don't remember the other
8 questions.

9 THE COURT: Yes. Have you ever served on a jury
10 before?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Any reason you cannot be fair and
13 impartial?

14 A PROSPECTIVE JUROR: I went to Pau Wa Lu middle
15 school and Douglas high school.

16 THE COURT: Okay.

17 A PROSPECTIVE JUROR: So I'm very familiar with
18 the situation.

19 THE COURT: That is enough for now. Thank you.
20 I appreciate you letting us know that and we'll probably have
21 some follow-up questions with you in a bit.

22 Why I've interrupted some folks like Ms. Petri,
23 and I don't do that rudely, but sometimes it's more pleasant
24 to have those conversations in a more private setting and we

1 will have that availability here in a bit as we go.

2 A PROSPECTIVE JUROR: (Nodded head.)

3 THE COURT: All right. So go ahead, Ms. Spates.

4 A PROSPECTIVE JUROR: Sandra Spates. I'm a
5 homemaker. My husband's a retired sheriff's detective and I
6 don't think I can be partial.

7 THE COURT: Okay. Let me hit one other question
8 first. Have you ever served on a jury?

9 A PROSPECTIVE JUROR: No.

10 THE COURT: And as far as why you don't think you
11 can be impartial, again, is it the nature of the case?

12 A PROSPECTIVE JUROR: (Nodded head.)

13 THE COURT: Or something else?

14 A PROSPECTIVE JUROR: It's the nature of the
15 case.

16 THE COURT: Okay. Thank you for sharing that.

17 A PROSPECTIVE JUROR: Um-hum.

18 THE COURT: All right. Mr. Coons.

19 A PROSPECTIVE JUROR: Patrick Coons. I am
20 retired. Did a few things, owned Chuck Norris karate school
21 as a kid. I ended up as a general manager with AT&T. I'm
22 married. My wife's a manager for the LCB and I've never been
23 on a jury. And I believe I can be impartial.

24 THE COURT: Okay. Thank you, sir.

1 Sir.

2 A PROSPECTIVE JUROR: Alan Peters, electrical
3 engineer. I'm married to a home healthcare worker. I have
4 never been on a jury and as the father of an 18-year-old
5 daughter, she's actually friends with your daughter, I think
6 child molestation is despicable.

7 THE COURT: All right. So do you believe that
8 might impact your ability to be fair in the case?

9 A PROSPECTIVE JUROR: Yes, I do.

10 THE COURT: All right. Again, thank you for
11 sharing. They'll probably be some follow-up questions and
12 we'll go down the road.

13 Ms. Johnson.

14 A PROSPECTIVE JUROR: Jacqueline Johnson. I'm
15 retired. I spent the last ten years of my working career as a
16 laboratory technologist at Carson Valley Medical Center. My
17 husband is also retired. He was the utility manager at South
18 Tahoe Public Utility. I have never served on a jury, but I
19 believe I could be impartial.

20 THE COURT: Okay. Thank you.

21 A PROSPECTIVE JUROR: My name is Josef Gmuender.
22 I'm the vice president of AMC Precision Machine, Incorporated.
23 I'm single, never served on a jury.

24 THE COURT: Any reason you cannot be a fair and

1 impartial juror?

2 A PROSPECTIVE JUROR: Due to the nature of the
3 case, I have a hard time being, I think, impartial.

4 THE COURT: Okay. All right. Thank you. So of
5 the 24 that are seated, you heard Ms. Falcone a few moments
6 ago, talking about the financial hardship and the bad timing
7 for her and her business and she was excused.

8 So with this question, again, I'm talking to the
9 24 folks who have been seated here in front of me. Is there
10 anybody or any of you that believe you would suffer undue
11 hardship or extreme inconvenience in serving.

12 And before you answer that, I want you to
13 emphasize -- I'm reading straight from the statute, it's not
14 just hardship, it's undue hardship and it's not just
15 inconvenience, it's extreme inconvenience.

16 It is inconvenient to be on a jury. There's
17 little doubt about that. But we want -- I would excuse jurors
18 who would suffer an extreme inconvenience or an undue hardship
19 such as Ms. Falcone expressed.

20 Does that apply to any of the 24?

21 A PROSPECTIVE JUROR: Yes, Your Honor.

22 THE COURT: All right. Sir, go ahead and tell us
23 what your circumstance --

24 A PROSPECTIVE JUROR: My trucking company, I

1 contracted with DOD, hauling pharmaceuticals, going back to
2 sale in Virginia and then my returns loads is dedicated for
3 Renown Health Systems in Reno. I'm the Medicaid contracts,
4 because of the security clearances, there is no replacement.
5 I'm just a little one-horse operation.

6 I'm scheduled to load up tomorrow on a federal
7 DOD load. I have no way of getting out of it from that load.
8 So, yes, if I get tied up with this, my business will suffer.

9 THE COURT: So if you're here tomorrow in court,
10 what does that mean?

11 A PROSPECTIVE JUROR: I cannot show up for it.

12 THE COURT: Well, okay, but what would happen to
13 the shipment that needs --

14 A PROSPECTIVE JUROR: The shipment would not be
15 made. DOD could come back on me for not making the shipment.

16 THE COURT: Okay.

17 A PROSPECTIVE JUROR: I run it every two weeks
18 like clockwork.

19 THE COURT: All right. And no substitutes?

20 A PROSPECTIVE JUROR: No substitutes.

21 THE COURT: All right. How often, in a given
22 week, does that circumstance apply to you? Is it just once a
23 week? It once a month? Is it every day?

24 A PROSPECTIVE JUROR: I have dedicated, like I

1 say, picking up tomorrow. I have a set dedicated every two
2 weeks like clockwork for them, and then I return the medical
3 supplies for Renown, coming back home in Sparks.

4 THE COURT: Okay.

5 A PROSPECTIVE JUROR: But because of the security
6 clearance with the DOD, there is no easy replacement for me.
7 They cannot just put it onto a truckload or give it to XYZ
8 Company.

9 THE COURT: Okay. If it's not shipped tomorrow,
10 can it be shipped at a later time?

11 A PROSPECTIVE JUROR: Not under my contract.

12 THE COURT: Yeah. All right. So --

13 A PROSPECTIVE JUROR: And I end up physically
14 paying for contract, for the loss of the shipment.

15 THE COURT: All right. Mr. McCulloch. Thank you
16 for sharing that. There might be further questions about that
17 from counsel. Anybody else? Yes, go ahead, sir. Mr. -- no,
18 Mr. Gmuender.

19 A PROSPECTIVE JUROR: So I'm currently working on
20 some mission critical infrastructure, machining some parts for
21 L-3 Communications, a federal contractor. It's basically one
22 of the biggest contracts our company's gotten and it's due in
23 a couple weeks.

24 I'm working 80 hours a week, trying to get this

1 machine built. So hopefully it wouldn't be any more delay so
2 that we might lose that bid next time around, so an economic
3 hardship.

4 THE COURT: So is it a situation where the
5 contract cannot be fulfilled in your absence?

6 A PROSPECTIVE JUROR: Correct. Yeah, I'm the
7 only one who can program the machines.

8 THE COURT: Okay. Thank you again. There might
9 be some more questions in a bit.

10 Anybody else?

11 A PROSPECTIVE JUROR: Just how long, Your Honor,
12 do you think this will go on?

13 THE COURT: As I stated earlier, we can't really
14 predict how long these trials will go. It is my thought,
15 though, that it would be done sometime next week. It'll go
16 into next week and finish sometime next week.

17 A PROSPECTIVE JUROR: Okay, because I'm moving
18 the week after.

19 THE COURT: Okay. Go ahead, sir. You believe --
20 again, the question is whether you have or would suffer an
21 undue hardship.

22 A PROSPECTIVE JUROR: No, sir.

23 THE COURT: Or extreme inconvenience? Okay.
24 Anybody else? Yes, sir.

1 A PROSPECTIVE JUROR: So I just had someone
2 retire at my work and someone else quit, and the only other
3 person that does the things I do is currently the person I'm
4 training.

5 So being gone for an extended period would make
6 things a lot harder for him, for me, and would probably
7 require me to make up a lot of this time.

8 THE COURT: Okay. All right. Again, we'll
9 probably have more questions about that. Anybody else?

10 Yes, sir, Mr. Holland.

11 A PROSPECTIVE JUROR: Yeah, we're currently
12 behind at work and with what we have in front of us, I'm the
13 only one that we have to do with what needs to get wrapped up.

14 THE COURT: Okay. So if you are called for jury
15 duty and are asked to serve, what would that mean to you and
16 your family and your business?

17 A PROSPECTIVE JUROR: Financially, I couldn't do
18 it. I mean, I can't just take a week off without pay.

19 THE COURT: Okay. All right. Thank you. And
20 are you self-employed?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: Who is your employer?

23 A PROSPECTIVE JUROR: BDR Construction.

24 THE COURT: Okay. All right. Thank you, sir.

1 Thank you for the information.

2 Anybody else?

3 THE PROSPECTIVE JURY PANEL: (No hands raised.)

4 THE COURT: All right. I don't see any other
5 hands.

6 All right. The next question regards any
7 knowledge that any of you know or have for either myself or
8 either of the attorneys or either of their assistants that
9 have appeared here with them today.

10 I think I will ask counsel just to, again,
11 introduce yourselves and your assistants, and again, my name
12 is Tom Gregory. I'll ask if any of you ultimately were trying
13 to find out if there's a relationship with either of us that
14 would cause you to be a fair, an unfair or impartial juror in
15 the case.

16 And so, Ms. Mazza, if you could, again, introduce
17 yourself and your assistants.

18 MS. MAZZA: So, again, my name is Chelsea Mazza.
19 This is William Hellman and Brian Putzer. We all work for the
20 Douglas County District Attorney's office.

21 THE COURT: All right. Ms. Ristenpart, if you
22 could reintroduce as well.

23 MS. RISTENPART: Good morning. I'll take my mask
24 off, so you can all see me. Theresa Ristenpart and my

1 assistants, Natashja Atherton and Emily Gaboy.

2 THE COURT: Okay. So the question would be
3 whether -- first, let me ask: Do any of you know Ms. Mazza or
4 her support staff?

5 THE PROSPECTIVE JURY PANEL: (No hands raised.)

6 THE COURT: How about Ms. Ristenpart?

7 THE PROSPECTIVE JURY PANEL: (No hands raised.)

8 THE COURT: And how about myself?

9 THE PROSPECTIVE JURY PANEL: (No hands raised.)

10 THE COURT: Okay. Next, the clerk is going to
11 present to you a list of potential witnesses in the case.
12 These are folks that may or may not get called as witnesses
13 and we'll go through a similar exercise. We'll find out if
14 you know any of those folks.

15 What's going to happen is the clerk has an easel
16 here that we're going to set up that has all the names so that
17 you can see them. In addition to that, we are going to read
18 the names so that you can hear them.

19 Madam Clerk, I'm going to ask that you do so
20 slowly, and then jurors, I'll be asking you if you know any of
21 those folks. We'll give the clerk a moment to set up.

22 A PROSPECTIVE JUROR: Your Honor?

23 THE COURT: Yes, sir.

24 A PROSPECTIVE JUROR: May I sneak off to the

1 restroom?

2 THE COURT: What's that?

3 A PROSPECTIVE JUROR: May I sneak off to the
4 restroom? I can wait. I can wait a few minutes.

5 THE COURT: So, no, this is -- and it's fine. We
6 have been going here for about an hour and a half, and so now
7 might be a good time to go ahead and take a recess anyway. It
8 will give the clerk a chance to set up. So we will recess
9 here.

10 I want to keep it to -- well, we probably better
11 make it ten minutes. But I'd ask that everybody return here
12 promptly in ten minutes. You can go out outside and come back
13 in. There are restrooms back here -- but hold on.

14 Go ahead and have a seat, please.

15 There is an admonishment that I'm required to
16 give you. I'm not necessarily required to give it at this
17 stage, but I give it anyways. And if you end up being a juror
18 in this case, you're going to hear this admonishment often.

19 You are ordered to not converse amongst
20 yourselves or with anyone else on any subject connected with
21 the trial, either by phone, email, text, internet, or any
22 other means, to read, watch or listen to any report of or
23 commentary on the trial or any person connected with the trial
24 by any medium of information, including, without limitation to

1 newspapers, television, and radio, to form or express any
2 opinion on any subject connected with the trial until the
3 cause is finally submitted to you, to do any research, such as
4 consulting dictionaries, using the internet, or using other
5 reference materials, or to make any investigation, test the
6 theory of the case, recreate any aspect of the case, or in any
7 other way investigate or learn about the case on your own.

8 We'll be in recess for ten minutes, so be back in
9 your seats by 11:40.

10 (Recess.)

11 THE COURT: All right. We're going to go back
12 into session and this is Case Number 18-CR-181. Show the
13 appearance of both counsel as well as the Defendant. All of
14 our prospective jurors are back, but one.

15 Thank you, folks, who are here for being
16 punctual. We'll go ahead and use our time wisely here while
17 we're waiting for the remaining juror to appear.

18 It is my intention here in a bit to take a lunch
19 break. What will happen is we will go through these witnesses
20 and have a discussion about those witnesses with the 24 that
21 are seated to see if you know any of those folks. And then
22 once we get through that, most likely we will be at a time
23 where we will take a lunch break.

24 It is my intention to have some of the folks here

1 who have indicated they might have some difficulty
2 participating in this type of case, I'm going to have you
3 folks come back a little bit sooner than the rest of the
4 folks, and that is so we can have some private conversations
5 with you and not take up everybody else's time.

6 So I'll make that decision when we do break and
7 I'll let you know when to come back. Most of you will be --
8 most of -- I'm going to give about an hour and a half for
9 lunch and then those of you who we're going to have come back
10 and talk to you privately for a bit, we'll come back in about
11 an hour, just to give you an idea.

12 Again, we are waiting on one juror. And,
13 counsel, if the juror does not show up here in a moment, I'm
14 inclined to excuse that juror and call somebody else. I do
15 not want to keep everybody waiting. Oh, he's here.

16 All right. Mr. Diggan, come on up and have a
17 seat, please. Okay. Madam Clerk, again, we're going to go
18 through the witnesses. It's important that everybody who's
19 here, not just the 24, hear the witnesses and also you're
20 going to be able to observe them.

21 Madam Clerk, please go through the list slowly
22 and pronounce and broadcast loudly.

23 THE CLERK: Can everybody see it okay?

24 THE COURT: We're talking about the -- it's

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ALEXANDER JENKINS,

Appellant.

v.

STATE OF NEVADA,

Respondent.

Case No. 83465

APPELLANT'S APPENDIX
VOLUME IV

**APPEAL FROM JUDGMENT OF CONVICTION AND
SENTENCING**

NINTH JUDICIAL DISTRICT
STATE OF NEVADA

THE HONORABLE THOMAS W. GREGORY, PRESIDING

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No. 83465

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1 important that the 24 folks in particular be able to see the
2 list and hear it, but I'm hoping all -- everybody who's here
3 can at least hear it. Go ahead.

4 THE CLERK: Okay. Abigail Kay. Alyssa Samantha
5 Jenkins. Ashley Gozney. Bella Gerozzi. Blake D. Carmichael.
6 Brian Fitzgerald. Christopher Field. Corey Klein. Dan
7 Hannah. Deputy Hicks. Destiny Shole. Detective Koontz.
8 Detective Love. Erica Janecki. Gracie Woodbridge. Gage
9 Marcyes. Georgiana Drees-Wasmer. Investigator Nadine
10 Chrzanowski. Jennifer Marie Calabrese. John S. Pacult.

11 A PROSPECTIVE JUROR: I know someone. I knew
12 Jennifer.

13 THE COURT: Hold on.

14 A PROSPECTIVE JUROR: Oh, okay.

15 THE COURT: Let us get through the list.

16 A PROSPECTIVE JUROR: Okay. I'm sorry.

17 THE COURT: And then we're going to ask some
18 questions. Thank you.

19 A PROSPECTIVE JUROR: Okay.

20 THE CLERK: Joseph Wayne Gerdner. Kaylyn Keith.
21 Kimberly Copeland. Curt Ahart. Maria Cowley-Foster. Nick
22 Lonnegren. Scott Doerr. Scott Morgan. Sergeant Brian
23 Hubkey. Sergeant Justin Williams. Sergeant Robert Duffy.
24 Cheryl Christian. Steve Noble. Tamara Woodbridge.

1 Undersheriff Ron Elges and Vegas Salman.

2 THE COURT: All right. Thank you. Madam Clerk,
3 you can go ahead and remove the easel. Starting with our
4 prospective 24 jurors, is there any of you who are not able to
5 see and/or hear all of the witnesses?

6 THE PROSPECTIVE JURY PANEL: (No hands raised.)

7 THE COURT: Okay. I don't see any hands.

8 And now we will turn to finding out if you know
9 any of those witnesses, and I'm just going to ask -- we'll
10 start in the back row and work our way forward as we've done
11 before.

12 So, Ms. Sanguinetti, we'll just start with you.
13 Did -- do you know any of those witnesses?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: All right. Ms. Aiazzi?

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Mr. Holland?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Mr. Gibson.

20 A PROSPECTIVE JUROR: Yeah.

21 THE COURT: Okay. Mr. Gibson, who is it that you
22 know?

23 A PROSPECTIVE JUROR: Gage Marcyes.

24 THE COURT: How is it that you know Mr. Marcyes?

1 THE WITNESS: Father of a friend.
2 THE COURT: Do you do anything socially with
3 Mr. Marcyes?
4 A PROSPECTIVE JUROR: Not in years.
5 THE COURT: When was the last time you saw
6 Mr. Marcyes?
7 A PROSPECTIVE JUROR: Oh, probably when I was in
8 school, around ten years ago.
9 THE COURT: And it was just a social
10 relationship?
11 A PROSPECTIVE JUROR: (Nodded head.)
12 THE COURT: No work relationship?
13 A PROSPECTIVE JUROR: Nope.
14 THE COURT: Is there any reason why -- would you
15 attribute -- if Mr. Marcyes were to testify in this case,
16 would you give stronger weight to his testimony just because
17 you know him or maybe give less weight to his testimony just
18 because you know him and for no other reason?
19 A PROSPECTIVE JUROR: Possibly.
20 THE COURT: Okay. So do you think you could
21 listen to the testimony and give it its fair weight without
22 consideration of your past relationship or knowledge of him?
23 A PROSPECTIVE JUROR: Yes.
24 THE COURT: All right.

1 Ms. Kane?
2 A PROSPECTIVE JUROR: No.
3 THE COURT: Okay.
4 Ms. Wose?
5 A PROSPECTIVE JUROR: (Shakes head.)
6 THE COURT: And please answer out loud.
7 A PROSPECTIVE JUROR: No.
8 THE COURT: Thank you.
9 Ms. Teruya?
10 A PROSPECTIVE JUROR: Teruya.
11 THE COURT: I'm sorry. Do you know any of the
12 witnesses?
13 A PROSPECTIVE JUROR: No.
14 THE COURT: Thank you.
15 Mr. Kingman?
16 A PROSPECTIVE JUROR: None.
17 THE COURT: Thank you.
18 Ms. Tobey.
19 A PROSPECTIVE JUROR: I've talked to several of
20 the police officers, the sheriffs.
21 THE COURT: Okay. So which of the --
22 A PROSPECTIVE JUROR: I think Love and -- but
23 I -- most of them, we know by first names. A lot of those
24 people, I don't know if I -- I mean, you're saying at the

1 community center.

2 I used to work out there every day, so I met a
3 lot of people. But I don't know if the last name is what
4 their first name is if that makes sense.

5 THE COURT: All right. So of any of the
6 witnesses that have been read and displayed to you, are you
7 more than an acquaintance with any of those folks?

8 A PROSPECTIVE JUROR: Well, I went there every
9 day for a few years, yeah, so I knew them until COVID.

10 THE COURT: So were you more than an acquaintance
11 with them?

12 A PROSPECTIVE JUROR: Probably more of an
13 acquaintance.

14 THE COURT: Just acquaintances?

15 A PROSPECTIVE JUROR: We talked about stuff all
16 the time, but no -- I don't know if they're the exact person,
17 that's what I'm saying.

18 THE COURT: Okay.

19 A PROSPECTIVE JUROR: Is there's lots of people.

20 THE COURT: Okay. What names in particular did
21 you recognize?

22 A PROSPECTIVE JUROR: Well, several of the police
23 officers, I think, because they played basketball there and
24 we've met them out in the -- like when we eat out at places,

1 we've met and we talked and stuff like that.

2 THE COURT: Would you like to see the list again?

3 A PROSPECTIVE JUROR: I don't know them by --
4 some of them have first names. I know somebody by their first
5 name.

6 THE COURT: Okay. So if we were in the middle of
7 the trial and one of those persons testified that you know as
8 an acquaintance --

9 A PROSPECTIVE JUROR: Would I take them more
10 seriously? Maybe.

11 THE COURT: Okay. Would you be able to put aside
12 your relationship with them and decide the case as presented
13 to you in the courtroom?

14 A PROSPECTIVE JUROR: I don't know.

15 THE COURT: Okay. So I'm going to have the --
16 we're going to have to show the list again and I'm going to
17 have you identify which of the officers you believe that you
18 have --

19 A PROSPECTIVE JUROR: Like I said, I've met a lot
20 of them like in public places. I don't know --

21 THE COURT: I thank you for that. I'm trying to
22 figure out which ones. Who is it that you think you know?

23 A PROSPECTIVE JUROR: You want me to do that
24 later?

1 THE COURT: What's that?

2 A PROSPECTIVE JUROR: Do you want me to do that

3 later?

4 THE COURT: No, right now.

5 A PROSPECTIVE JUROR: I don't know.

6 THE COURT: Would you like to see the list again?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Okay. So you're not identifying

9 anybody in particular that -- from that list?

10 A PROSPECTIVE JUROR: No, because I know them by

11 their first names.

12 THE COURT: Okay. Which first names caused you

13 an issue?

14 A PROSPECTIVE JUROR: I don't remember. But

15 I've seen -- I mean, I work out there a lot, so I used to know

16 a lot of people by their first names. And I don't remember

17 names specifically, but -- does that make sense at all?

18 THE COURT: Well, what I'm trying to do,

19 Ms. Tobey, is to find out, for instance, if you were related

20 to one of the witnesses.

21 A PROSPECTIVE JUROR: No, no.

22 THE COURT: Or they were your boss.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Or you -- you know, you see them

1 every week and they come over to your house and you do things
2 together.

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Those are the types of things that
5 we're trying to identify. This is still a fairly small
6 community. You're going to have a lot of acquaintances and
7 people you see and people you know. I'm not asking you to
8 identify everybody you know in our community.

9 What I'm asking is: Do you know any of these
10 witnesses more than just being an acquaintance?

11 A PROSPECTIVE JUROR: Okay.

12 THE COURT: But what is your response to that?
13 Do you know any of them more than just an acquaintance?

14 A PROSPECTIVE JUROR: Let's just say I don't
15 right at this point. I don't know.

16 THE COURT: Okay. All right. Thank you.

17 Ms. Osmer.

18 A PROSPECTIVE JUROR: Yes, I knew Jennifer
19 Calabrese.

20 THE COURT: Okay. How is it that you knew
21 Ms. Calabrese?

22 A PROSPECTIVE JUROR: She's related to one of my
23 friends.

24 THE COURT: Related to one of your friends. When

1 was the last time you saw Ms. Calabrese?

2 A PROSPECTIVE JUROR: Probably two or three years
3 ago with -- you know, with COVID and all that.

4 THE COURT: All right. Prior to COVID and all of
5 that, how often would you see her?

6 A PROSPECTIVE JUROR: Probably at birthday
7 parties for kids, so not very often. Maybe once a year.

8 THE COURT: All right. Thank you. Any others?

9 A PROSPECTIVE JUROR: No.

10 THE COURT: Ms. Fletcher?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Mr. Moss?

13 A PROSPECTIVE JUROR: Yes, Undersheriff Ron
14 Elges.

15 THE COURT: And how is it that you know
16 Undersheriff Elges.

17 A PROSPECTIVE JUROR: We went to high school
18 together.

19 THE COURT: Do you do things with him socially?

20 A PROSPECTIVE JUROR: No. I actually haven't
21 seen him in -- met face to face with him for -- like for
22 almost 20 years.

23 THE COURT: Okay. Thank you. Any others?

24 A PROSPECTIVE JUROR: No, sir.

1 THE COURT: Mr. McCulloch?

2 A PROSPECTIVE JUROR: No, sir.

3 THE COURT: Ms. Johnson?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Mr. Albonico?

6 A PROSPECTIVE JUROR: No, sir.

7 THE COURT: Ms. Falcke?

8 A PROSPECTIVE JUROR: Not really. Scott Morgan
9 if he's the one that has the rec department.

10 THE COURT: Okay. So you know a Scott Morgan and
11 what does the Scott Morgan that -- the Scott Morgan you know
12 runs a rec department?

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. How well do you know
15 Mr. Morgan?

16 A PROSPECTIVE JUROR: Not well. He worked with
17 my husband a lot and we would see him at little get-togethers.

18 THE COURT: How long ago was that?

19 A PROSPECTIVE JUROR: Probably the same thing,
20 before COVID.

21 THE COURT: Okay. Prior to COVID, did -- would
22 you do -- be at social events and --

23 A PROSPECTIVE JUROR: No -- well, they were
24 big -- for instance, candy dance or a Christmas meeting here

1 or --

2 THE COURT: When you said they worked together,
3 did your husband work at the rec center?

4 A PROSPECTIVE JUROR: He did the ski program for
5 a few years and then they kind of worked together to get the
6 senior center together.

7 THE COURT: Okay. All right. Thank you.
8 Mr. Diggan?

9 A PROSPECTIVE JUROR: No, sir.

10 THE COURT: Mr. Johnson?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Ms. Petri?

13 A PROSPECTIVE JUROR: I know Dan Hannah and Scott
14 Doerr.

15 THE COURT: How do you know Mr. Doerr?

16 A PROSPECTIVE JUROR: His wife was my teacher and
17 we still talk currently.

18 THE COURT: Have you talked to him recently?

19 A PROSPECTIVE JUROR: Not Scott, but I do talk to
20 his wife, Lorna.

21 THE COURT: Okay. And what about Mr. Hannah?

22 A PROSPECTIVE JUROR: He was -- he did
23 volleyball, taught volleyball.

24 THE COURT: Did you play volleyball?

1 A PROSPECTIVE JUROR: Yes.
2 THE COURT: Okay.
3 Ms. Spates?
4 A PROSPECTIVE JUROR: No.
5 THE COURT: Mr. Coons?
6 A PROSPECTIVE JUROR: No, sir.
7 THE COURT: Mr. Peters?
8 A PROSPECTIVE JUROR: No.
9 THE COURT: Johnson?
10 A PROSPECTIVE JUROR: No, sir.
11 THE COURT: And Mr. Gmuender?
12 A PROSPECTIVE JUROR: No, sir.
13 THE COURT: Okay. I'm going to ask counsel --
14 I'm going to give counsel an opportunity to ask questions
15 about your knowledge of the witnesses, those who you've
16 disclosed that.
17 And so, Ms. Mazza, I'd ask that you keep your
18 questioning right now to that subject matter. Once we get
19 through that subject matter, we will break for lunch and, of
20 course, we'll give Ms. Ristenpart a chance to ask questions,
21 too, before we break for lunch.
22 Ms. Mazza.
23 MS. MAZZA: I'll wait till the horn is gone.
24 But, Mr. Gibson, you indicated you know Gage

1 Marcyes?

2 A PROSPECTIVE JUROR: Yes.

3 MS. MAZZA: The Judge went over a little bit with
4 you if you think you would give his testimony, if he were to
5 testify, any weight in difference to another witness.

6 Do you think you would listen to him more or less
7 because knowing him?

8 A PROSPECTIVE JUROR: At that point, more likely
9 than someone I don't know.

10 MS. MAZZA: Okay. And if the Judge were to give
11 you instructions of how to give someone's credibility or
12 testimony an analysis, would you be able to follow the law?

13 A PROSPECTIVE JUROR: Yes.

14 MS. MAZZA: So with that said, that you are to
15 really take what they say in court and give it weight based
16 upon what they say in court, would you be able to do that
17 rather than, I'm going to believe everything he says because I
18 know him?

19 A PROSPECTIVE JUROR: I think, yes.

20 MS. MAZZA: You think so?

21 A PROSPECTIVE JUROR: (Nodded head.)

22 MS. MAZZA: Would you be able to listen to him
23 the same way as you would be able to listen to any other
24 witnesses?

1 A PROSPECTIVE JUROR: Not perfectly.
2 MS. MAZZA: And why is that?
3 A PROSPECTIVE JUROR: It's someone that I grew up
4 with to some extent, the kids. I was friends with his kids.
5 MS. MAZZA: And did you spend a lot of time with
6 him?
7 A PROSPECTIVE JUROR: Not tons, but enough to say
8 that I used to know him.
9 MS. MAZZA: Okay. So the bottom line question
10 is: Would you give him more credibility than what you would
11 see from him in court because you know him?
12 A PROSPECTIVE JUROR: Possibly.
13 MS. MAZZA: Your Honor, the State would move to
14 excuse Mr. Gibson for cause.
15 THE COURT: Ms. Ristenpart, any objection?
16 MS. RISTENPART: Your Honor, I'll make it little
17 more simple. Do you have any like knowledge from your past
18 relationship, or having known Mr. Marcyes, do you have any
19 opinion about him?
20 A PROSPECTIVE JUROR: He was a decent person, my
21 friend's parent. I got along with him fine.
22 MS. RISTENPART: And the last time you talked to
23 him was years ago?
24 A PROSPECTIVE JUROR: Yeah.

1 MS. RISTENPART: So you don't have any -- you're
2 not going to see him next weekend?

3 A PROSPECTIVE JUROR: No.

4 MS. RISTENPART: And like, hey, I saw you at
5 trial?

6 A PROSPECTIVE JUROR: No.

7 MS. RISTENPART: Okay. And if the Judge told you
8 that all witnesses you're to judge individually based upon
9 their credibility and what they're telling you in court, you
10 would follow that instruction?

11 A PROSPECTIVE JUROR: I would try, yes.

12 MS. RISTENPART: Your Honor, no challenge for
13 cause. We're objecting to that.

14 THE COURT: Okay. Ms. Mazza, you may ask further
15 questions, if you would like.

16 MS. MAZZA: Mr. Gibson, when you say possibly
17 that you would give his testimony more weight, is that you
18 won't follow the instruction that you give his testimony the
19 same weight as everyone else or you will follow the
20 instruction?

21 A PROSPECTIVE JUROR: I would try to follow the
22 instruction.

23 MS. MAZZA: And you -- so you would try, not
24 necessarily that you would?

1 A PROSPECTIVE JUROR: Yes.

2 MS. MAZZA: Your Honor, the State still
3 believes -- would be making the challenge.

4 THE COURT: All right. The request to challenge
5 Mr. Gibson for cause is granted based upon his answers
6 regarding Mr. Marcyes.

7 Mr. Gibson, thank you for coming in today. You
8 are excused.

9 Madam Clerk, please call another name.

10 THE CLERK: Marty Stoner.

11 THE COURT: Mr. Stoner, before you have a seat
12 there, can you go ahead and give us your name, tell us what
13 you do for a living, and if you're married, what your spouse
14 does for a living.

15 A PROSPECTIVE JUROR: Marty Stoner. I'm retired,
16 Douglas County. My wife -- I am married. My wife is a
17 registered nurse, works down at Carson.

18 THE COURT: What did you do for Douglas County?

19 A PROSPECTIVE JUROR: Road department.

20 THE COURT: Have you ever served on a jury?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: Any reason why you cannot be fair and
23 impartial in this case?

24 A PROSPECTIVE JUROR: No.

1 THE COURT: Have you been able to hear all the
2 other questions that have been asked so far?

3 A PROSPECTIVE JUROR: Partial.

4 THE COURT: Okay. Were you able to hear the
5 names of the witnesses, the potential witnesses that might be
6 called in this case?

7 A PROSPECTIVE JUROR: The names that were on
8 the --

9 THE COURT: Correct.

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Did you recognize any of those names?

12 A PROSPECTIVE JUROR: Yes. In passing.

13 THE COURT: Okay. Any of them that you know more
14 than just in passing?

15 A PROSPECTIVE JUROR: Excuse me?

16 THE COURT: Well, do you know any of them? Do
17 you do anything socially with those folks?

18 A PROSPECTIVE JUROR: Not socially, just in my
19 job.

20 THE COURT: Okay. All right. How long ago did
21 you retire?

22 A PROSPECTIVE JUROR: About a year and a half
23 ago.

24 THE COURT: Which of the witnesses in particular

1 did you recognize the names for?

2 A PROSPECTIVE JUROR: Mr. Koontz.

3 THE COURT: Okay. Anybody else?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: All right. Thank you, sir. You can
6 go ahead and have a seat.

7 Ms. Mazza, you may continue.

8 MS. MAZZA: Mr. Stoner, I'll just go to you. You
9 said you know Mr. Koontz. Would that be the Junior or the
10 Senior?

11 A PROSPECTIVE JUROR: Senior.

12 MS. MAZZA: Okay. And so if it were the Junior
13 that is involved in this case, do you know him?

14 A PROSPECTIVE JUROR: I've seen him. I know who
15 he is, but I've never hung out with him or anything. I just
16 know who he is.

17 MS. MAZZA: Okay. Ms. Roberts-Tobey, the Court
18 was asking you about specifically which witnesses that you
19 know. I believe you couldn't articulate specifically which
20 one.

21 The knowledge that you do have, do you think that
22 is -- would impact your ability to listen to the witnesses in
23 this case and give Mr. Jenkins and the State a fair trial?

24 A PROSPECTIVE JUROR: Possibly.

1 MS. MAZZA: And can you explain why possibly?

2 A PROSPECTIVE JUROR: Because I -- I guess just
3 because I've met several of the police officers -- I mean, I
4 guess we call them sheriffs out here and talked to them. We
5 work out sometimes together. I don't know some of their last
6 names, so when you're doing last names and sometimes you just
7 talk to people all the time, so yeah, I probably would give
8 them more credence just like -- because they're officers.

9 MS. MAZZA: And so if an officer or an employee
10 of the rec center were to be on the stand, would you give them
11 more weight, their testimony, than any other witness?

12 A PROSPECTIVE JUROR: Probably.

13 MS. MAZZA: Your Honor, the State would challenge
14 Ms. Roberts-Tobey for cause.

15 THE COURT: Ms. Ristenpart, any questions or any
16 objection?

17 MS. RISTENPART: We agree to the challenge for
18 cause.

19 THE COURT: Okay. Ms. Tobey, you are excused for
20 cause. Thank you for coming in.

21 THE CLERK: Helene Rhodes.

22 THE COURT: Ms. Rhodes, before you have a seat,
23 go ahead and introduce yourself and tell us what you do for a
24 living.

1 A PROSPECTIVE JUROR: My name is Helene Rhodes
2 and I'm a subject director for Life Twist Community Clinic.
3 I'm married and my husband is retired. He was the mail
4 courier for Nevada Credit Union. I've never been on a jury
5 and I believe I could be impartial.

6 THE COURT: Thank you. Were you able to hear all
7 of the witnesses that are -- were called out?

8 A PROSPECTIVE JUROR: Yes, and I do know one
9 person. Just living here for a long time, I know the mother.

10 THE COURT: Who is it that you know, just the
11 name, please?

12 A PROSPECTIVE JUROR: Joe Gerdner.

13 THE COURT: Okay. And you said -- I think I
14 heard you say you know his mother?

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Do you know him personally?

17 A PROSPECTIVE JUROR: When he was a child.

18 THE COURT: Okay.

19 A PROSPECTIVE JUROR: So it's been long time.

20 THE COURT: It's been a long time.

21 A PROSPECTIVE JUROR: I just know him.

22 THE COURT: Okay. All right. Thank you. Any
23 other names you recognize?

24 A PROSPECTIVE JUROR: No.

1 THE COURT: Thank you.

2 Go ahead, Ms. Mazza.

3 MS. MAZZA: Ms. Rhodes, just to go back to you
4 and knowing Joe Gerdner, knowing him since he was a child, do
5 you think you could listen to his testimony and give it the
6 same weight as any other witness?

7 A PROSPECTIVE JUROR: Yes, I think I can.

8 MS. MAZZA: Ms. Petri, Petri.

9 A PROSPECTIVE JUROR: Petri.

10 MS. MAZZA: Petri. All right. So you indicated
11 you know two people. Mr. Doerr, based upon your relationship
12 with his teacher -- his wife as your teacher, do you believe
13 that you could listen to him and give his testimony the same
14 weight as anyone else?

15 A PROSPECTIVE JUROR: I've known them since
16 seventh grade and they've kind of -- like she's been like my
17 second mom, Ms. Doerr has, so I kind of -- I feel like I would
18 give him more credibility than anyone else because I know his
19 character and I know who he is.

20 MS. MAZZA: And -- but your relationship is with
21 his wife; is that correct?

22 A PROSPECTIVE JUROR: Correct. I do know him as
23 well, but I'm not close with him like I am with his wife.

24 THE COURT: Okay. And now without giving any

1 detail of how you know Dan Hannah or anything, do you think
2 you could listen to his testimony and give it the same weight
3 as any other witness?

4 A PROSPECTIVE JUROR: Yes.

5 MS. MAZZA: Your Honor, I have no further
6 questions for this one, and I believe I have no further
7 questions as far as anyone knowing any witnesses as well.

8 THE COURT: All right.

9 Ms. Ristenpart.

10 MS. RISTENPART: Thank you. Staying with you,
11 Ms. Petri, you just said that; right?

12 A PROSPECTIVE JUROR: Petri, yes.

13 MS. RISTENPART: Petri, thank you. Just because
14 of your longstanding relationship with the Doerr family, do
15 you think another case would be more appropriate for you?

16 A PROSPECTIVE JUROR: Yes, not a child molester
17 case and not something that I'm so close in, maybe not young
18 people in this case that went to the school. I'm lucky enough
19 not to have him as my coach in volleyball, so a different case
20 would definitely be better.

21 MS. RISTENPART: Okay. I understand. So you
22 can't be fair at all?

23 A PROSPECTIVE JUROR: No.

24 MS. RISTENPART: Challenge for cause, Your Honor.

1 THE COURT: All right. Ms. Mazza, any objection?
2 MS. MAZZA: No objection, Your Honor.
3 THE COURT: All right. Ms. Petri, thank you.
4 You are excused.
5 THE CLERK: Candace Supiran.
6 THE COURT: All right. Ms. Supiran, go ahead and
7 give us your name and tell us what you do for a living.
8 A PROSPECTIVE JUROR: I'm Candace Supiran. I'm a
9 bartender at Genoa Bar. I'm widowed. My husband was a
10 correctional officer. I have served on a jury 25 years ago in
11 California. It was a criminal case and we did reach a
12 verdict.
13 THE COURT: Thank you. Any reason why you cannot
14 be fair and impartial in this case?
15 A PROSPECTIVE JUROR: No.
16 THE COURT: Were you able to hear the reading of
17 the witnesses?
18 A PROSPECTIVE JUROR: Yes.
19 THE COURT: Did you recognize any of those folks?
20 A PROSPECTIVE JUROR: I recognize them from
21 coming to my work, like just impersonally, but I don't
22 socialize with them outside of that, other than helping them,
23 get them a drink.
24 THE COURT: Okay. And do you know either myself

1 or the attorneys or their staff?

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Okay. Thank you.

4 A PROSPECTIVE JUROR: You're welcome.

5 THE COURT: Go ahead and have a seat.

6 And, Ms. Ristenpart, you may continue with your
7 questions.

8 MS. RISTENPART: That was it, Your Honor, just
9 the topic of who they knew.

10 THE COURT: Do you have any follow-up questions
11 on that issue for Ms. Supiran?

12 MS. RISTENPART: I do not.

13 THE COURT: Okay. Ms. Mazza.

14 MS. MAZZA: No, Your Honor.

15 THE COURT: All right. So we will take a lunch
16 break here. I'm first going to identify some folks that we
17 will have come back earlier.

18 Counsel, if there are -- my thought here, again,
19 would be to utilize our time the best. We're going to have
20 some questioning that we'll need to do with some of you folks
21 outside of the presence of the rest of you.

22 So I'm probably going to give the larger group a
23 fairly lengthy lunch break so that when you come back, we will
24 have already processed through some of the folks that we need

1 to talk with individually.

2 Counsel, if there are specific jurors that you
3 believe, based on what you've heard so far, require
4 individualized questioning, I'd like to go ahead and have you
5 identify those folks now and see if it comports with my list.

6 Ms. Mazza, who do you think at this stage we
7 would need to talk with individually?

8 MS. MAZZA: Your Honor, I would suggest Glenn
9 Diggan. I would also suggest Sandra Spates. I would also
10 suggest Harold Holland -- Harold Holland, I apologize.

11 A PROSPECTIVE JUROR: Close enough.

12 MS. MAZZA: And I would also suggest Jane Falcke.

13 THE COURT: Okay. Ms. Ristenpart, how about you?

14 MS. RISTENPART: In addition to that list,
15 Your Honor, I'd also suggest Mr. Gmuender.

16 THE COURT: Mr. Dieter, correct me if I'm wrong,
17 I thought you suggested some cause for thinking this might not
18 be the right type of case for you.

19 Am I right in saying that or did I misunderstand?

20 A PROSPECTIVE JUROR: No, that is correct. I am
21 highly prejudiced against child molesters and any sex
22 offender.

23 THE COURT: Okay. So, counsel, I might also then
24 suggest we bring back Mr. Dieter.

1 Ms. Ristenpart, any issue with that?
2 MS. RISTENPART: No, of course not.
3 THE COURT: And Ms. Mazza?
4 MS. MAZZA: No, Your Honor.
5 THE COURT: Okay.
6 A PROSPECTIVE JUROR: Your Honor?
7 THE COURT: Yes, sir?
8 A PROSPECTIVE JUROR: May I be heard for a
9 second?
10 THE COURT: Yes, go ahead.
11 A PROSPECTIVE JUROR: I also have real issues
12 with it as I'm sitting here to be perfectly honest. I -- no
13 way I can be impartial.
14 THE COURT: All right.
15 A PROSPECTIVE JUROR: My sister was --
16 THE COURT: No, hold on.
17 A PROSPECTIVE JUROR: Yep.
18 THE COURT: So there's reasons we do these things
19 in private. One is to --
20 A PROSPECTIVE JUROR: I do have an issue.
21 THE COURT: -- so you can speak freely, but the
22 other one is we don't want to taint or infect the rest of the
23 jury pool. We ultimately want to seat folks that don't know
24 anything about the case, who can be fair and impartial despite

1 the type of case it is. And so that's why we're refraining
2 from going into any more detail until we talk --

3 A PROSPECTIVE JUROR: Fair enough, sir.

4 THE COURT: -- in private. So does anybody have
5 any objection to bringing Mr. McCulloch back?

6 MS. MAZZA: No, Your Honor.

7 MS. RISTENPART: No, Your Honor.

8 THE COURT: Okay. Okay. So, counsel, who I have
9 potentially coming back would be Mr. Holland, Ms. -- no, hold
10 on. Mr. Holland, Mr. McCulloch, Ms. Falcke, Mr. Diggan,
11 Ms. Spates, Mr. Dieter, and Mr. Gmuender.

12 Ms. Mazza, do I have all of that correct?

13 MS. MAZZA: Yes, Your Honor. Thank you.

14 THE COURT: Ms. Ristenpart?

15 MS. RISTENPART: That is correct, Your Honor.

16 THE COURT: Okay. So those folks who I just
17 announced, I'm going to have you return. We'll have you folks
18 return at 1:30. Given the number of those folks that we're
19 going to have to talk to individually, I'm going to dismiss
20 the rest of you until 2:30.

21 It might be that when you return, we are still
22 finishing up with those folks and I'll just ask for your
23 patience if that occurs.

24 So for the group at large, be back here at 2:30

1 and I do really appreciate that you've been a punctual group.
2 It helps us to keep this moving.

3 And then coming back at 1:30 will be Mr. Holland,
4 Mr. McCulloch, Ms. Falcke, Mr. Diggan, Ms. Spates, Mr. Dieter,
5 and Mr. Gmuender.

6 All right. I do need to read the admonishment to
7 you again and this does apply, and I would ask that you please
8 follow the admonishment:

9 Please do not converse amongst yourselves or with
10 anyone else on any subject connected with the trial, either by
11 phone, email, text, internet, or any other means. Do not
12 read, watch, or listen to any report of or commentary on the
13 trial or any person connected with the trial by any medium of
14 information, including, without limitation, newspapers,
15 television, and radio.

16 Do not form or express any opinion on any subject
17 connected with the trial until the cause is finally submitted
18 to you. Do not do any research, such as consulting
19 dictionaries, using the internet, or using other reference
20 materials, or make any investigation, test the theory of the
21 case, recreate any aspect of the case, or any other
22 investigate or learn about the case on your own.

23 And I might add here that you might naturally
24 have some curiosity about the case. Now is not the time to

1 try to go get on the internet and find out, you know, what you
2 might about the case. So I've just ordered you to not do that
3 and I would ask that you respect that order. So we will see
4 you folks back as I've indicated. Have a good lunch.

5 (Jury exits the courtroom.)

6 THE COURT: Okay. We are convened outside the
7 presence of all prospective jurors but one, that being
8 Ms. Spates. Counsel, Ms. Spates approached immediately after
9 I sent everybody to recess and asked if she could go right now
10 and she had reasons for that, so I thank counsel for staying.

11 Ms. Spates, why don't you go ahead and tell us
12 what your issue is.

13 A PROSPECTIVE JUROR: My mom's just gotten out of
14 the hospital last month and she fell and broke her arm or her
15 shoulder, so my dad's taking care of her. They just called
16 and said my dad's going to be taken into the hospital. So I
17 need to see if I can just be excused.

18 THE COURT: All right. Ms. Ristenpart, any
19 objection?

20 MS. RISTENPART: No objection, and I'll state for
21 the record you are emotional and crying. I'm so sorry.

22 A PROSPECTIVE JUROR: Thank you.

23 THE COURT: All right. Ms. Mazza, any objection.

24 MS. MAZZA: No objection and I echo the

1 statements of Ms. Ristenpart.

2 THE COURT: Ms. Spates, thank you, and please go
3 take care of what you need to.

4 A PROSPECTIVE JUROR: Thank you very much.

5 THE COURT: You're welcome. You are excused.

6 And we'll go ahead and draw the next name now just so counsel
7 will know who it is and can be contemplating that if you're
8 ready.

9 THE CLERK: I will be in just one second. Okay.
10 Here we go. All right. It's going to be Stephanie Kirk.

11 THE COURT: Okay. So, counsel, back here at
12 1:30.

13 MS. RISTENPART: Your Honor, may I make a record?

14 THE COURT: Yes.

15 MS. RISTENPART: Thank you, Your Honor.

16 I have been doing jury trials for over 16 years
17 and I've never had the Court read the allegation prior to
18 actually sitting the jury. There's several concerns for
19 defense on that portion.

20 In regards to that, it was not stressed or
21 instructed that the criminal complaint is the allegation and
22 not proof for evidence of anything.

23 In addition, the Court's referred repeatedly to
24 this case -- and as we can see, there's, as always in these

1 types of cases, some strong reactions and emotions upon
2 hearing the nature of the allegation.

3 But instead of reaffirming that this is just an
4 allegation and that there has not been any evidence and that
5 there has not been any facts and witnesses and that
6 Mr. Jenkins is presumed innocent, I think that the jury pool,
7 as the Court has presented venire so far, is being overly
8 tainted and prejudiced against every -- and specifically
9 because the Court read the nature of the allegations without
10 the proper limiting instructions around it.

11 THE COURT: Okay. Thank you. Ms. Ristenpart, I
12 will refer you to the brand new rules of criminal procedure.

13 MS. RISTENPART: Uh-huh.

14 THE COURT: And in those rules, the Court is
15 required to read the charging document to the jury during the
16 jury selection phase and I followed that process.

17 Further, I am confident that the record will
18 indicate that I told the juries that it was just an
19 allegation, that the Defendant is presumed innocent.

20 Any other record you would like to make?

21 MS. RISTENPART: No, Your Honor. I am aware of
22 those -- of the new instructions, I'm just putting my record
23 as to the reactions and also the verbiage that we've been
24 using.

1 THE COURT: Okay. Thank you. We'll be in recess
2 until 1:30.
3 (Recess.)
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1 MINDEN, NEVADA, WEDNESDAY, APRIL 21, 2021, P.M. SESSION

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3
4 THE COURT: All right. Court is back in session
5 on Case Number 19-CR-188. I show the appearance of counsel
6 for both parties as well as Mr. Jenkins.

7 We are convened outside of the presence of all
8 prospective jurors except for one and that is Mr. McCulloch,
9 Number 13. Before we proceed with questioning of
10 Mr. McCulloch, it is my understanding that counsel may have a
11 stipulation regarding excusing another juror.

12 Ms. Mazza?

13 MS. MAZZA: Yes, Your Honor, with regard to Juror
14 Karissa Martindale, I noticed her on the break and I do know
15 her personally. So I approached Defense counsel and I believe
16 both parties will be stipulating to her being excluded based
17 upon that.

18 THE COURT: Ms. Ristenpart, do you agree?

19 MS. RISTENPART: Just to clarify, the prospective
20 juror didn't approach Ms. Mazza or talk to her?

21 MS. MAZZA: No, Your -- no, I saw her sitting in
22 the corner.

23 MS. RISTENPART: No objection to challenge for
24 cause for her.

1 THE COURT: Okay. So Karissa Martindale is
2 excused for cause and when we get back in session with the
3 bigger group at 2:30, counsel just remind me that we need to
4 let her go.

5 Okay. So, Mr. McCulloch, we brought you in
6 individually to talk about a couple of the things that have
7 been raised here. I'm going to give counsel an opportunity to
8 ask you questions.

9 You remain sworn and under oath, as we discussed
10 earlier, and your truth is definitely important here.

11 So, Ms. Mazza, I'll turn it over to you first.

12 MS. MAZZA: Mr. McCulloch, prior to the break,
13 you had indicated that you believed you could not be impartial
14 in this case and I believe you were going to give us a reason
15 why.

16 Can you state that reason now?

17 A PROSPECTIVE JUROR: Yeah, I -- the more I sat
18 here, the more I found out what the case was about and
19 everything, it hits home very personally.

20 My sister, at the age of 11, was abused by a
21 family member repeatedly. That screwed her up for years with
22 trust factors, therapies, and everything else. I cannot
23 honestly sit here and say I can be impartial with this
24 gentleman.

1 MS. MAZZA: And the Court will give you
2 instructions as to the law and as to not letting bias play a
3 factor into making a decision in this case.

4 Do you believe you could not follow those
5 instructions?

6 A PROSPECTIVE JUROR: I could not. It's too --
7 it hits too close to home. It brings -- I just had lunch with
8 my wife and I know just between her and I, because she knows
9 me, she says, what's wrong? I said, it's bringing up stuff I
10 hadn't thought of in years.

11 MS. MAZZA: Your Honor, based upon these answers,
12 the State would move to -- or would challenge Mr. McCulloch
13 for cause.

14 THE COURT: Ms. Ristenpart, your position, or if
15 you wish to ask questions, you may.

16 MS. RISTENPART: We agree to the challenge for
17 cause.

18 THE COURT: All right. Mr. McCulloch, thank you
19 for sharing. You are excused for cause and you may be excused
20 at this time. You might be called at a later date for a
21 different type of case. All right?

22 A PROSPECTIVE JUROR: Appreciate it, Your Honor.

23 THE COURT: Thank you, sir.

24 A PROSPECTIVE JUROR: Thank you, Your Honor.

1 THE COURT: Let's go -- if Mr. Holland is here,
2 let's take him. He was Number 3. While he is coming in, I
3 think it would be best to have the clerk go ahead and draw the
4 next person that will take Mr. McCulloch's spot.

5 THE CLERK: Okay. We have Mr. Sterling Nelson.

6 THE COURT: Counsel, did you both get that?

7 MS. RISTENPART: I did.

8 THE COURT: Okay. Ms. Mazza.

9 MS. MAZZA: Yes, Your Honor.

10 THE COURT: All right. Okay. Now we are
11 convened outside the presence of all prospective jurors with
12 the exception of Mr. Holland.

13 Mr. Holland, thank you for returning promptly.
14 I'm going to give counsel an opportunity to ask you some
15 follow-up questions based on what we've established so far.

16 I remind you that you are under oath and that
17 your truth is important here.

18 Ms. Mazza, go ahead.

19 MS. MAZZA: Mr. Holland, I believe during the
20 initial questioning where the prospective jurors went around
21 and said their name, their employment, their spouse
22 employment, and whether or not they believed they could be
23 impartial, you had indicated you did not believe you could be.

24 Is there a specific reason why?

1 A PROSPECTIVE JUROR: I have a belief that child
2 molesters have no place on this planet, so --

3 MS. MAZZA: That belief, can you set that belief
4 aside with regard to this case if the Court were to give you
5 instructions as to the law, that you are to take the evidence,
6 weigh the evidence, and look at it, given the law from the
7 court, would you be able to set aside that belief that you
8 have?

9 A PROSPECTIVE JUROR: No.

10 MS. MAZZA: Would you listen to the witnesses
11 impartially?

12 A PROSPECTIVE JUROR: I've pretty much make up --
13 I've already pretty much made up my mind when I heard the
14 case, so --

15 MS. MAZZA: Your Honor, the State would challenge
16 Mr. Holland for cause.

17 THE COURT: Ms. Ristenpart, follow-up questions?

18 MS. RISTENPART: No, we agree with the challenge
19 for cause.

20 THE COURT: Okay. Mr. Holland, thank you for
21 sharing. You are excused.

22 A PROSPECTIVE JUROR: Thank you.

23 THE COURT: Madam Clerk, please call the next
24 person.

1 THE CLERK: Catherine Kite.

2 THE COURT: And, Deputy Lindsay, let's bring in
3 Meagan Osmer next.

4 THE BAILIFF: She wasn't on that list, sir.

5 THE COURT: Oh, I'm sorry. Yes, you're right.
6 It would be Jane Falcke, yes. And she would be Number 16.

7 We remain convened outside the presence of all
8 prospective jurors with the exception of Jane Falcke.

9 Ms. Falcke, thank you for your return. You are
10 under oath and your truth continues to be important here.

11 A PROSPECTIVE JUROR: Okay.

12 THE COURT: At this time, the attorneys are going
13 to ask you some questions and we'll begin with Ms. Mazza.

14 A PROSPECTIVE JUROR: Okay.

15 MS. MAZZA: How do you say your last name?

16 A PROSPECTIVE JUROR: Falcke, with no E.

17 MS. MAZZA: Falcke. Okay. I think it's been a
18 couple ways, so I apologize.

19 A PROSPECTIVE JUROR: That's all right.

20 MS. MAZZA: Ms. Falcke, I think there were a
21 couple areas that we've talked to you about this morning, but
22 specifically I'd like to talk to you about when the court
23 asked you your name, your employment or former employment, and
24 then asked if you would be able to be impartial in this case,

1 you indicated you weren't sure.

2 Is that for a specific reason?

3 A PROSPECTIVE JUROR: A lot of -- a lot of little
4 reasons, yes. Well, my heart dropped when I heard the charge.

5 MS. MAZZA: Now --

6 A PROSPECTIVE JUROR: Something came -- flashed
7 back from a few years ago.

8 MS. MAZZA: And keeping in mind, as the Court
9 said, that the charging document in this case are just
10 allegations.

11 A PROSPECTIVE JUROR: Right. I understand that.

12 MS. MAZZA: All right. And are you able to
13 understand that and take the law as it's given to you from the
14 Court and follow the instructions from the Court?

15 A PROSPECTIVE JUROR: With some bias, I believe.

16 MS. MAZZA: And your bias, would that mean that
17 you could not listen to the evidence in this case?

18 A PROSPECTIVE JUROR: It would be hard to listen
19 to.

20 MS. MAZZA: Now, hard to listen to is a little
21 different than you would not listen to it.

22 A PROSPECTIVE JUROR: Well, I would actually
23 have -- I would be hearing it. I don't -- just -- yeah, I
24 would -- I would listen, but --

1 MS. MAZZA: Do you believe that you could give
2 Mr. Jenkins a fair trial as well as the State?

3 A PROSPECTIVE JUROR: Probably not. I'm sorry.

4 MS. MAZZA: Your Honor, the State would move for
5 challenge to excuse Ms. Falcke.

6 THE COURT: Ms. Ristenpart, any questions or
7 position?

8 MS. RISTENPART: Ms. Falcke, so sitting here,
9 you've already made up some -- your mind, that means you have
10 some thoughts about the case already?

11 A PROSPECTIVE JUROR: Yes.

12 MS. RISTENPART: You have not yet heard
13 discovery?

14 A PROSPECTIVE JUROR: No.

15 MS. RISTENPART: And if you were Mr. Jenkins
16 being tried for this allegation, would you want you on this
17 jury?

18 A PROSPECTIVE JUROR: Right. No.

19 MS. RISTENPART: Okay. Thank you for your
20 honesty.

21 A PROSPECTIVE JUROR: But I wish him well.

22 MS. RISTENPART: Thank you. Challenge for cause.

23 THE COURT: Ms. Falcke, a question: You -- and,
24 again, I don't mean to overturn any rocks for you and maybe

1 bring up things that were in the past, but I thought you said
2 something about it brings back flashbacks or something like
3 that.

4 What did you mean by that?

5 A PROSPECTIVE JUROR: 2012 -- or 2015, 2016,
6 there was a lot of little incidents. My son died for one
7 thing and then a good friend of ours son committed suicide for
8 the same allegations. And I, you know, commensurated with him
9 quite a bit and I just -- it's just hard on my mind, I guess.

10 THE COURT: Okay. And would that make it hard
11 for you to be focused in this case?

12 A PROSPECTIVE JUROR: Yeah, I believe so. I just
13 feel --

14 THE COURT: All right. The request to excuse
15 Ms. Falcke for cause is granted. Ms. Falcke, thank you. You
16 are excused.

17 A PROSPECTIVE JUROR: All right. Thank you.

18 THE COURT: Madam Clerk, please call the next
19 person.

20 THE CLERK: John Tobey, John Tobey.

21 THE COURT: The Court remains convened outside
22 the presence of all prospective jurors at this time, the
23 exception of that being Glenn Diggan.

24 Good afternoon, Mr. Diggan.

1 A PROSPECTIVE JUROR: Good afternoon.

2 THE COURT: Mr. Diggan, you remain under oath and
3 your truth here is important. I'm going to ask the attorneys
4 to go ahead and ask you some questions based upon some of the
5 topics that we've already talked about.

6 Ms. Mazza is going to go first.

7 MS. MAZZA: Mr. Diggan, previously when
8 discussing the case with the Court, when asked if you could
9 believe you could be impartial, you indicated you weren't sure
10 because things happened when you were young.

11 At this time, would you be able to elaborate for
12 us?

13 A PROSPECTIVE JUROR: Yes. When I was young,
14 at -- my mother died when I was eight and my father went to
15 drinking and he molested me. And I -- when I was a little
16 older, I caught him molesting a girl and I beat the hell out
17 of him.

18 And since then, I just -- I have no tolerance for
19 anything with children or women, and I've gotten into some --
20 several things that almost got me in bad trouble over them
21 over the years.

22 . So I don't have a tolerance at all for it. I
23 don't believe in it. So can I be impartial, no, not at all.

24 MS. MAZZA: Your Honor, based upon that, the

1 State would challenge Mr. Diggan for cause.

2 THE COURT: Ms. Ristenpart.

3 MS. RISTENPART: Agreed, challenge for cause.

4 THE COURT: All right. Mr. Diggan, thank you. I
5 appreciate you bringing those things up. I know it can be
6 hard. You are excused.

7 A PROSPECTIVE JUROR: Thank you.

8 THE COURT: Thank you. You may exit the
9 courtroom. Madam Clerk, please call the next person in
10 order -- or randomly, I should say.

11 THE CLERK: Amanda Lang.

12 A PROSPECTIVE JUROR: Got to get my eyes adjusted
13 I'm almost blind in here. Like I said.

14 THE COURT: All right. Mr. Dieter, we'll let
15 your eyes adjust here for a moment. The Court remains in
16 session outside the presence of all prospective jurors with
17 the exception now of Mark Dieter.

18 Mr. Dieter thank you for coming back and joining
19 us. You remain under oath and your truth to these questions
20 remains of utmost importance. The attorneys are going to ask
21 you some questions about some of the topics we've already
22 raised and we'll begin by having Ms. Mazza ask questions.

23 MS. MAZZA: Mr. Dieter, as we've been kind of
24 going through the questions from the Court, you indicated, I

1 believe, that you know information about this case; is that
2 correct?

3 A PROSPECTIVE JUROR: No, I don't.

4 MS. MAZZA: You know Mr. Jenkins?

5 A PROSPECTIVE JUROR: I may have read about it in
6 the paper, but --

7 MS. MAZZA: Is it -- then is it that you
8 indicated you know -- your daughter knows Mr. Jenkins'
9 daughter?

10 A PROSPECTIVE JUROR: No, Judge Addison.

11 THE COURT: Yeah, he was referencing my daughter.

12 MS. MAZZA: I see. All right. And so --

13 A PROSPECTIVE JUROR: They were friends in high
14 school.

15 MS. MAZZA: I see. And you --

16 A PROSPECTIVE JUROR: And so I was saying I have
17 an 18-year-old daughter and I guess I'll let you ask the
18 questions.

19 MS. MAZZA: So based upon that, your 18-year-old
20 daughter then, do you believe that you cannot be impartial in
21 this case?

22 A PROSPECTIVE JUROR: As I've been saying and
23 you've asked me to be honest, I'm absolutely prejudiced. I
24 think that sexual molestations is like the most despicable

1 crime imaginable. If this were a murder case or drug
2 trafficking, I wouldn't have a problem. I'm being honest. I
3 got a problem with this.

4 MS. MAZZA: Now, the -- keeping in mind that the
5 charges in this case, as the Judge indicated, are allegations,
6 would you be able to listen to the evidence, listen to the
7 witnesses, and listen to the instructions that the Court will
8 give to you and make an impartial unbiased decision?

9 A PROSPECTIVE JUROR: If I start listening to
10 descriptions of molestation, I will get angry. I will be
11 offended. I'm just being honest.

12 MS. MAZZA: And do you think you can take
13 instructions from the Court, though, to not let bias impact
14 your decision and to listen to the evidence, to take the
15 witnesses testimony, and give them whatever weight you deem
16 appropriate and then make a decision?

17 A PROSPECTIVE JUROR: Honestly, I don't think so.
18 I just feel too strongly about this subject.

19 MS. MAZZA: Is it your belief that -- would you
20 be able to make a fair and impartial decision in this case?

21 A PROSPECTIVE JUROR: I think I'm biased and
22 prejudiced. That's --

23 MS. MAZZA: Your Honor, the State would --

24 A PROSPECTIVE JUROR: No matter what you tell me,

1 I'm -- I can't -- it's ingrained in me.

2 MS. MAZZA: Your Honor, the State would challenge
3 for cause Mr. Dieter.

4 THE COURT: Ms. Ristenpart, any questions or
5 position?

6 MS. RISTENPART: Nope. Agree with the challenge
7 for cause.

8 THE COURT: All right. Mr. Dieter, thank you for
9 sharing. You are excused and you may leave the courtroom.

10 A PROSPECTIVE JUROR: I hope your daughter is
11 doing good.

12 THE COURT: Madam Clerk, please call the next
13 witness.

14 THE CLERK: Bo Young Northcutt.

15 THE COURT: The Court remains convened outside
16 the presence of all prospective jurors with the exception now
17 of Mr. Gmuender.

18 Mr. Gmuender, you remain under oath and the
19 attorneys and possibly the Court will be asking you some more
20 questions, so your truth, of course, is paramount.

21 Ms. Mazza, do you have any questions for
22 Mr. Gmuender?

23 MS. MAZZA: Mr. Gmuender, I think there were kind
24 of two areas where you had concern, one being your employment

1 and then another being you believe that you would have a hard
2 time being impartial in this case.

3 Is that for a specific reason?

4 A PROSPECTIVE JUROR: Yeah, not personal reason,
5 but just kind of in general. I've had friends who had issues
6 who never came forward and said anything and had these kinds
7 of issues before. So I feel I'm a little prejudiced in that
8 way.

9 MS. MAZZA: And so with that little prejudice,
10 the Court will give you instructions in this case, and you've
11 also heard that the charging document in this case are -- is
12 simply allegations.

13 With that in mind, would you be able to follow
14 the Court instructions and make a decision in this case not
15 based upon any bias?

16 A PROSPECTIVE JUROR: I think I would still have
17 a problem trying to not be biased, especially considering that
18 the person we're talking about was working at a -- basically a
19 youth center, you know.

20 MS. MAZZA: And so that -- that's not part of the
21 allegation.

22 A PROSPECTIVE JUROR: It was read when you read
23 the original claims, the original allegations. It was stated
24 that that was the location.

1 MS. MAZZA: And based upon that, you would have
2 bias?

3 A PROSPECTIVE JUROR: Yeah, because why would you
4 work there?

5 MS. MAZZA: And so as I said, the Court will give
6 you instructions about how to weigh the evidence, how to weigh
7 the testimony of witnesses, and what -- how to make a decision
8 as to credibility.

9 Would you be able to listen to those instructions
10 and actually look at the evidence?

11 A PROSPECTIVE JUROR: Yes, I could be objective.

12 MS. MAZZA: Okay. And could you -- saying that
13 you could be objective, would you be able to give a fair trial
14 to Mr. Jenkins and the State?

15 A PROSPECTIVE JUROR: I'm still on the fence.
16 I'm kind of leaning towards probably no, but I think I would
17 at least be open to that.

18 MS. MAZZA: Your Honor, no further questions.

19 THE COURT: All right. Ms. Ristenpart, any
20 questions?

21 MS. RISTENPART: So Mr. Gmuender, we ask these
22 kind of awkwardly, like no one is in favor of child abuse or
23 sexual abuse; right?

24 A PROSPECTIVE JUROR: Of course.

1 MS. RISTENPART: So we all live with our own
2 perception and ideas, but you haven't heard any of the case
3 facts except for the allegation; correct?

4 A PROSPECTIVE JUROR: Correct.

5 MS. RISTENPART: But based just upon that and
6 from just this morning, I feel like you kind of already have a
7 preconceived idea of what occurred in this case and in
8 reference to Mr. Jenkins, whether he's guilty or innocent; is
9 that correct?

10 A PROSPECTIVE JUROR: Correct.

11 MS. RISTENPART: And tell me if I'm wrong, but my
12 impression is that you already found Mr. Jenkins guilty
13 without hearing any evidence?

14 A PROSPECTIVE JUROR: Pretty much, to a large
15 degree.

16 MS. RISTENPART: So if you were sitting where
17 Mr. Jenkins is, accused of this allegation, would you say I'm
18 not a good juror for this case and be frank and say it's
19 probably not the case for me?

20 A PROSPECTIVE JUROR: Yeah, I mean, I don't think
21 that this -- that I'm going to really be able to make a good
22 decision.

23 MS. RISTENPART: Okay. Thank you. Challenge for
24 cause, Your Honor.

1 THE COURT: Ms. Mazza, your position?
2 MS. MAZZA: No objection, Your Honor.
3 THE COURT: All right. Mr. Gmuender, thank you.
4 You are excused and you may exit the courtroom.
5 Madam Clerk, please call the next at random.
6 THE CLERK: John Summers.
7 THE COURT: I think we got through all.
8 Ms. Ristenpart, did I miss any?
9 MS. RISTENPART: I didn't hear you, Your Honor.
10 THE COURT: Did we miss any? I think I got
11 everybody that we identified to talk to individually. I just
12 asked if I missed anybody.
13 MS. RISTENPART: So far, Your Honor, I don't
14 believe you've missed anyone.
15 THE COURT: Okay. Ms. Mazza.
16 MS. MAZZA: I don't believe so either,
17 Your Honor.
18 THE COURT: Okay. So in a minute here, we will
19 recess until 2:30 when the other folks appear. I just want to
20 confirm that who will be seated as Juror Number 3 when we come
21 back in is Ms. Kite, Catherine Kite.
22 Also new would be Juror Number 13, Sterling
23 Nelson. Also new would be Juror Number 16, John Tobey. Juror
24 Number 17, Amanda Lang. Juror Number 20, Stephanie Kirk.

1 Juror Number 22, Bo Young Northcutt. Juror Number 20 -- let's
2 see. What number is -- is Mr. Summers 24.

3 THE CLERK: Yes, that's --

4 THE COURT: Number 24, John Summers.

5 Madam Clerk, did I get all the new additions?

6 THE CLERK: Yes.

7 THE COURT: Okay. Okay. We will be in recess
8 until 2:30 and we will start promptly at that time.

9 (Recess.)

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1 **MINDEN, NEVADA, WEDNESDAY, APRIL 21, 2021, P.M. SESSION**

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3
4 THE COURT: It's 2:30, folks. We're going to go
5 ahead and get started. We are back in session on Case Number
6 19-CR-188. Show the appearance of counsel for both parties.
7 Also appearing is Mr. Jenkins.

8 Good afternoon, everybody. All of you remain
9 under oath and your continued truthfulness remains important
10 to the case. You will see we have some vacant seats up here
11 and that means we have a need to fill those seats.

12 I'm going to be calling some folks forward to
13 fill those seats. The first is Catherine Kite.

14 Ms. Kite, come on forward. You're going to be
15 seated in Seat Number 3 and Deputy Lindsay will assist you.

16 Sterling Nelson, you will be seated in Seat
17 Number 13.

18 John Tobey, Seat Number 16.

19 Amanda Lang, Seat Number 17.

20 Stephanie Kirk, Seat Number 20.

21 Bo Young Northcutt, Seat Number 22.

22 John Summers, Seat Number 24.

23 Ms. Kite, you're going to get us started here
24 this afternoon.

1 Would you please stand and tell us your name.

2 A PROSPECTIVE JUROR: Okay.

3 THE COURT: And where you work, if you're
4 retired, where you used to work, your spouse and where your
5 spouse works.

6 A PROSPECTIVE JUROR: Okay. Catherine Kite,
7 retired. I used to work for Douglas County 24 years in the
8 assessor's office. My husband has been an insurance agent,
9 but also was a three-term Commissioner for Douglas County and
10 he is also retired. And what else?

11 THE COURT: Have you ever sat on a jury before?

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: Was that in Douglas County?

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: How long ago?

16 A PROSPECTIVE JUROR: Oh, mid 80's probably.

17 THE COURT: Okay. Do you recall if it was a
18 civil or a criminal case?

19 A PROSPECTIVE JUROR: Criminal.

20 THE COURT: And do you recall if you reached a
21 verdict, just yes or no?

22 A PROSPECTIVE JUROR: I was an alternate, but
23 yes, they reached a verdict.

24 THE COURT: Okay. All right. Very good. Is

1 there any reason you cannot be a fair and impartial juror in
2 this case?

3 A PROSPECTIVE JUROR: I do know some people on
4 the list.

5 THE COURT: Okay. Well, that was going to be my
6 next question, so that's perfect. It sounds like you did hear
7 the list. Who on that list do you know?

8 A PROSPECTIVE JUROR: Both Scott Morgan and Ryan
9 Fitzgerald.

10 THE COURT: Okay. How is it that you know --
11 let's start with Mr. Morgan. How do you know Mr. Morgan?

12 A PROSPECTIVE JUROR: He was a county employee,
13 fellow county employee. We've known him for many, many years
14 and Brian as well.

15 THE COURT: All right. So you know both of them
16 in their capacities as county employees?

17 A PROSPECTIVE JUROR: Yes.

18 THE COURT: Did either of them ever work with you
19 in the assessor's office?

20 A PROSPECTIVE JUROR: No.

21 THE COURT: Okay. And do you -- when was the
22 last time you saw Mr. Morgan?

23 A PROSPECTIVE JUROR: Not long, a month or two.

24 THE COURT: Okay. A month or two ago?

1 A PROSPECTIVE JUROR: Yeah.

2 THE COURT: And in what capacity? Give me an
3 idea.

4 A PROSPECTIVE JUROR: Just a, hi, how are you.

5 THE COURT: Okay. At the grocery store or
6 something or --

7 A PROSPECTIVE JUROR: No, probably at the
8 community center.

9 THE COURT: Okay. All right. And how about
10 Mr. Fitzgerald, when was the last time you saw him?

11 A PROSPECTIVE JUROR: It's been longer than that
12 for Brian. We were involved with his community group that he
13 is involved with, an arts group, arts council or something.
14 We were involved in that a little bit.

15 THE COURT: Okay.

16 A PROSPECTIVE JUROR: Plus I think I know you,
17 sir.

18 THE COURT: Yeah, I think we should disclose
19 that. So Ms. Kite, I'll kind of say what I believe our
20 relationship is, and you can tell me if I'm right about that
21 or not.

22 A long time ago, I worked in the assessor's
23 office when I was a college student in the summer and Ms. Kite
24 worked there. I got to know her a little bit during that time

1 and get to know her husband a little bit.

2 A PROSPECTIVE JUROR: Correct.

3 THE COURT: Beyond that, though, no other
4 relationship. I haven't seen you for a little while.

5 A PROSPECTIVE JUROR: Right.

6 THE COURT: Or your husband. Ms. Kite, anything
7 you would like to add to that?

8 A PROSPECTIVE JUROR: I don't think so.

9 THE COURT: Is there anything about my presiding
10 over this case that would present you with any issues --

11 A PROSPECTIVE JUROR: Absolutely not.

12 THE COURT: -- in being a fair juror? Okay. And
13 how about Mr. Morgan and Mr. Fitzgerald? Again, they are just
14 potential witnesses.

15 If they came in to testify, based on what you
16 know of them, would you tend to give them more weight or less
17 weight just because you know them?

18 A PROSPECTIVE JUROR: I have to be honest. That
19 is a possibility.

20 THE COURT: Okay. Well, thank you for that
21 honesty, and the attorneys might ask you some more questions
22 about that here in a bit.

23 A PROSPECTIVE JUROR: Okay.

24 THE COURT: All right. Sterling Nelson.

1 Mr. Nelson, go ahead.

2 A PROSPECTIVE JUROR: Yeah, I'm Sterling Nelson.
3 I'm retired. I was a heavy equipment operator, construction.
4 My wife is also retired. She was a food server in Las Vegas.
5 What else am I --

6 THE COURT: Have you ever sat on a jury before?

7 A PROSPECTIVE JUROR: I don't think I have.

8 THE COURT: Is there any reason you cannot be
9 fair and impartial?

10 A PROSPECTIVE JUROR: Yes, there is.

11 THE COURT: What is that?

12 A PROSPECTIVE JUROR: I am prejudiced against the
13 case.

14 THE COURT: So because of the type of the case?

15 A PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Okay. And thank you for sharing
17 that. We might talk to you a little bit more about that
18 later. Were you able to hear the list of witnesses?

19 A PROSPECTIVE JUROR: Yes, I was, and I know none
20 of them.

21 THE COURT: Okay.

22 A PROSPECTIVE JUROR: I do recognize some names,
23 but I don't know the people.

24 THE COURT: Thank you. Mr. Tobey. We had Eve

1 Tobey in here before. Are you related?

2 A PROSPECTIVE JUROR: Yes, sir, you did.

3 THE COURT: Are you related?

4 A PROSPECTIVE JUROR: Yes. She is my wife.

5 THE COURT: Okay. Tell us a little bit about
6 yourself, what you do for a living, and we already know a
7 little bit about your spouse.

8 A PROSPECTIVE JUROR: Right. I'm John Tobey.
9 I'm a retired software engineer from the Bay Area, retired
10 about five years ago. You met my wife, Eve, this morning, a
11 retired house maker, geologist. I have not been on a jury
12 trial and the only problem is with the type of case.

13 THE COURT: Okay. Mr. Tobey, were you able to
14 hear the list of witnesses?

15 A PROSPECTIVE JUROR: I was, and similar to Eve,
16 I know a number of the names on the list from contact with
17 them at the community center.

18 THE COURT: Okay. During the break, I learned
19 that I might owe your wife an apology. There was some
20 confusion about who she might know. I assumed that the names
21 on the list all had first and last names, and so I was told
22 that is not the case.

23 Would it help you to see the list?

24 A PROSPECTIVE JUROR: No.

1 THE COURT: Okay.

2 A PROSPECTIVE JUROR: You don't need to bring up
3 the list.

4 THE COURT: All right.

5 A PROSPECTIVE JUROR: At a minimum, I know Scott
6 and Georgiana from the community center as well as Deputies
7 Koontz and Love. And there may be others that I know by face,
8 but not by name.

9 THE COURT: Do you know -- do you know all of
10 them due to your participation at the community center?

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: Is that the way you know them? Okay.

13 A PROSPECTIVE JUROR: Primarily. We also run
14 into the deputies around town for obvious reasons.

15 THE COURT: Okay. Thank you for raising that and
16 you might be asked questions about that later as well.

17 Any -- you mentioned the type of the case. Do
18 you have concerns in serving just because of the type of the
19 case, the nature of the case?

20 A PROSPECTIVE JUROR: The nature of the case.

21 THE COURT: Okay. So more questions might be
22 asked about that later. You can go ahead and have a seat.

23 Okay. Amanda Lang. Go ahead, Ms. Lang, please
24 stand.

1 A PROSPECTIVE JUROR: Hi, I'm Amanda Lang. I'm a
2 food server at Sharkey's Casino. My husband works for Prince
3 Telecom in Reno. I have never served on a jury before and I
4 don't think I could be impartial in a case like this.

5 THE COURT: Okay. Just because of the type of
6 case?

7 A PROSPECTIVE JUROR: Yeah.

8 THE COURT: Do you -- were you able to hear the
9 list of witnesses?

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Did you recognize any of the
12 witnesses?

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: Who --

15 A PROSPECTIVE JUROR: Jennifer Calabrese.

16 THE COURT: Okay. How is it that you know
17 Ms. Calabrese?

18 A PROSPECTIVE JUROR: I worked with her mom at
19 Sharkey's Casino and I also talk to her pretty regularly, at
20 least every month or so, via Facebook or in person.

21 THE COURT: Okay. I don't want to know the
22 substance of it, but have you had any conversations with her
23 about this case?

24 A PROSPECTIVE JUROR: No.

1 THE COURT: Okay. Any other reason that you
2 could not be a fair and -- or impartial juror in this case?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Okay. Thank you. Go ahead and have
5 a seat.

6 Ms. Kirk.

7 A PROSPECTIVE JUROR: Hi.

8 THE COURT: Hello.

9 A PROSPECTIVE JUROR: I'm a service specialist.
10 I work for a global credit card processing company. I've
11 never served on a jury before. Single, not married and I am
12 impartial.

13 THE COURT: Were you able to see or hear the list
14 of witnesses?

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Do you know any of those folks?

17 A PROSPECTIVE JUROR: I recognize the names.
18 I've been in the town like almost my whole life, so it's kind
19 of hard not to. But I'm not like friends with anybody. I
20 don't talk to them personally.

21 THE COURT: Okay. Thank you.

22 A PROSPECTIVE JUROR: Um-hum.

23 THE COURT: Go ahead and have a seat. Bo Young
24 Northcutt.

1 A PROSPECTIVE JUROR: My name's Bo Young
2 Northcutt. I'm a general manager at a house kitchen, Lake
3 Tahoe at Harvey's. I'm married. My husband works for the
4 casino, also. He's a bellman. Sorry, question. I saw the
5 witnesses, don't recognize anybody. Never served on a jury
6 before.

7 THE COURT: You did great. I think you hit
8 everything. Any reason you cannot be a fair and impartial
9 juror in this case?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: Okay. Thank you.

12 A PROSPECTIVE JUROR: Thank you.

13 THE COURT: And Mr. Summers.

14 A PROSPECTIVE JUROR: John Summers. I'm a
15 retired high school teacher and coach here in Douglas
16 County -- well, semi-retired. I still do the property
17 maintenance. I'm divorced. I've never been on a jury.

18 I was involved in a similar case during my
19 teaching career with another teacher who was removed from his
20 position at that time. It was a rather disappointing
21 situation at our high school for the school and the faculty.

22 The people on the list, I do know Nick Lonnegren.
23 I coached him at Douglas high school. I do know Scott Morgan.
24 His son was a student and a player for me at Tahoe high

1 school. And I have been introduced to various members of the
2 Koontz family through my son. He works for East Fork Fire.
3 I'm not really sure which one I met, to tell you the truth, or
4 which ones I've met.

5 THE COURT: Okay. Anything about those
6 relationships which would make you think you could not be a
7 fair and impartial juror in this case?

8 A PROSPECTIVE JUROR: No, I don't think so.

9 THE COURT: All right. Thank you, Mr. Summers.
10 Go ahead and have a seat.

11 Madam Clerk, I am going to ask that we redisplay
12 the witness list, and counsel, if there are names for which
13 the first names have not been supplied, I'm going to need
14 counsel's assistance in doing that.

15 Madam Clerk, if you could set up the easel again.

16 MS. MAZZA: Your Honor, would we be able to
17 address the potential juror we discussed at the break being
18 excused?

19 THE COURT: Yes. Thank you. We will do that
20 here in a moment. Thank you for the reminder.

21 (Brief pause in proceedings.)

22 THE COURT: Counsel, what I'm going to ask you to
23 do is both approach, look at the list. If there is a name on
24 the list and only the last name is provided, I would like

1 counsel to indicate what the person's first name is.

2 THE CLERK: Okay.

3 THE COURT: So, Madam Clerk, for those witnesses
4 that first names have now been supplied, will you read those
5 for the jurors?

6 THE CLERK: Yes.

7 THE COURT: Thank you.

8 THE CLERK: It's going to be Detective Rick
9 Koontz and Detective Leland Love.

10 THE COURT: Okay. Thank you. Were those the
11 only ones who did not have first names?

12 THE CLERK: Yes.

13 THE COURT: Okay. Thank you. Hearing those
14 first names now, did that jog anybody's memories in terms of
15 knowing either of those gentlemen?

16 THE PROSPECTIVE JURY PANEL: (No hands raised.)

17 THE COURT: Okay. I don't see any hands and
18 let's go ahead and take that back down. Thank you.

19 Is Karissa Martindale here?

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Ms. Martindale, you have been
22 excused.

23 A PROSPECTIVE JUROR: Thank you.

24 THE COURT: Thank you.

1 Okay. In a moment, I'm going to turn it over to
2 the attorneys to ask questions of the folks who are in the box
3 here, the 24. And again, the rest of you who are here,
4 continue to pay attention.

5 There's been several folks who have made comments
6 to the extent of they're concerned about the nature of the
7 case. Folks, often voice that in criminal cases, so that's
8 not uncommon.

9 What I remind each of you is that as we sit here
10 today, there has been absolutely no evidence presented, no
11 witnesses, no evidence, no photographs, no anything on which
12 any of you could form an opinion.

13 And as I've already told you, the Defendant in
14 this case is presumed to be innocent. What trials are about
15 is hearing the evidence, and at the conclusion of that
16 evidence, making a decision.

17 So while the type of the case might give you some
18 concern, that alone isn't a reason to have you excluded as
19 jurors. There might be reasons, though, upon further
20 questioning by the attorneys where you shouldn't be somebody
21 who should sit on this case. But I just kind of wanted to
22 remind you of the setting here.

23 Ms. Mazza, you may go ahead and ask the jurors
24 any questions that you have.

1 MS. MAZZA: Thank you, Your Honor.

2 Would everyone who's close me have any problem if
3 I took my mask off?

4 THE PROSPECTIVE JURY PANEL: No.

5 MS. MAZZA: Is that better?

6 THE PROSPECTIVE JURY PANEL: Yes.

7 MS. MAZZA: All right. So, again, I want to
8 thank all of you for being here. I know this process is
9 tedious and I appreciate all of your time, the State
10 appreciates all of your time. Really, this is a time that I
11 enjoy. It's probably the only time that we get to talk to you
12 guys and kind of get to know you a little bit.

13 After this whole process, you really won't talk
14 to me. I won't talk to you in the stairwell, I won't talk to
15 you around the courthouse. So this is our opportunity to get
16 to know you a little bit more.

17 So today I represent the State. I work for the
18 Douglas County District Attorney's office, and representing
19 the State is a bit of an abstract concept. I don't have a
20 client at my table. I represent the citizens of the State of
21 Nevada in the interests of enforcing its criminal statutes.

22 Based on that, does anyone feel that they could
23 not give the State or its witnesses a fair trial or does
24 anyone not understand that concept?

1 Does anyone -- does everyone -- sorry. Oh, I --

2 A PROSPECTIVE JUROR: We're not sure we
3 understand that what means.

4 MS. MAZZA: Okay. So if you guys end up coming
5 into the box, I guess you could call it, make sure you bring
6 that up when the Judge asks you some questions. But that
7 concept is I represent the State.

8 I don't have a client here and does everyone
9 understand I don't represent a complaining party in a case or
10 a child in this case? Everyone understand that?

11 THE PROSPECTIVE JURY PANEL: (No audible
12 response.)

13 MS. MAZZA: So just going over -- I think a
14 handful of you have indicated that you've gone through the
15 juror process of being a juror and a handful of you have
16 indicated you have not. Most -- I think most people's jury
17 experience is based off of probably what they've seen on
18 television or what they read in books.

19 Does anyone watch any lawyer type shows such as
20 Law and Order.

21 Anyone?

22 You're raising your hand. Yes.

23 A PROSPECTIVE JUROR: Oh, sorry.

24 MS. MAZZA: That's okay. That's Ms. Kirk.

1 A PROSPECTIVE JUROR: Yes.

2 MS. MAZZA: You do? So in a show like that, have
3 you gotten any preconceived notions based on watching a show
4 like that for how this whole process should go?

5 A PROSPECTIVE JUROR: Yeah, just a little bit. I
6 mean, it's kind of just the whole court process and how it
7 goes, you know, from start to finish. You know, I watch
8 Netflix documentaries and things like that, so yeah.

9 MS. MAZZA: Yeah. And do you think that having
10 watched those documentaries or watching any TV shows, that you
11 expect this case to be like what you see on TV?

12 A PROSPECTIVE JUROR: No, because everyone --
13 every case is different.

14 MS. MAZZA: Would you agree that those shows are
15 pretty dramatic?

16 A PROSPECTIVE JUROR: Yes.

17 MS. MAZZA: To entice you into watching them?

18 A PROSPECTIVE JUROR: Yes, of course.

19 MS. MAZZA: Do you expect this case to be like
20 that?

21 A PROSPECTIVE JUROR: I don't know what I expect
22 on this case right now.

23 MS. MAZZA: Okay. Does anyone else expect to go
24 through this process and for it to be like TV, and for me to

1 be like the district attorney you see on TV, or

2 Ms. Ristenpart, the Defense counsel you see on TV? Everyone
3 understands that's just TV?

4 No one's expecting there to be a twist or turn at
5 every single corner of the case? You can sit and watch it no
6 matter what?

7 Now, going to other shows, I think there's
8 probably a police show for every single city now. I think
9 Chicago PD -- there's all kinds of them.

10 But does anyone watch any police type shows?

11 A PROSPECTIVE JUROR: (Raises hand.)

12 MS. MAZZA: Yes, Ms. Fletcher.

13 A PROSPECTIVE JUROR: (Nodded head.)

14 MS. MAZZA: You watch a police type show?

15 A PROSPECTIVE JUROR: Um-hum.

16 MS. MAZZA: What would that be?

17 A PROSPECTIVE JUROR: It was -- I think that
18 one -- I can't remember the name.

19 MS. MAZZA: Has law enforcement in some way in
20 it?

21 A PROSPECTIVE JUROR: Yeah, but that's not
22 real -- are you talking about the real ones where --

23 MS. MAZZA: No, I'm asking: Do you expect this
24 case to be like what you see on TV for police shows?

1 A PROSPECTIVE JUROR: No. At the beginning of
2 every one, they say, things have been changed for dramatic
3 purposes.

4 MS. MAZZA: Exactly, for dramatic purposes. So
5 does anyone expect that the police will have some sort DNA
6 evidence, computer reenactment, fingerprints, handwriting
7 analysis, all of those type of things you'd see on TV?

8 Will anyone expect or hold the Douglas County
9 Sheriff's Office to that standard you see on TV?

10 No?

11 THE PROSPECTIVE JURY PANEL: (Panel shake heads.)

12 MS. MAZZA: So based upon these television shows
13 or documentaries you watch, can everyone set aside your
14 expectations that you may have based upon those shows?

15 THE PROSPECTIVE JURY PANEL: (Panel nod heads.)

16 MS. MAZZA: And ultimately is everyone able to
17 look at the evidence presented in this case and only the
18 evidence in this case in making your decision?

19 A PROSPECTIVE JUROR: (Panel Shakes head.)

20 MS. MAZZA: Ms. Lane, you're saying no. Why is
21 that?

22 A PROSPECTIVE JUROR: I have history with being
23 abused in my past.

24 MS. MAZZA: Okay. And so before you go any

1 further with that, do you think it's something that you might
2 want to talk about privately with the Judge and Defense
3 counsel and myself?

4 A PROSPECTIVE JUROR: Yes.

5 MS. MAZZA: And do you think it may impact
6 your --

7 A PROSPECTIVE JUROR: Definitely.

8 MS. MAZZA: -- sitting on this jury?

9 A PROSPECTIVE JUROR: Most definitely.

10 MS. MAZZA: All right. Judge, would you like to
11 have those conversations after?

12 THE COURT: Let's do that. We'll make a note and
13 at a appropriate time, a little bit later, we'll talk with
14 folks individually as needed.

15 MS. MAZZA: And so her answer was she's not going
16 to be able to look at just the evidence of this case and the
17 evidence of this case alone.

18 Does anyone else feel like that?

19 A PROSPECTIVE JUROR: (Raises hand.)

20 MS. MAZZA: Mr. Tobey.

21 A PROSPECTIVE JUROR: Yes.

22 MS. MAZZA: And now without getting into any
23 personal story for yourself or reason why, is there a reason
24 why you might not be able to?

1 A PROSPECTIVE JUROR: Yes.

2 MS. MAZZA: Does it have to do with your
3 experiences in your own life?

4 A PROSPECTIVE JUROR: Yes.

5 MS. MAZZA: Do you think it maybe better --

6 A PROSPECTIVE JUROR: Oh, okay. I am personally
7 involved with people who were impacted directly.

8 MS. MAZZA: All right. And do you think you
9 might be able to set that aside in sitting on this jury and
10 giving Mr. Jenkins as well as the State a fair trial?

11 A PROSPECTIVE JUROR: It would be difficult.

12 MS. MAZZA: Would you be able to follow the
13 instructions from the Court in being ordered that you set
14 those things aside?

15 A PROSPECTIVE JUROR: It would be difficult. And
16 I'd be glad to talk to the Judge in private in detail
17 afterwards.

18 MS. MAZZA: You have some detail that you'd like
19 to provide to the Court?

20 A PROSPECTIVE JUROR: Yes.

21 MS. MAZZA: Okay. Is there anyone else that has
22 a concern with that?

23 A PROSPECTIVE JUROR: (Raises hand.)

24 MS. MAZZA: Mr. Nelson.

1 A PROSPECTIVE JUROR: (Nodded head.)

2 MS. MAZZA: And you did indicate, when questioned
3 by the Judge, that you would probably have issues being
4 impartial in this case.

5 A PROSPECTIVE JUROR: (Nodded head.)

6 MS. MAZZA: And so I ask you the same questions:
7 Would you be able to set aside any type of bias or
8 preconceived notion that you have and listen to the evidence
9 in this case and just the evidence in this case, follow the
10 instructions from the Court and look at this case separate
11 from any bias?

12 A PROSPECTIVE JUROR: (Shakes head.)

13 MS. MAZZA: And do you have any personal
14 experience with regard to why?

15 A PROSPECTIVE JUROR: I do.

16 MS. MAZZA: Would you like to discuss that with
17 counsel and the Court separately?

18 A PROSPECTIVE JUROR: I would.

19 MS. MAZZA: Okay. Anyone else?

20 THE PROSPECTIVE JURY PANEL: (No hands raised.)

21 MS. MAZZA: All right. So as I've been talking
22 about, the Judge will instruct you on the law at the end of
23 this case. And so I just want to talk to you about following
24 the law. Now, this isn't a multi-million dollar civil case,

1 but it's no less important to the State as well as to
2 Mr. Jenkins, and your oath as jurors is the same either way.

3 So I'm going to give you an example of seeing if
4 you guys would be able to follow the instructions from the
5 Court.

6 How many of you drove to court this morning?

7 THE PROSPECTIVE JURY PANEL: (Panel raises
8 hands.)

9 MS. MAZZA: I'd said almost everyone. How many
10 of you would say you might have gone five miles over the speed
11 limit?

12 THE PROSPECTIVE JURY PANEL: (Several hands
13 raised.)

14 MS. MAZZA: I appreciate the honesty, yeah. So
15 with that, what if you showed up to court this morning and in
16 the courtroom, and the Court told you this is a case of
17 speeding and it's speeding where the Defendant was going five
18 miles over the limit.

19 And what if the Judge instructed you that the law
20 required the finding of Defendant's guilt of speeding, even
21 for going only one mile over the speed limit, would you be
22 able to follow that instruction even given your driving this
23 morning.

24 THE PROSPECTIVE JURY PANEL: (Panel nods heads.)

1 MS. MAZZA: So I'm seeing a couple nodding their
2 heads. Can you say your last name?
3 A PROSPECTIVE JUROR: Candace Supiran.
4 MS. MAZZA: Supiran.
5 A PROSPECTIVE JUROR: Yes.
6 MS. MAZZA: You would be able to follow that
7 instruction?
8 A PROSPECTIVE JUROR: I would be able to separate
9 my own speeding and objectively look at --
10 MS. MAZZA: What the orders or the instructions
11 from the Court would be?
12 A PROSPECTIVE JUROR: What the -- yes, yes.
13 MS. MAZZA: Okay. Anyone have a problem with
14 that?
15 THE PROSPECTIVE JURY PANEL: (No hands raised.)
16 MS. MAZZA: And is there anyone who cannot or
17 will not follow the law as provided by the Court or who's
18 inclined to substitute the law of their own personal beliefs?
19 THE PROSPECTIVE JURY PANEL: (No hands raised.)
20 MS. MAZZA: Has anyone had any experiences with
21 the criminal justice system?
22 THE PROSPECTIVE JURY PANEL: (Several hands
23 raised.)
24 MS. MAZZA: Has anyone -- okay. So I'll start

1 with you, Ms. Kirk. Can you explain?

2 A PROSPECTIVE JUROR: I've just had personal
3 experience with my sister being in and out of the justice
4 system.

5 MS. MAZZA: Okay. As a Defendant?

6 A PROSPECTIVE JUROR: Yes.

7 MS. MAZZA: Okay. Has that impacted how you feel
8 about the criminal justice system?

9 A PROSPECTIVE JUROR: No.

10 MS. MAZZA: Okay. Do you think that even --
11 whatever happened to your sister, you could look at this case
12 separate and apart from that?

13 A PROSPECTIVE JUROR: Yes.

14 MS. MAZZA: Do you believe your sister was
15 treated fairly?

16 A PROSPECTIVE JUROR: Yeah, I do, actually.

17 MS. MAZZA: Anyone else? I saw Mr. -- okay.
18 Mr. Johnson?

19 A PROSPECTIVE JUROR: Yes. My daughter's
20 mentally ill.

21 MS. MAZZA: Okay.

22 A PROSPECTIVE JUROR: She's had several scrapes
23 with the criminal justice system, and in the beginning, I
24 found it very unfair for the mentally ill. But I do believe

1 currently it is improving, but could do better.

2 MS. MAZZA: Yeah, and do you believe those
3 experiences and how the criminal justice system treated your
4 daughter, you could set aside for this case?

5 A PROSPECTIVE JUROR: I felt like I could. I
6 didn't feel like the law could.

7 MS. MAZZA: Can you explain what you mean by
8 that?

9 A PROSPECTIVE JUROR: There were several
10 instances where she wasn't in her right mind and attacked
11 folks, yet she was treated just like anybody in their right
12 mind would be if they attacked folks. And I didn't think that
13 was fair.

14 MS. MAZZA: Okay.

15 A PROSPECTIVE JUROR: She doesn't even usually
16 remember it.

17 MS. MAZZA: And not thinking the system was fair
18 for her, do you think you can set that aside for this case?

19 A PROSPECTIVE JUROR: I would do my best. It
20 impacted me only because my position as a parent. I was the
21 one that had to take her to court. I was the one that had to
22 drive her around. I was the one that had to take her to all
23 the meetings.

24 MS. MAZZA: Um-hum.

1 A PROSPECTIVE JUROR: And all that stuff. So it
2 did leave a very bad taste in my mouth, so to speak.

3 MS. MAZZA: And where was that?

4 A PROSPECTIVE JUROR: It was here in Douglas.

5 MS. MAZZA: And did that give you a bad taste for
6 the Douglas County Sheriff's Office or the District Attorney's
7 Office?

8 A PROSPECTIVE JUROR: No, I thought the deputies
9 did very fine. I thought it was in the courtroom.

10 MS. MAZZA: Okay. Do you think that that will
11 make you impartial in this case?

12 A PROSPECTIVE JUROR: I hope not. I -- it's hard
13 for mead to say. I haven't been presented with anything --

14 MS. MAZZA: Okay.

15 A PROSPECTIVE JUROR: -- that would maybe push
16 that button.

17 MS. MAZZA: Okay. And there -- anyone else? I
18 think, Mr. Sterling, did you raise your hand? Mr. Nelson?

19 A PROSPECTIVE JUROR: I did, but this is a
20 private matter.

21 MS. MAZZA: Okay. So more private, you'd like to
22 discuss separate?

23 A PROSPECTIVE JUROR: Yes.

24 MS. MAZZA: Is there anyone else who either

1 themselves -- Ms. Sanguinetti?

2 A PROSPECTIVE JUROR: Yes, just my mom. She was
3 charged and doing time currently, but I don't talk to her and
4 it doesn't affect my ability to be on the jury.

5 MS. MAZZA: Okay. Can you tell us what she was
6 charged with?

7 A PROSPECTIVE JUROR: Sure. Five counts of
8 neglect, child abuse, five counts of child endangerment, two
9 counts of sexual assault, and there are a couple of others.

10 MS. MAZZA: And so has that experience, through
11 your mom, since you said you don't have any contact with her?

12 A PROSPECTIVE JUROR: No.

13 MS. MAZZA: Would that impact your ability to sit
14 on this jury?

15 A PROSPECTIVE JUROR: Absolutely not.

16 MS. MAZZA: Okay. You think you can still be
17 fair and impartial --

18 A PROSPECTIVE JUROR: Yep.

19 MS. MAZZA: -- to both the State and Mr. Jenkins?

20 A PROSPECTIVE JUROR: Yep.

21 MS. MAZZA: Anyone else? Ms. Rhodes.

22 A PROSPECTIVE JUROR: I have a friend who is
23 going to be going into prison. She's in a local prison right
24 now and she's been sentenced. And so we're having

1 conversations by phone and that's -- I don't know if that has
2 any bearing.

3 MS. MAZZA: And is that a close friend of yours?

4 A PROSPECTIVE JUROR: Somewhat, yes. I'm one of
5 her support groups.

6 MS. MAZZA: One -- okay. Has her experience
7 impacted your view of the criminal justice system?

8 A PROSPECTIVE JUROR: No.

9 MS. MAZZA: Do you think it would impact your
10 sitting on a jury in this case?

11 A PROSPECTIVE JUROR: No.

12 MS. MAZZA: Do you think you could still be fair
13 and impartial for both the State and Mr. Jenkins?

14 A PROSPECTIVE JUROR: I believe so.

15 MS. MAZZA: Okay. Is there anyone else?

16 THE PROSPECTIVE JURY PANEL: (No hands raised.)

17 MS. MAZZA: Has anyone been the victim of a
18 crime?

19 THE PROSPECTIVE JURY PANEL: (Several hands
20 raised.)

21 MS. MAZZA: Mr. Koontz.

22 A PROSPECTIVE JUROR: (Nodded head.)

23 MS. MAZZA: Can you tell us about that?

24 A PROSPECTIVE JUROR: Yeah, it was in a -- at a

1 Christmas party with a couple hundred people and I was
2 chatting with my brother. And I turned around to the bar to
3 get a drink and a guy -- two guys were arguing, one guy threw
4 a glass at another guy, hit me here. So I've had 16 surgeries
5 and things of that nature.

6 MS. MAZZA: I'm sorry to hear about that.

7 A PROSPECTIVE JUROR: Thank you.

8 MS. MAZZA: Did that experience -- did that case
9 ever go to court or anything like that?

10 A PROSPECTIVE JUROR: Oh, yeah.

11 MS. MAZZA: Did that experience impact your view
12 of the criminal justice system?

13 A PROSPECTIVE JUROR: Yeah.

14 MS. MAZZA: For the worse, for the better?
15 Anything like that?

16 A PROSPECTIVE JUROR: Oh, yeah, worked good.

17 MS. MAZZA: Sorry?

18 A PROSPECTIVE JUROR: Worked good for me.

19 MS. MAZZA: It was good for you?

20 A PROSPECTIVE JUROR: It was good for me, yes.

21 MS. MAZZA: Okay. All right. Do you think that
22 you would be able to set aside whatever type of process
23 happened in that case if you were to sit as a juror in this
24 case?

1 A PROSPECTIVE JUROR: Sure.

2 MS. MAZZA: Okay. Was there anyone else when I
3 indicated about having been a victim in a case?

4 Ms. Aiazzi.

5 A PROSPECTIVE JUROR: Aiazzi, yes. It's
6 something I don't really want to share, but I can tell you it
7 was sexual in nature.

8 MS. MAZZA: Okay. Is it something that you
9 believe would impact your sitting on a jury in this case?

10 A PROSPECTIVE JUROR: I don't think so.

11 A PROSPECTIVE JUROR: Excuse me. Do you want to
12 know all about my court cases --

13 MS. MAZZA: Oh, no.

14 A PROSPECTIVE JUROR: Like the other ones?

15 MS. MAZZA: Yeah.

16 A PROSPECTIVE JUROR: Okay. I had an operating
17 room fire where I was having a cyst removed off of my eye.
18 You know, I had oxygen and morphine and everything else. And
19 when they went to cauterize it, it exploded, caught the oxygen
20 on fire. And so it burned my lungs.

21 I've had 20 surgery -- plastic surgeries on my
22 face. It burned so hot in my nose, it deviated the septum,
23 burned my lungs.

24 MS. MAZZA: So I'm guessing that ended up being a

1 civil case?

2 A PROSPECTIVE JUROR: Um-hum.

3 MS. MAZZA: And did you have any notions that you
4 came out of that with regard to the court system?

5 A PROSPECTIVE JUROR: A lot more money.

6 MS. MAZZA: Sorry?

7 A PROSPECTIVE JUROR: Just a lot more money.

8 MS. MAZZA: Okay.

9 A PROSPECTIVE JUROR: Sorry. I don't mean it
10 like that, it's just that's the kind of suit it was.

11 MS. MAZZA: And does it impact your ability to
12 sit as a juror and listen to any instructions from the Court?

13 A PROSPECTIVE JUROR: No.

14 MS. MAZZA: Okay. Is there anyone else?

15 THE PROSPECTIVE JURY PANEL: (No hands raised.)

16 MS. MAZZA: All right. So does anyone or any of
17 your immediate family members work in law enforcement or in
18 that related capacity? I think we heard about Ms. Aiazzi's
19 husband.

20 A PROSPECTIVE JUROR: I didn't understand your
21 question.

22 MS. MAZZA: Anyone related to law enforcement or
23 have -- know law enforcement or work in law, any related
24 capacity to law enforcement?

1 A PROSPECTIVE JUROR: (Nodded head.)
2 MS. MAZZA: I think we heard about your husband
3 earlier.
4 A PROSPECTIVE JUROR: Yeah, my nephew also.
5 MS. MAZZA: Your nephew?
6 A PROSPECTIVE JUROR: (Nodded head.)
7 MS. MAZZA: What is -- how is he related to law
8 enforcement?
9 A PROSPECTIVE JUROR: He's a special agent sharp
10 shooter for the FBI.
11 MS. MAZZA: Can you say that again?
12 A PROSPECTIVE JUROR: He is a special -- an FBI
13 special agent on the sharp shooter team.
14 MS. MAZZA: And do you think that both him and
15 your husband's prior work would impact your ability to sit on
16 this jury?
17 A PROSPECTIVE JUROR: No, it's not a prior
18 husband, current husband.
19 MS. MAZZA: Your current husband, but his prior
20 work.
21 A PROSPECTIVE JUROR: Oh, no.
22 MS. MAZZA: Mr. Koontz, you had your hand raised?
23 A PROSPECTIVE JUROR: Two -- three deputies that
24 are police officers.

1 MS. MAZZA: Is that locally here?

2 A PROSPECTIVE JUROR: One here, two in southern
3 California.

4 MS. MAZZA: And I'm guessing you talk to them
5 sometimes about cases; is that right?

6 A PROSPECTIVE JUROR: Yeah, I haven't seen
7 anybody since COVID started and I have 53 nieces and nephews,
8 so --

9 MS. MAZZA: Wow. Okay.

10 A PROSPECTIVE JUROR: Yeah, I talk to a few of
11 them every now and then, but --

12 MS. MAZZA: So any conversations with them or
13 relationship to them, would that impact your ability to sit in
14 this case?

15 A PROSPECTIVE JUROR: No.

16 MS. MAZZA: Would you be able to set aside any
17 conversations you have had with them if you sat as a juror in
18 this case?

19 A PROSPECTIVE JUROR: Sure.

20 THE COURT: And then the same question to you,
21 ma'am, would you be able to set aside anything you've heard
22 through conversations with them?

23 A PROSPECTIVE JUROR: Certainly.

24 MS. MAZZA: Okay.

1 A PROSPECTIVE JUROR: Are you just talking badged
2 officers?

3 MS. MAZZA: No. If there's any other type of
4 relationship you have, that would be important, too.

5 A PROSPECTIVE JUROR: Dispatcher.

6 MS. MAZZA: Dispatcher. Okay. And how do you
7 know them?

8 A PROSPECTIVE JUROR: Sister in law.

9 MS. MAZZA: And would any type of stories or any
10 relationship to her --

11 A PROSPECTIVE JUROR: No, I don't think so. No.

12 MS. MAZZA: Okay. Okay. Ms. Johnson?

13 A PROSPECTIVE JUROR: Um-hum. My husband was in
14 the police -- a police captain for 27 years.

15 MS. MAZZA: Okay. And through his work, again, I
16 assume you've heard about his work. Would that impact your
17 ability to sit in this case?

18 A PROSPECTIVE JUROR: No.

19 MS. MAZZA: Would those stories be on your mind
20 or would you be able to set them aside if you sat on this
21 jury?

22 A PROSPECTIVE JUROR: There were no stories that
23 related about -- to anything at all that I'm hearing today.

24 MS. MAZZA: Okay. And then Ms. Sanguinetti.

1 A PROSPECTIVE JUROR: My brother's a deputy.

2 MS. MAZZA: Where is that?

3 A PROSPECTIVE JUROR: Athens, Texas.

4 MS. MAZZA: Okay. Would your relationship to him
5 impact your --

6 A PROSPECTIVE JUROR: Absolutely not.

7 MS. MAZZA: Okay. Was there anyone else?

8 A PROSPECTIVE JUROR: (Raised hand.)

9 MS. MAZZA: Mr. Summers.

10 A PROSPECTIVE JUROR: Are you talking current,
11 work currently there or --

12 MS. MAZZA: No, former as well.

13 A PROSPECTIVE JUROR: Well, I have a cousin who
14 worked for the highway patrol in Nevada for 20 years and
15 another cousin whose husband was a sheriff for Douglas County
16 police.

17 MS. MAZZA: And knowing those persons or their
18 experiences, would you be able to set them aside and listen to
19 the evidence of this case and only this case?

20 A PROSPECTIVE JUROR: I think so.

21 MS. MAZZA: And would you be able to be fair and
22 impartial to both the State and Mr. Jenkins?

23 A PROSPECTIVE JUROR: I believe so.

24 MS. MAZZA: I think there was one in the back,

1 Mr. Kingman.

2 A PROSPECTIVE JUROR: My daughter retired after
3 29 years in the South Lake Tahoe Police Department and I have
4 a nephew who just retired from the California highway patrol.

5 MS. MAZZA: And so the same question to you, sir:
6 Would their experiences or knowing them impact your ability to
7 be a fair and impartial juror?

8 A PROSPECTIVE JUROR: It would not.

9 MS. MAZZA: Did I miss any?

10 A PROSPECTIVE JUROR: The questions just keep
11 leading on. My brother, Tim, was retired Douglas, with the
12 department. He's been retired for about five years.

13 MS. MAZZA: Okay.

14 A PROSPECTIVE JUROR: And Paul Gilbert, I've
15 known him forever, but I don't think it would impact.

16 MS. MAZZA: Okay. You don't believe that would
17 impact. And so Paul Gilbert, the constable?

18 A PROSPECTIVE JUROR: Correct.

19 MS. MAZZA: Knowing him would not impact your
20 ability to sit on this jury?

21 A PROSPECTIVE JUROR: No. I mean, I just saw him
22 outside, so --

23 MS. MAZZA: And then you said your
24 brother-in-law; is that correct?

1 A PROSPECTIVE JUROR: My brother.
2 MS. MAZZA: Your brother.
3 A PROSPECTIVE JUROR: Tim Johnson, was with the
4 Department for 25 years.
5 MS. MAZZA: Douglas County?
6 A PROSPECTIVE JUROR: Douglas County.
7 MS. MAZZA: Would having known him through that
8 employment impact your ability to listen to officers from the
9 Douglas County Sheriff's Office?
10 A PROSPECTIVE JUROR: Not -- he was a bailiff and
11 other than being a bailiff stories, no, I don't think it would
12 impact.
13 MS. MAZZA: Okay. Did I miss any?
14 THE PROSPECTIVE JURY PANEL: (No hands raised.)
15 MS. MAZZA: Okay. Has anybody here had an
16 unwarranted or unpleasant contact or experience with law
17 enforcement?
18 THE PROSPECTIVE JURY PANEL: (No hands raised.)
19 MS. MAZZA: Has anybody had any contact with the
20 District Attorney's Office as a Defendant, witness or other
21 manner?
22 A PROSPECTIVE JUROR: (Raises hand.)
23 MS. MAZZA: Mr. Johnson.
24 A PROSPECTIVE JUROR: My mentally ill daughter, I

1 was in the DA's office several times.

2 MS. MAZZA: Okay. Did that experience give you
3 any bias towards our office?

4 A PROSPECTIVE JUROR: I'd have to say it did,
5 only because the mentally ill tend to fall into that hole.

6 MS. MAZZA: Um-hum.

7 A PROSPECTIVE JUROR: Because, you know, they do
8 things that are wrong, but then they know they do things that
9 are wrong, but the law says I have to do this.

10 MS. MAZZA: Okay.

11 A PROSPECTIVE JUROR: So --

12 MS. MAZZA: And if this is a case that does not
13 involve any of those aspects, would you be able to set that
14 opinion or --

15 A PROSPECTIVE JUROR: I would like to think so,
16 yeah.

17 MS. MAZZA: Would like to think so, but not --

18 A PROSPECTIVE JUROR: Like, again, I don't know
19 if that button's been pushed yet, you know.

20 MS. MAZZA: Okay.

21 A PROSPECTIVE JUROR: I would say yes, but I
22 don't -- I've never done this before like this, so --

23 MS. MAZZA: So if there are certain topics that
24 come up, you may have a preconceived bias towards our office?

1 A PROSPECTIVE JUROR: I'll say yes.

2 MS. MAZZA: Okay.

3 A PROSPECTIVE JUROR: Because I've been there
4 before.

5 MS. MAZZA: Okay. Your Honor, based upon that,
6 the State would move to dismiss Mr. Johnson for cause.

7 THE COURT: Ms. Ristenpart, would you like to
8 question him on that issue?

9 MS. RISTENPART: I would.

10 THE COURT: You may do so.

11 MS. RISTENPART: Thank you, Your Honor.

12 Mr. Johnson, obviously your daughter went through
13 some difficult times and what Ms. Mazza was asking you is
14 like, well, just sitting here today, are you so biased against
15 her office and her job that you couldn't be fair?

16 A PROSPECTIVE JUROR: No, I don't know any of
17 them.

18 MS. RISTENPART: So she wasn't involved in any of
19 your daughter's cases?

20 A PROSPECTIVE JUROR: No, it was prior.

21 MS. RISTENPART: And so going in, and you -- I
22 think you tried to answer that, you said, well, I don't know
23 sitting here until I start hearing things. And if something
24 did trigger an emotional response that you're like, I can't be

1 fair anymore, would you feel comfortable bringing it up to the
2 Court?

3 A PROSPECTIVE JUROR: Sure.

4 MS. RISTENPART: Your Honor, I don't think that
5 challenge for cause is warranted here.

6 Thank you.

7 THE COURT: All right. Ms. Mazza, any follow-up
8 questions on the challenge?

9 MS. MAZZA: No, Your Honor, I think it was clear.

10 THE COURT: All right. The Court overrules the
11 objection. Ms. Mazza, you may continue with your questions.

12 MS. MAZZA: Mr. Johnson, just to go back to that,
13 how long ago was this involving your daughter?

14 A PROSPECTIVE JUROR: It's still pretty current.
15 I'd say the last time she was brought home was a little over a
16 year ago.

17 MS. MAZZA: A little over a year ago, she had a
18 case with our office?

19 A PROSPECTIVE JUROR: I believe it was with your
20 office, yes. It was -- yeah, probably just a little over a
21 year ago.

22 MS. MAZZA: Okay. And so we discussed everyone
23 who's served on a jury before. Is there anyone who, when you
24 served on that jury, you were the foreperson? Were the

1 foreperson on a jury?

2 A PROSPECTIVE JUROR: (Raises hand.)

3 MS. MAZZA: Mr. Kingman.

4 A PROSPECTIVE JUROR: Yes.

5 MS. MAZZA: You were the foreperson?

6 A PROSPECTIVE JUROR: Yes.

7 MS. MAZZA: And I think you said you served on
8 three juries?

9 A PROSPECTIVE JUROR: That's correct.

10 MS. MAZZA: And were you the foreperson once or
11 every time?

12 A PROSPECTIVE JUROR: Once.

13 MS. MAZZA: Okay. So in this case, you're going
14 to hear accounts of what happened involving the crime, which
15 is alleged in this case. In our everyday lives, we hear
16 stories about what happened at a previous time.

17 When you hear someone tell a story, what are some
18 of the things that you pay attention to in order to assess
19 whether their story is true or not?

20 Anyone have any ideas of what you might look for?

21 A PROSPECTIVE JUROR: Consistency.

22 MS. MAZZA: Say that again.

23 A PROSPECTIVE JUROR: Consistency.

24 MS. MAZZA: Consistency. Does anybody have any

1 problem looking for those types of things when hearing
2 testimony in court?

3 THE PROSPECTIVE JURY PANEL: (No hands raised.)

4 MS. MAZZA: Is there anybody who feels like they
5 cannot assess the credibility of any witnesses in this case?

6 THE PROSPECTIVE JURY PANEL: (No hands raised.)

7 MS. MAZZA: So some of the witnesses in this
8 case, as you can see from the witness list that was provided,
9 are law enforcement.

10 Is there anybody who has any issues with
11 listening to witnesses that are law enforcement?

12 THE PROSPECTIVE JURY PANEL: (No hands raised.)

13 MS. MAZZA: All right. So I just kind of want to
14 go over the number of witnesses in a case. Hypothetically, I
15 think we can all agree sports are finally starting to come
16 back over the last year.

17 So, for an example, say there's a stabbing at the
18 50-yard line on the field at an NFL play-off game. Say it was
19 half-time and some people are in the restroom, some are at the
20 concession stands. Let's say at least 30,000 people witnessed
21 the stabbing.

22 Do they all need to testify at trial on the
23 stabbing?

24 A PROSPECTIVE JUROR: No.

1 MS. MAZZA: I think I heard, Ms. Sanguinetti, you
2 said no?

3 A PROSPECTIVE JUROR: Correct.

4 MS. MAZZA: Anyone else disagree?

5 THE PROSPECTIVE JURY PANEL: (No hands raised.)

6 MS. MAZZA: Okay. What if only 10,000 people
7 gave statements? Do you think all 10,000 people need to
8 testify?

9 A PROSPECTIVE JUROR: No.

10 MS. MAZZA: How about if only ten testify at
11 trial, would anyone have a problem with that?

12 THE PROSPECTIVE JURY PANEL: (No hands raised.)

13 MS. MAZZA: If ten testify at trial, would anyone
14 have a problem?

15 A PROSPECTIVE JUROR: It would depend on their
16 testimony.

17 MS. MAZZA: Okay. And what do you mean by that?

18 A PROSPECTIVE JUROR: If all ten are in absolute
19 agreement, then yes, that's sufficient. But if -- you know,
20 if you've got seven that say one thing and three that say
21 another thing, then you don't have enough to really sway a --
22 you know, give me a consistent answer that -- as to what the
23 crime was.

24 MS. MAZZA: And so you think that it needs to be

1 fully unanimous to decide that a crime occurred?

2 A PROSPECTIVE JUROR: No, not fully unanimous.
3 That's why I picked seven out of ten. 30 percent is, in my
4 opinion, enough to cast a shadow of a doubt that something is
5 not the way it was.

6 MS. MAZZA: Okay. So then let's just go on to
7 talk about the burden of proof that the State has in this
8 case. The State does have the burden to prove this case
9 beyond a reasonable doubt, and that is a burden that the State
10 welcomes in this case.

11 As you will be instructed by the Court, the
12 Defendant is innocent until proven guilty beyond a reasonable
13 doubt. You will also be instructed as to the definition of
14 reasonable doubt.

15 At this moment, does anybody interpret that
16 standard to require the State to prove the case beyond a
17 question of a doubt? It kind of sounds like you do,
18 Mr. Tobey.

19 A PROSPECTIVE JUROR: I don't understand the
20 difference between the two wording, beyond a reasonable doubt
21 and beyond the question of a doubt. They're similar in my
22 point of view.

23 MS. MAZZA: Okay. Do you understand that it's
24 not beyond all doubt?

1 A PROSPECTIVE JUROR: Yes.

2 MS. MAZZA: Okay. Does anyone have problem
3 passing judgment in a case, making that decision as a juror?

4 THE PROSPECTIVE JURY PANEL: (No hands raised.)

5 MS. MAZZA: So just kind of going back to that
6 standard of reasonable doubt, does anybody believe the State
7 should be held to a higher standard than that, beyond a
8 reasonable doubt?

9 A PROSPECTIVE JUROR: What's a higher standard
10 than that?

11 MS. MAZZA: Like I said, do you believe it's
12 beyond all doubt?

13 A PROSPECTIVE JUROR: (Nodded head.)

14 MS. MAZZA: Do you believe that, Mr. Albonico?

15 A PROSPECTIVE JUROR: Well, reasonable doubt is
16 fine. That's probably as good as you're going to get. The
17 whole thing about that is I don't think you could prove that.

18 MS. MAZZA: Do you really know anything beyond
19 all doubt?

20 A PROSPECTIVE JUROR: No.

21 MS. MAZZA: So -- exactly. I would take the
22 marriage example. So say you're attending a wedding, you see
23 them walk down the aisle, you see them exchange their wedding
24 rings, you see them kiss each other. You go to the dinner

1 afterwards, but do you really know that they're married? Do
2 you know that they actually filed that marriage certificate?

3 Does anyone disagree?

4 THE PROSPECTIVE JURY PANEL: (No hands raised.)

5 MS. MAZZA: So there are two types of evidence in
6 a case, circumstantial evidence and direct evidence. The
7 Court will instruct you on the definitions of those.

8 Does anyone think they cannot give both types of
9 evidence the same weight?

10 THE PROSPECTIVE JURY PANEL: (No hands raised.)

11 MS. MAZZA: And now when I'm talking about
12 circumstantial evidence, you can walk outside and you can see
13 the jet trail of a plane. Maybe you don't see the plane, but
14 that is circumstantial evidence that a plane has flown over.

15 Does anyone think that that's less weight than
16 actually seeing the plane fly over?

17 A PROSPECTIVE JUROR: Yes.

18 MS. MAZZA: Yes? Who said yes? Ms. Rhodes, why
19 is that?

20 A PROSPECTIVE JUROR: I mean, I would think that
21 it was a plane, but either -- there's a slight chance it could
22 be something different, but --

23 MS. MAZZA: Okay. So would that be -- you can't
24 say beyond all doubt that it was a plane.

1 A PROSPECTIVE JUROR: Right.

2 MS. MAZZA: But could you say beyond a reasonable
3 doubt, it was a plane?

4 A PROSPECTIVE JUROR: Yes.

5 MS. MAZZA: Anyone else disagree?

6 THE PROSPECTIVE JURY PANEL: (No hands raised.)

7 MS. MAZZA: So one topic I think everyone can see
8 with our masks and everything, COVID is something that's gone
9 on for the last year.

10 Is there anyone that has any issues because of
11 that, serving as a juror?

12 THE PROSPECTIVE JURY PANEL: (No hands raised.)

13 MS. MAZZA: All right. So, Ms. Sanguinetti, I've
14 kind of seen you holding your stomach throughout. Are you in
15 any pain or anything like that?

16 A PROSPECTIVE JUROR: No, unless my baby kicks my
17 organs.

18 MS. MAZZA: Okay. So you're pregnant.

19 A PROSPECTIVE JUROR: Yes.

20 MS. MAZZA: Would that impact your ability to sit
21 on this jury?

22 A PROSPECTIVE JUROR: Absolutely not.

23 MS. MAZZA: No? Are you due anytime soon?

24 A PROSPECTIVE JUROR: I hope not.

1 MS. MAZZA: Okay. So you think that you could
2 kind of set that aside?

3 A PROSPECTIVE JUROR: Yes.

4 MS. MAZZA: If you were to sit on this jury?

5 A PROSPECTIVE JUROR: Yes.

6 MS. MAZZA: Okay. Mr. Kingman, I have seen you a
7 couple times throughout today kind of grab your ear.

8 A PROSPECTIVE JUROR: (Nodded head.)

9 MS. MAZZA: Are you able to hear everything that
10 we've been going over today?

11 A PROSPECTIVE JUROR: About 98 percent of it.

12 MS. MAZZA: 98 percent. Would you -- I think you
13 have been asking when you haven't heard something, but would
14 you be able to speak up in court?

15 A PROSPECTIVE JUROR: Yes.

16 MS. MAZZA: If a witness were testifying and you
17 didn't hear what they said?

18 A PROSPECTIVE JUROR: Yes.

19 MS. MAZZA: You wouldn't have a problem raising
20 your hand and saying, I can't hear?

21 A PROSPECTIVE JUROR: No problem.

22 MS. MAZZA: Okay. And the Court has additional
23 hearing apparatuses, I guess you could say, that could help
24 you.

1 Would those help you also here?

2 A PROSPECTIVE JUROR: Mine are turned up full

3 now.

4 MS. MAZZA: Okay. So just help if people speak

5 up; is that right?

6 A PROSPECTIVE JUROR: I'm sorry?

7 MS. MAZZA: It just helps if I speak up.

8 A PROSPECTIVE JUROR: (Nodded head.)

9 MS. MAZZA: So when you say 98 percent, would you

10 said you've missed a good chunk of things that have happened

11 here today?

12 A PROSPECTIVE JUROR: I had a hard time hearing

13 the Judge sometimes this morning through his mask.

14 MS. MAZZA: Okay. Have you been able to follow

15 along with all the questions that have been asked?

16 A PROSPECTIVE JUROR: Yes.

17 MS. MAZZA: So Ms. Kane?

18 A PROSPECTIVE JUROR: Yes.

19 MS. MAZZA: You're a second grade teacher?

20 A PROSPECTIVE JUROR: Yes.

21 MS. MAZZA: Have you ever had any instances where

22 you had a child come forward to report something to you?

23 A PROSPECTIVE JUROR: Yes.

24 MS. MAZZA: How did that go?

1 A PROSPECTIVE JUROR: It was when I was teaching
2 Kindergarten in California. It was an allegation of physical
3 abuse.

4 MS. MAZZA: And you don't -- okay.

5 A PROSPECTIVE JUROR: It ended up she was removed
6 from the home and fine through the rest of the year, foster
7 family in my class.

8 MS. MAZZA: Okay. And did you report that, that
9 she disclosed to you, I assume?

10 A PROSPECTIVE JUROR: I reported it to our school
11 counselor who then called the correct people to make a full
12 report because I was in the middle of school.

13 MS. MAZZA: Okay. So Ms. Wose.

14 A PROSPECTIVE JUROR: Yes.

15 MS. MAZZA: You indicated earlier you have an
16 eight-year-old, a five-year-old, and a three-year-old.

17 A PROSPECTIVE JUROR: Yes.

18 MS. MAZZA: And that you may have trouble getting
19 people to watch them?

20 A PROSPECTIVE JUROR: Yeah, I think it's taken
21 care of. I talked to my husband and he's going to be able to
22 take some time off.

23 MS. MAZZA: Okay.

24 A PROSPECTIVE JUROR: Yes, but I do have somebody

1 at home as well.

2 MS. MAZZA: Okay. And the fact that someone else
3 is with them and that's not you, is that going to be impacting
4 your ability to serve on this jury?

5 A PROSPECTIVE JUROR: No, it's my husband.

6 MS. MAZZA: Okay.

7 A PROSPECTIVE JUROR: It's their father, so --

8 MS. MAZZA: You feel fine with it?

9 A PROSPECTIVE JUROR: Oh, absolutely.

10 MS. MAZZA: Okay. So, Ms. Lang, I don't think we
11 got a questionnaire from you. So can you -- oh, you have it?

12 A PROSPECTIVE JUROR: (Nodded head.)

13 MS. MAZZA: Can you tell us a little bit more
14 about yourself? How long have you worked at Sharkey's?

15 A PROSPECTIVE JUROR: I've worked for the company
16 CVI for total of seven years, at Sharkey's for three. I left
17 CVI to be a stay-at-home mom for my first daughter and then
18 came back to work by Sharkey's because it's owned by the same
19 person when my second daughter was eight months old.

20 MS. MAZZA: Okay. And then you're a server; is
21 that right?

22 A PROSPECTIVE JUROR: Yes.

23 MS. MAZZA: Okay.

24 A PROSPECTIVE JUROR: Food server, yes.

1 MS. MAZZA: Food server. So at the restaurant in
2 Sharkey's?

3 A PROSPECTIVE JUROR: In the cafe, yes.

4 MS. MAZZA: Okay. And you said your husband
5 works for Telecom?

6 A PROSPECTIVE JUROR: Yeah, Prince Telecom.

7 MS. MAZZA: What is that?

8 A PROSPECTIVE JUROR: It's a subcontractor for
9 Charter Communications.

10 MS. MAZZA: Okay. And then, Ms. Kirk, I also --
11 I believe we didn't get one from you, so --

12 A PROSPECTIVE JUROR: I was out of town. I
13 didn't even get it until like Sunday, so I'm sorry.

14 MS. MAZZA: Well, at least you showed up. That's
15 good. So you said you're a service specialist for credit card
16 companies.

17 A PROSPECTIVE JUROR: Um-hum.

18 MS. MAZZA: What exactly do you do?

19 A PROSPECTIVE JUROR: So like I -- it's hard to
20 explain it. It's a global credit card processing company and
21 like the machines that you stick your card into, I program
22 them on the computer to work and we're like merchant services.

23 MS. MAZZA: Okay.

24 A PROSPECTIVE JUROR: Type thing.

1 MS. MAZZA: Your Honor, I have no further
2 questions. Thank you.

3 THE COURT: Okay. And I take that as reserving,
4 though, as to the folks who we may need to speak in private
5 with?

6 MS. MAZZA: Yes.

7 THE COURT: Okay. Ms. Ristenpart, you can go
8 ahead with your questions.

9 MS. RISTENPART: Thank you, Your Honor.

10 Good afternoon, ladies and gentlemen. It's
11 always tough to go towards the end of a very long day, so
12 appreciate it.

13 Why do cases go to trial?

14 A PROSPECTIVE JUROR: Get a verdict.

15 MS. RISTENPART: What'd you say?

16 A PROSPECTIVE JUROR: Get a verdict, I guess.

17 MS. RISTENPART: To get a verdict, sure.

18 Ms. Osmer, why do you think cases go to trial?

19 A PROSPECTIVE JUROR: Because they have to. I
20 don't know.

21 MS. RISTENPART: I know these are odd questions.

22 A PROSPECTIVE JUROR: You put me on the spot.

23 MS. RISTENPART: You're like, why are you asking
24 me. Yes.

1 Ms. Kirk, why do you think cases go to trial?

2 A PROSPECTIVE JUROR: To show that you're
3 innocent and you want to make sure that you're taking it all
4 the way.

5 MS. RISTENPART: Mr. Stoner, why do you think
6 cases go to trial?

7 A PROSPECTIVE JUROR: Mostly to gain all the
8 information you can to come to a verdict.

9 MS. RISTENPART: Ms. Ledene Johnson, why do you
10 think cases go to trial?

11 A PROSPECTIVE JUROR: Because it couldn't be
12 resolved outside of the courtroom and so they come to trial to
13 resolve each side.

14 MS. RISTENPART: You wrote on your jury
15 questionnaire, I know it's probably been a while since you
16 filled it out.

17 A PROSPECTIVE JUROR: Yeah, I don't even remember
18 what I said.

19 MS. RISTENPART: It's in here, right. You wrote
20 on there that if someone's at trial, you tend to think that
21 they're already guilty.

22 Do you feel that way?

23 A PROSPECTIVE JUROR: No. I used to feel that
24 way, but I don't feel that way anymore.

1 MS. RISTENPART: So different life experiences or
2 changes?

3 A PROSPECTIVE JUROR: Older.

4 MS. RISTENPART: Does anyone feel as Ms. Johnson
5 used to feel, like why are we wasting our time here? You kind
6 of waved your hand just a little bit.

7 A PROSPECTIVE JUROR: No.

8 MS. RISTENPART: No? Okay. What about you,
9 Mr. Kingman, why do cases go to trial?

10 A PROSPECTIVE JUROR: You will have to repeat
11 that. I'm sorry.

12 MS. RISTENPART: Of course. Why do cases -- why
13 do you think cases go to trial?

14 A PROSPECTIVE JUROR: To determine justice.

15 MS. RISTENPART: Ms. Teruya, did I say that
16 right?

17 A PROSPECTIVE JUROR: Yes, Teruya.

18 MS. RISTENPART: Teruya.

19 A PROSPECTIVE JUROR: To hear both sides to get a
20 verdict.

21 MS. RISTENPART: You heard the State, Ms. Mazza,
22 state that as the prosecution, the entire burden is on them;
23 right? They brought this allegation. They're trying to make
24 a claim. They have to prove it beyond a reasonable doubt. We

1 talked about that; right?

2 So based upon that, just by law, means that I
3 could literally sit here at counsel table, kick my feet back,
4 and then be like they never proved it.

5 Who has a problem with that?

6 A PROSPECTIVE JUROR: (Raises hand.)

7 MS. RISTENPART: Yes?

8 A PROSPECTIVE JUROR: I want to hear something,
9 some kind of defense so we can get to the truth, is what I'm
10 looking at.

11 MS. RISTENPART: Okay. Ms. Kite?

12 A PROSPECTIVE JUROR: Yes.

13 MS. RISTENPART: What do you think?

14 A PROSPECTIVE JUROR: I think that's what this
15 country is based on. If someone's accused of something, they
16 have a right to go to court and have it resolved.

17 MS. RISTENPART: Ms. Fletcher?

18 A PROSPECTIVE JUROR: I believe the same thing.
19 I think the accused has a right to justice if he didn't commit
20 it. And if he did, then the prosecution has to prove it.

21 MS. RISTENPART: Mr. Moss.

22 A PROSPECTIVE JUROR: Yes, I mean, the
23 Constitution of the United States, everybody has a right --
24 certain rights, more with Defendants, when they're accused of

1 a crime.

2 MS. RISTENPART: Ms. Wose.

3 A PROSPECTIVE JUROR: Yes.

4 MS. RISTENPART: Did I say that right?

5 A PROSPECTIVE JUROR: Yes, it's like rose with a
6 W.

7 MS. RISTENPART: I'm sorry? It's like rose with
8 a W?

9 A PROSPECTIVE JUROR: Yeah.

10 MS. RISTENPART: Thank you. What do you think?

11 A PROSPECTIVE JUROR: I think if it's within
12 their realm and they are charged with a crime, they should
13 have the opportunity to prove their innocence or be proven
14 guilty.

15 I mean, we all get to go claim our innocence that
16 we accidentally ran a stop sign where it was prohibited. I
17 think for any type of crime, we should all have an opportunity
18 to prove to the court our innocence.

19 MS. RISTENPART: Ms. Northcutt, I see you nodding
20 your head. Are you in agreement?

21 A PROSPECTIVE JUROR: Yes, everybody should have
22 a chance to speak up, yes.

23 MS. RISTENPART: Does anyone feel differently?

24 A PROSPECTIVE JUROR: (Shrugs shoulders.)

1 MS. RISTENPART: I see you kind of shrugging your
2 shoulders, Mr. Johnson.

3 A PROSPECTIVE JUROR: Oh, no, I was just
4 stretching.

5 MS. RISTENPART: Oh, just shrugging your
6 shoulders?

7 A PROSPECTIVE JUROR: My neck, yeah.

8 MS. RISTENPART: We attorneys look at everything,
9 yes, so sorry. Anyone feel differently?

10 THE PROSPECTIVE JURY PANEL: (No hands raised.)

11 MS. RISTENPART: Now, we've heard the allegation
12 in this case; right? And we've heard some very strong
13 reactions to the allegation, I think, before you, Ms.
14 Northcutt, was sitting there and said, you know, despicable
15 and I can't stand child molesters.

16 I think we're all in agreement that none of us
17 are saying like -- we're just saying whether or not it's too
18 close to home for something that potentially happened to you.

19 But generally sitting here, having heard the
20 allegation, are you already making some kind of assumption or
21 some kind of decision about Mr. Jenkins without hearing a
22 shred of evidence?

23 A PROSPECTIVE JUROR: (Raises hand.)

24 MS. RISTENPART: Yeah?

1 A PROSPECTIVE JUROR: I think it's proven guilty
2 and that there are serious charges that have to -- you know,
3 the State has to prove. They're very, very serious. I mean,
4 it's not something that's just a running a stop sign or
5 anything. This is very serious offenses that can end up doing
6 prison time, so you have to get it right.

7 MS. RISTENPART: Mr. Summer, what do you think?

8 A PROSPECTIVE JUROR: Well, I've kind of sat on
9 both sides of this issue here. Someone was accused and was
10 guilty and then another person who was accused, but they never
11 had any proof for it. So I think you have to go through that
12 process and get the whole -- the best result.

13 MS. RISTENPART: Ms. Rhodes.

14 A PROSPECTIVE JUROR: I'm trying to reserve any
15 kind of judgment until we hear what is presented.

16 MS. RISTENPART: What about you, Ms. Supiran?

17 A PROSPECTIVE JUROR: It's Supiran.

18 MS. RISTENPART: Supiran.

19 A PROSPECTIVE JUROR: It's a tough one. That's
20 okay. Of course hearing about, just that, just -- it causes
21 an emotional reaction. But that's just in general. It's
22 not -- as with this case, it's about the case and the trial
23 and evidence.

24 MS. RISTENPART: Ms. Sanguinetti.

1 A PROSPECTIVE JUROR: Sanguinetti, yeah.

2 MS. RISTENPART: We heard about your mom.

3 A PROSPECTIVE JUROR: Yeah.

4 MS. RISTENPART: And I know there was some
5 horrible things. I just want to make sure because of that,
6 were -- and you didn't state that you were a victim, so you
7 were not involved in any of those allegations?

8 A PROSPECTIVE JUROR: Well, all five of her kids
9 were.

10 MS. RISTENPART: Okay.

11 A PROSPECTIVE JUROR: So I'm one of her kids.

12 MS. RISTENPART: Got it. So you and your
13 siblings?

14 A PROSPECTIVE JUROR: Yeah. But that happened
15 back in 2009, and like I said, I don't talk to her. I don't
16 have a relationship with her. I was fortunate to be adopted
17 by a great family. I'm about to have my own, so you know, I'm
18 in a good spot.

19 MS. RISTENPART: Perfect. All right. Anyone
20 else just based upon discussion we've had this morning and
21 hearing other people just have such an visceral reaction,
22 besides the people we'll talk to privately, that you're like,
23 this is just not the case for me the more I'm sitting here
24 thinking about it?

1 A PROSPECTIVE JUROR: (Raises hand.)

2 MS. RISTENPART: I know, we'll talk to you, yes.

3 Besides Ms. Lang, anyone else who's just been
4 sitting here thinking? Mr. Summer, just a little too close to
5 home with your prior work?

6 A PROSPECTIVE JUROR: Um-hum.

7 MS. RISTENPART: And while we're on that topic
8 of, you know, the burden and that it's all up to the
9 prosecution to prove this, when I say that the State's
10 witnesses are also my witnesses, what do you think I mean by
11 that?

12 A PROSPECTIVE JUROR: (Raises hand.)

13 MS. RISTENPART: Yeah, Ms. --

14 A PROSPECTIVE JUROR: Kane.

15 MS. RISTENPART: Kane. Thank you.

16 A PROSPECTIVE JUROR: Just that you have the
17 opportunity to present them with your own questions and have
18 them express, as much as possible, what the truth is that we
19 can absorb, you know, body language, consistency between the
20 stories to really get the full case.

21 They can call them to prove their side of it, but
22 you're going to question to make sure that it's consistent
23 with what's going on and that they are as much used to you as
24 they are by the prosecution.

1 MS. RISTENPART: Ms. Jacqueline Johnson, what do
2 you think?

3 A PROSPECTIVE JUROR: I think there's two sides
4 to every story and sometimes the questions, the position that
5 the question takes will reveal to one side than the other. So
6 I think, you know, the witnesses can work for both sides.

7 MS. RISTENPART: And is there only just a finite
8 amount of witnesses? I mean, even with their example of the
9 football field and the stabbing or something, there was only
10 like 30,000 witnesses; right? Meaning just because the State
11 calls them first doesn't mean that they're just the State
12 witnesses, that they're just witnesses in the case?

13 I'm getting some looks. Ms. Supiran?

14 A PROSPECTIVE JUROR: So are you saying like your
15 witnesses are also their -- like you're going to call the same
16 witness to testify for your case that they are testifying for
17 their case?

18 MS. RISTENPART: Or potentially just because they
19 get to go first.

20 A PROSPECTIVE JUROR: Oh, so you just --

21 MS. RISTENPART: They call the witness first.

22 A PROSPECTIVE JUROR: They call it first and then
23 you want to defend yourself.

24 MS. RISTENPART: But it would have been my

1 witness also.

2 A PROSPECTIVE JUROR: Yes, so you're going to
3 cross-examine them.

4 MS. RISTENPART: Is that more --

5 A PROSPECTIVE JUROR: Yeah.

6 MS. RISTENPART: Yeah, we lawyers like that.

7 A PROSPECTIVE JUROR: I was confused at first,
8 so --

9 MS. RISTENPART: Does anyone have a problem with
10 that?

11 THE PROSPECTIVE JURY PANEL: (No hands raised.)

12 MS. RISTENPART: Now, who here has his -- who
13 have friends that are just -- they always seem to be at your
14 house? Yeah, Ms. Lang.

15 A PROSPECTIVE JUROR: (Nodded head.)

16 MS. RISTENPART: Anyone else? Or when you had
17 children in your home, did you always have -- did some of your
18 kids have friends who were always at the house, eating your
19 dinner and your food, Mr. Tobey?

20 A PROSPECTIVE JUROR: Absolutely. We -- our
21 household was an open household for all the friends.

22 MS. RISTENPART: Um-hum.

23 A PROSPECTIVE JUROR: We even had friends who
24 were in not positive relationships with their parents that

1 would stay with us for extended periods of time because they
2 were safer with us for a while.

3 MS. RISTENPART: Um-hum. Ms. Kite, I saw you
4 shaking your head, nodding.

5 A PROSPECTIVE JUROR: Me?

6 MS. RISTENPART: Yes.

7 A PROSPECTIVE JUROR: We had several kids,
8 friends of our two daughters, that call us mom and dad still,
9 so --

10 MS. RISTENPART: So they kind of became almost
11 like -- well, really your kids, just not biologically?

12 A PROSPECTIVE JUROR: Yeah.

13 MS. RISTENPART: Yes?

14 A PROSPECTIVE JUROR: Yeah.

15 MS. RISTENPART: You've had the same?

16 A PROSPECTIVE JUROR: Um-hum.

17 MS. RISTENPART: Has anyone not had that
18 experience where you haven't become close to other individuals
19 that are not biologically yours?

20 A PROSPECTIVE JUROR: Are you talking about just
21 like with your own kids or like if you ever had that
22 experience yourself? Like if I was, you know, a teenager and
23 going to my friend's house everyday, I would be like having
24 that close relationship with her family. Does that matter?

1 MS. RISTENPART: Perfect example.

2 A PROSPECTIVE JUROR: Okay.

3 MS. RISTENPART: Right. So not just if you have
4 kids of your own.

5 A PROSPECTIVE JUROR: Yeah. Okay. Because the
6 way you asked it was just about your kids.

7 MS. RISTENPART: Yeah.

8 A PROSPECTIVE JUROR: I don't have -- mine is
9 seven, so she doesn't have that problem yet.

10 MS. RISTENPART: But, yeah, or growing up, did
11 you have that experience where you were the kid that was
12 always at your friend's house or you were the kid whose house
13 all the friends came over to. We all kind of knew that one
14 kid in the classroom or friend?

15 Mr. King, you're nodding your head.

16 A PROSPECTIVE JUROR: I hear you.

17 MS. RISTENPART: And, Mr. Tobey and Ms. Kite, and
18 everyone else who has had that experience, would you have
19 considered that -- even if it's your kid's friend or if you're
20 growing up and that was your friend's family, would you have
21 also considered them like family?

22 THE PROSPECTIVE JURY PANEL: (Several nod heads.)

23 MS. RISTENPART: Nodding your head yes.

24 A PROSPECTIVE JUROR: Still do.

1 MS. RISTENPART: Still do. Ms. Osmer, have you
2 ever had that experience?

3 A PROSPECTIVE JUROR: I personally didn't go to
4 friends houses a lot. I know my husband did. He was in
5 sports. We have three kids. They're a little too young for
6 that, but I plan on having a full house full of boys.

7 MS. RISTENPART: Got it. Ms. Aiazzi? Am I
8 saying that right?

9 A PROSPECTIVE JUROR: I'm sorry. I didn't hear
10 your question.

11 MS. RISTENPART: Did you grow up going always
12 over your friend's house or did your kids, themselves, always
13 go to a friend's house or bring the friends over to your
14 house?

15 A PROSPECTIVE JUROR: Sure.

16 MS. RISTENPART: And in those situations, how
17 many of you have bought your kid's friends -- we'll just stick
18 with that, kid's friends food?

19 THE PROSPECTIVE JURY PANEL: (Several nod heads.)

20 MS. RISTENPART: Ms. Northcutt, I see you nodding
21 your head. I see you raising your hand in the back, but we're
22 just working on the panel right now.

23 Thank you.

24 Mr. Koontz. Bought them a coffee? Ms. Lang,

1 you're nodding your head. Maybe yours are a little too young,
2 but yeah.

3 A PROSPECTIVE JUROR: A little too young, but
4 always food, always feeding.

5 MS. RISTENPART: But you're not feeding them
6 coffee, yeah. Who here is a hugger? Raise your hands.

7 A PROSPECTIVE JUROR: Used to be.

8 MS. RISTENPART: Used to be a hugger. Okay.
9 Well, yes, let's say prior to COVID. Thank you. And we're
10 all waiting. So who here's not a hugger? Let me ask it the
11 other way.

12 THE PROSPECTIVE JURY PANEL: (Several nod heads.)

13 MS. RISTENPART: Okay. Now, Mr. Johnson, if you
14 see other people hug, does it make you feel uncomfortable?

15 A PROSPECTIVE JUROR: Yes.

16 MS. RISTENPART: Okay. Why?

17 A PROSPECTIVE JUROR: Coming from a military
18 background and from the State and everything, they pounded
19 into us, unless you're looking for a lawsuit, stay away from
20 it.

21 MS. RISTENPART: Ms. Kane, I saw you raise your
22 hand, also. You're not a hugger?

23 A PROSPECTIVE JUROR: No, I'm -- my bubble, you
24 know.

1 MS. RISTENPART: Yeah.

2 A PROSPECTIVE JUROR: Obviously someone like my
3 children or something like that. But it doesn't bother me if
4 other people hug, you know.

5 MS. RISTENPART: Mr. Stoner, I don't know if I
6 saw your hand or not.

7 A PROSPECTIVE JUROR: No.

8 MS. RISTENPART: Yeah.

9 A PROSPECTIVE JUROR: No, it -- I learned not to
10 hug a long time ago. I was a basketball coach in high school
11 with girls.

12 MS. RISTENPART: Um-hum.

13 A PROSPECTIVE JUROR: You don't touch them.

14 MS. RISTENPART: Got it. Got it. Ms. Teruya.

15 A PROSPECTIVE JUROR: I'm a hugger.

16 MS. RISTENPART: Yeah.

17 A PROSPECTIVE JUROR: But I ask for permission.

18 MS. RISTENPART: Sure, right. And generally, the
19 closer the person is to you, maybe the more you'd be like,
20 we're going to hug versus the -- like I would not come hug any
21 of you. I don't know any of you; right? A little awkward.
22 But the closer it is.

23 Does anyone have any issues with that and think
24 that, no, you shouldn't touch at all? For religious beliefs,

1 just personal beliefs.

2 THE PROSPECTIVE JURY PANEL: (No hands raised.)

3 MS. RISTENPART: Now, you may hear me in this
4 trial critiquing the investigation done by law enforcement.

5 Who here would have a real big problem with me if
6 I critiqued law enforcement and the investigation
7 specifically?

8 A PROSPECTIVE JUROR: It depends on what you come
9 up with. If it makes sense, why would I care? I mean, that's
10 your job.

11 MS. RISTENPART: Yeah. And we've talked about a
12 lot of you have been related to law enforcement or married to
13 law enforcement, but would anyone have a real -- just a --
14 like an visceral reaction, like how dare her question a police
15 officer?

16 A PROSPECTIVE JUROR: (Raises hand.)

17 MS. RISTENPART: Yeah.

18 A PROSPECTIVE JUROR: It would depend on how you
19 did it and why you did it. I mean, in general, I have a huge
20 amount of respect for our law enforcement.

21 MS. RISTENPART: Um-hum.

22 A PROSPECTIVE JUROR: And have no reason to
23 question that. So I would expect you to have a very good
24 reason to question that.

1 MS. RISTENPART: Ms. Fletcher, what do you think
2 about that?

3 A PROSPECTIVE JUROR: I think that if you believe
4 that it should be questioned, then it should be questioned.

5 MS. RISTENPART: Okay. I see some heads nod in
6 agreement. So generally do -- can law enforcement make
7 mistakes?

8 THE PROSPECTIVE JURY PANEL: (Some nod heads.)

9 MS. RISTENPART: Does anyone think that simply
10 because a law enforcement person is saying that, that it can't
11 be a mistake or a misunderstanding?

12 Mr. Moss, you're kind of just looking at me.

13 A PROSPECTIVE JUROR: No, they can make mistakes.
14 I mean --

15 MS. RISTENPART: Ms. Ledene Johnson, having been
16 married to one, do you think that law enforcement can make
17 mistakes?

18 A PROSPECTIVE JUROR: Too many times.

19 MS. RISTENPART: How do you judge credibility?

20 A PROSPECTIVE JUROR: Somebody who reported it
21 consistency.

22 MS. RISTENPART: Consistency. We talked about
23 that.

24 A PROSPECTIVE JUROR: You got to have consistency

1 and just watch people, good perception skills and watch.

2 MS. RISTENPART: Watch them, perception. I see
3 you kind of, Mr. Tobey.

4 A PROSPECTIVE JUROR: It's difficult to judge
5 credibility. It's -- consistency is one thing, but also
6 involves trust and trust is earned and not instantaneous. So
7 it's difficult.

8 MS. RISTENPART: Ms. Wose, Wose, thank you.
9 How would you judge credibility?

10 A PROSPECTIVE JUROR: I think the consistency
11 with the evidence if they have it. Definitely evidence would
12 be the most, you know, first, character, consistency, and we
13 don't know who the witness is, so mostly consistency.

14 MS. RISTENPART: Ms. Rhodes.

15 A PROSPECTIVE JUROR: I think knowing the person,
16 having experience, the experience of knowing a person would
17 help me with credibility, so perhaps just the character of
18 that person.

19 MS. RISTENPART: Mr. Nelson.

20 A PROSPECTIVE JUROR: Credibility is earned like
21 integrity. If you -- if the people around you that are hiring
22 the police don't hire them because the integrity and the
23 credibility they have, the whole department is shot. I would
24 say on the outside their credibility right now looks good.

1 MS. RISTENPART: I'm sorry. I can't hear you.

2 A PROSPECTIVE JUROR: I said on the outside, the
3 credibility of the police department looks pretty good.

4 MS. RISTENPART: Ms. Northcutt, how would you?

5 A PROSPECTIVE JUROR: I was just thinking about
6 the whole time, I agree with the consistency in evidence, but
7 yeah, you have to earn it like he was saying.

8 I'm sorry, what he said, but it has to be
9 miserable and judgeable (sic) somehow. That would be a good
10 question I can't answer now. I guess case by case, it depends
11 on what's provided, it would be different.

12 MS. RISTENPART: Mr. Albonico?

13 A PROSPECTIVE JUROR: Albonico.

14 MS. RISTENPART: Albonico. I really got that
15 wrong.

16 A PROSPECTIVE JUROR: Well, if somebody has
17 something to lose, they're trying to cover something up and
18 they're not being credible, that's what you have to decide.

19 MS. RISTENPART: Um-hum.

20 A PROSPECTIVE JUROR: They have their status to
21 lose, they may have said something that you found out maybe
22 wasn't correct and they have to admit that they made a
23 mistake. And whether or not they cover it up, then they have
24 no credibility.

1 THE COURT: Mr. Kingman?
2 A PROSPECTIVE JUROR: Yes.
3 MS. RISTENPART: How would you judge credibility?
4 A PROSPECTIVE JUROR: Several factors, a lot of
5 what he said.
6 MS. RISTENPART: Mr. Tobey said?
7 A PROSPECTIVE JUROR: And I -- on the witness, I
8 watch their body language, listen to what they say, how they
9 present it, whether they're articulate, what is it called when
10 the --
11 MS. RISTENPART: Who here believes that teenagers
12 can never tell a lie?
13 A PROSPECTIVE JUROR: My seven-year-old tells a
14 lie.
15 A PROSPECTIVE JUROR: My four-year-old tells a
16 lie.
17 MS. RISTENPART: I'll put it a different way.
18 Who here believes that teenagers always tell the truth?
19 THE PROSPECTIVE JURY PANEL: (No hands raised.)
20 MS. RISTENPART: Who here has teenagers right
21 now?
22 A PROSPECTIVE JUROR: I have 15, 17 and 19.
23 MS. RISTENPART: Oh, we all feel you, yes.
24 Right. Who here thinks that someone could lie about being

1 sexually abused?

2 A PROSPECTIVE JUROR: Of course.

3 MS. RISTENPART: Let me see a raise of hands.

4 THE PROSPECTIVE JURY PANEL: (Several hands

5 raised.)

6 MS. RISTENPART: Who here thinks that someone

7 here could lie about being sexually abused?

8 A PROSPECTIVE JUROR: Could you repeat that

9 question, please?

10 MS. RISTENPART: Of course. Who here thinks that

11 someone could lie about being sexually abused?

12 A PROSPECTIVE JUROR: But they could also lie

13 about not being sexually abused, too.

14 MS. RISTENPART: Absolutely.

15 A PROSPECTIVE JUROR: So it could go either way.

16 MS. RISTENPART: For sure.

17 A PROSPECTIVE JUROR: Yeah.

18 MS. RISTENPART: I'm just asking if anyone is

19 like, you know, just because I said it, or someone said, I'm

20 sexually abused, then it's automatically to be believed.

21 A PROSPECTIVE JUROR: Anyone can lie about

22 anything.

23 MS. RISTENPART: Who here feels like

24 Ms. Northcutt?

1 THE PROSPECTIVE JURY PANEL: (Several hands
2 raised.)

3 MS. RISTENPART: Mr. Stoner, do you think that
4 someone could lie about being sexually abused?

5 A PROSPECTIVE JUROR: Absolutely.

6 MS. RISTENPART: Mr. Moss.

7 A PROSPECTIVE JUROR: Yes.

8 MS. RISTENPART: Ms. Sanguinetti.

9 A PROSPECTIVE JUROR: Sanguinetti.

10 MS. RISTENPART: I am so sorry. Apologies. With
11 Ristenpart, I should really get the names.

12 A PROSPECTIVE JUROR: Yeah, I do.

13 MS. RISTENPART: Ms. Aiazzi?

14 A PROSPECTIVE JUROR: Yes, but I think it's rare,
15 though.

16 MS. RISTENPART: Mr. Johnson?

17 A PROSPECTIVE JUROR: I think that somebody --
18 I'm going to take it from a little different access. Somebody
19 accuses somebody of sexually abusing them, the damage has
20 already been done to that person, you know, they're not a
21 victim removed from their job, threatened. The damage has
22 been done before justice has been served.

23 MS. RISTENPART: Ms. Fletcher.

24 A PROSPECTIVE JUROR: They could do it for

1 attention. They could do it to get someone in trouble.

2 MS. RISTENPART: Ms. Kite? Ms. Kite?

3 A PROSPECTIVE JUROR: I would agree with her.

4 MS. RISTENPART: Does anyone disagree?

5 Mr. Tobey.

6 A PROSPECTIVE JUROR: No, I --

7 MS. RISTENPART: Ms. Jacqueline Johnson.

8 A PROSPECTIVE JUROR: I think people can lie.

9 MS. RISTENPART: Your Honor, with our few that

10 we'll speak with privately, I will now pass for cause.

11 Thank you.

12 THE COURT: Okay.

13 MS. RISTENPART: Thank you, ladies and gentlemen.

14 THE COURT: I would like to make sure, with

15 counsel, that we all agree on who it is that we would be

16 speaking to privately. And I have Sterling Nelson, John

17 Tobey, Amanda Lang.

18 Ms. Mazza, do you agree with those and are there

19 any additional ones that I missed?

20 MS. MAZZA: I agree with those, Your Honor.

21 THE COURT: All right. Ms. Ristenpart.

22 MS. RISTENPART: Your Honor, Mr. Summers

23 indicated he'd like to speak to us, also.

24 THE COURT: Thank you. I had a question mark by

1 Mr. Summers, so we will talk to Mr. Summers individually as
2 well.

3 So this is going to be a good time for a recess.
4 I am going to ask that Mr. Nelson, Mr. Tobey, Ms. Lang and
5 Mr. Summers remain. And what we will do is if you -- if those
6 folks that I just called, if you stay close to the door here,
7 we are going to bring you in one at a time. I'm thinking it's
8 going to take about a half an hour.

9 So you -- the other folks can have a little bit
10 of a break and walk around and get a little bit of fresh air.

11 I am going to read an admonishment to you again,
12 though, and it's really important here that you not start
13 talking about the case or any of the other things that I'm
14 asking you not to do. But I would like to give you a chance
15 to go enjoy the nice weather while we talk to some of these
16 folks individually.

17 So for you folks, we'll go a little bit -- just
18 to make it simple, we'll go till 4:30 to have the -- everybody
19 else return. And for those that I've asked to remain, please
20 do so right outside the door there. And I am going to read
21 the admonishment.

22 MS. RISTENPART: Your Honor, Ms. Wose has a
23 question before.

24 THE COURT: Yes.

1 A PROSPECTIVE JUROR: I was just wondering, do we
2 know the time -- is there a set time that we will be done for
3 the day? I was just wondering.

4 THE COURT: Yeah, the honest answer is no.

5 A PROSPECTIVE JUROR: Okay.

6 THE COURT: No set time.

7 A PROSPECTIVE JUROR: Okay.

8 THE COURT: We will keep plugging away.

9 A PROSPECTIVE JUROR: Okay.

10 THE COURT: And hopefully get a jury seated here
11 today.

12 A PROSPECTIVE JUROR: Okay.

13 THE COURT: And I'm not trying to be evasive,
14 it's just we never know how long it's going to take.

15 A PROSPECTIVE JUROR: Okay.

16 THE COURT: All right. And so that's a good
17 question, though. Now might be a good time -- you know, it's
18 okay to call and let folks know where you're at and that
19 you're still in jury selection and -- you know, and you don't
20 know how long you're going to be there.

21 Okay. During the recess, ladies and gentlemen,
22 you are admonished that it is your duty not to converse
23 amongst yourselves or with anyone else on any subject
24 connected with the trial either by phone, email, text,

1 internet, or any other means.

2 To read, watch, or listen to any report of or
3 commentary on the trial or any person connected with the trial
4 by any medium of information, including, without limitation,
5 newspapers, television and radio; to form or express any
6 opinion on any subject connected with the trial until the
7 cause is finally submitted to you.

8 To do any research, such as consulting
9 dictionaries, using the internet, or using other reference
10 materials or make any investigation, test the theory of the
11 case, recreate any aspect of the case, or in any other way
12 investigate or learn about the case on your own.

13 Before I release anybody, counsel or Madam Clerk
14 or Madam Reporter, are you good to keep going with these
15 individuals or do you folks need a little bit of a break?
16 It's okay if we -- if anybody needs a break.

17 MS. MAZZA: We can move forward, the State.

18 THE COURT: Okay. Madam Reporter, are you okay?

19 THE REPORTER: I'm fine.

20 THE COURT: Madam Clerk?

21 THE CLERK: I'm fine. I might need a couple
22 minutes to arrange for childcare. It's past 5:00.

23 THE COURT: Okay. All right. Very good.

24 Ms. Ristenpart?

1 MS. RISTENPART: We're good, yeah.

2 THE COURT: Okay. All right. So everybody can
3 go ahead and exit, except we'll have Sterling Nelson remain.
4 Thank you, folks. We'll see you back in a bit.

5 (Prospective Jury Panel exits.)

6 THE COURT: Okay. The Court remains convened.
7 We have excused all of the perspective jurors with the
8 exception of one, Mr. Sterling Nelson, who is with us.

9 And, sir, we're going to thank you for bringing
10 up the questions or concerns that you had. Doing it in
11 private is just kind of a better way for us to filter through
12 all that, and so I appreciate your continued honesty.

13 Ms. Mazza is going to ask you some questions
14 first, if she has any, then Ms. Ristenpart if she has any, and
15 I might have some questions also.

16 Go ahead, Ms. Mazza.

17 MS. MAZZA: Mr. Nelson, when questions were being
18 asked of you, I believe you indicated you had a prejudice
19 against the case. Is that based upon a personal experience?

20 A PROSPECTIVE JUROR: It is.

21 MS. MAZZA: And what is that?

22 A PROSPECTIVE JUROR: My sister was sexually
23 abused as a child. And I've always looked at things in a
24 different -- through a different view since then.

1 MS. MAZZA: And kind of in line with the
2 questions I was asking, are you able to set that aside and --

3 A PROSPECTIVE JUROR: I don't think so.

4 MS. MAZZA: And do you think that you can be fair
5 and impartial in this case?

6 A PROSPECTIVE JUROR: No, ma'am, I don't think
7 so.

8 MS. MAZZA: Would you be able to listen to the
9 evidence and then make that decision and go forward and be
10 unbiased, or would you not even listen to the evidence?

11 A PROSPECTIVE JUROR: I'd be prejudiced.

12 MS. MAZZA: Your Honor, the State would challenge
13 Mr. Nelson for cause.

14 THE COURT: Thank you. Ms. Ristenpart, any
15 questions or what is your position?

16 MS. RISTENPART: We agree. Thank you for telling
17 us.

18 THE COURT: Okay. Mr. Nelson, thank you. You
19 are excused and you may go ahead and go about your way.

20 Thank you, sir.

21 A PROSPECTIVE JUROR: Okay.

22 THE COURT: Madam Clerk, go ahead and call the
23 next person up.

24 THE CLERK: It's going to be Richard Cannon.

1 THE COURT: Can you say that a little bit louder?

2 THE CLERK: Richard Cannon.

3 A PROSPECTIVE JUROR: Take my seat.

4 THE COURT: Okay. The court remains in session.
5 We are outside the presence of all prospective jurors with the
6 exception of Mr. Tobey.

7 Mr. Tobey, you remain under oath. Thank you for
8 bringing some of your concerns to our attention. We're going
9 to have an opportunity to drill down on those concerns a
10 little bit.

11 So we'll start with seeing if the State has any
12 questions and then the defense, and the Court might have
13 questions, too.

14 Go ahead, Ms. Mazza.

15 MS. MAZZA: Okay. Mr. Tobey, I think what
16 originally you had stated when asked questions by the Court
17 was you have a problem with the case.

18 A PROSPECTIVE JUROR: Yes.

19 MS. MAZZA: I believe based upon the allegations
20 in the charging document.

21 A PROSPECTIVE JUROR: Yes.

22 MS. MAZZA: And you also said, I think, because
23 of friends' stories.

24 A PROSPECTIVE JUROR: It was directly related to

1 a friend of the family. You specifically asked about friends
2 of our children coming over and visiting, and this one family
3 has a daughter -- well, they have two daughters and a son and
4 we were all very close and about -- well, when the youngest
5 daughter was a teenager, we learned -- all of us learned that
6 her grandfather had been abusing her ever since she was a
7 small child.

8 And, yeah, it was difficult, it put tension and
9 stress on both families. It almost destroyed their family
10 completely. And so it's very difficult for me to deal with
11 that type of accusation for obvious reasons.

12 MS. MAZZA: And -- right.

13 A PROSPECTIVE JUROR: That's why -- that's part
14 of why Eve was such a mess this morning is -- you know, she is
15 totally emotion lapsed over the remembrance of what had
16 happened with that family. It's friends of ours that -- you
17 know, that our kids all grew up together with.

18 MS. MAZZA: And you're referring to your wife who
19 was also called as a potential juror here today?

20 A PROSPECTIVE JUROR: Yes.

21 MS. MAZZA: Okay.

22 A PROSPECTIVE JUROR: Yes.

23 MS. MAZZA: And so it sounds like that had an
24 impact on your family; is that correct?

1 A PROSPECTIVE JUROR: Yes.

2 MS. MAZZA: And is it something, though, that you
3 can set aside if you were to sit as a juror in this case?

4 A PROSPECTIVE JUROR: As I said when you asked
5 that -- when the Judge asked me that this morning, I said it
6 would be difficult.

7 MS. MAZZA: Difficult. But is it something you
8 can do?

9 A PROSPECTIVE JUROR: I can -- the best I can say
10 is I can try.

11 MS. MAZZA: And from our conversations, it sounds
12 like you have an understanding of how to weigh the credibility
13 of a witness. You would listen to the instructions of the
14 Court.

15 Would you be able to take those instructions and
16 weigh the credibility of a witness and set aside that prior
17 family experience?

18 A PROSPECTIVE JUROR: As I've said, I would try,
19 yes.

20 MS. MAZZA: Okay.

21 A PROSPECTIVE JUROR: I -- nothing's absolute as
22 we've determined right here this afternoon.

23 MS. MAZZA: All right. Your Honor, I would pass
24 for cause.

1 THE COURT: Thank you. Ms. Ristenpart,
2 questions?
3 MS. RISTENPART: Thank you, Your Honor.
4 Mr. Tobey.
5 A PROSPECTIVE JUROR: Yes.
6 MS. RISTENPART: If you were sitting where
7 Mr. Jenkins is sitting right now, do you think you could be
8 the fairest juror with your family history --
9 THE REPORTER: You've got to speak up,
10 Ms. Ristenpart. Sorry.
11 MS. RISTENPART: That's okay.
12 THE REPORTER: I couldn't hear the ending of your
13 question.
14 MS. RISTENPART: If you were sitting where
15 Mr. Jenkins is sitting right now --
16 A PROSPECTIVE JUROR: I assume this is
17 Mr. Jenkins.
18 MS. RISTENPART: Yes, I apologize. This is
19 Mr. Jenkins.
20 Would you feel that you would be the fairest
21 juror just sitting here with your family history.
22 A PROSPECTIVE JUROR: Honestly, I doubt it. If I
23 was in your situation, I would say that he's definitely
24 biased.

1 MS. RISTENPART: And because it was such a --
2 it's obviously very fresh. I sense your even motion and I
3 also sensed your wife's emotion earlier today.

4 A PROSPECTIVE JUROR: Yeah, yeah.

5 MS. RISTENPART: That even despite the fact that
6 you would try your best, it would still bring up the memories,
7 everything, would you feel like you're always comparing what
8 happened with your family and your family's friend?

9 A PROSPECTIVE JUROR: I'm not sure I would go
10 that far because it's a very different circumstance from the
11 sounds of the charges that were read. But it's a sensitive
12 subject.

13 MS. RISTENPART: Absolutely. Do you -- sitting
14 there, do you feel that a different type of case that did not
15 deal with this type of allegation would be more appropriate
16 for you?

17 A PROSPECTIVE JUROR: Absolutely.

18 MS. RISTENPART: I appreciate that. Thank you,
19 Mr. Tobey.

20 Challenge for cause, Your Honor.

21 THE COURT: Ms. Mazza, your position regarding
22 the challenge?

23 MS. MAZZA: Your Honor, no objection.

24 THE COURT: Okay. Mr. Tobey, I'm going to excuse

1 you. I -- first of all, I just wanted to express thanks to
2 you and your wife. It's really hard to come in and share
3 these things and both of you clearly have some emotions about
4 this. You both were honest with us about that and I thank
5 you. We are going to excuse you from this case.

6 A PROSPECTIVE JUROR: Okay.

7 THE COURT: No reason to think you wouldn't be a
8 good juror in a different type of case, but you're excused.
9 And I meant what I said earlier with your wife, that I owed
10 her an apology. The confusion with the witness list was mine,
11 not hers, and so anyways --

12 A PROSPECTIVE JUROR: I will pass your apology
13 on, though I'm sure you accept -- she accepts it graciously.

14 THE COURT: All right. Thank you, sir. You are
15 excused.

16 And, Madam Clerk, would you call the next person
17 up, please.

18 THE CLERK: Donald Henderson.

19 THE COURT: Okay. We are continuing to be
20 convened here. We are outside the presence of all prospective
21 jurors with the exception now of Ms. Lang.

22 Ms. Lang, thank you for rejoining us. You remain
23 under oath and thank you for expressing some of the concerns
24 that you had earlier. It's an opportunity for here to have a

1 little more private conversation, drill down on some of those
2 issues. And so our way of doing that is asking some questions
3 and I ask that you give truthful responses.

4 Ms. Mazza, do you have any questions for
5 Ms. Lang?

6 MS. MAZZA: Thank you, Your Honor.

7 Ms. Lang, as the Judge said, we're just trying to
8 ask questions to make sure we have everyone on the jury that
9 can be impartial.

10 I believe in a response to one of the questions
11 from the Judge, you indicated you are unsure you can be
12 impartial.

13 A PROSPECTIVE JUROR: (Nodded head.)

14 MS. MAZZA: Is that because of a personal
15 experience?

16 A PROSPECTIVE JUROR: Yes.

17 MS. MAZZA: And what was that experience?

18 A PROSPECTIVE JUROR: I was sexually abused by my
19 stepfather from the time I was six years old until I was about
20 16.

21 MS. MAZZA: Thank you for sharing that with us.
22 I know it's not comfortable. Do you think that based upon
23 that, you are not able to sit on this jury impartially?

24 A PROSPECTIVE JUROR: No. I mean, I already have

1 feelings towards him, so --

2 MS. MAZZA: Your Honor, I would challenge and
3 move to excuse Ms. Lang.

4 THE COURT: Ms. Ristenpart.

5 MS. RISTENPART: Defense agrees. Thank you.

6 THE COURT: All right. Ms. Lang, thank you.
7 Again, it's uncomfortable. Sorry we had to ask you these
8 things, but it's part of the process. You are excused.

9 A PROSPECTIVE JUROR: Thank you.

10 THE COURT: And we thank you for your service.

11 A PROSPECTIVE JUROR: Thank you.

12 THE COURT: Madam Clerk, please call the next
13 person up.

14 THE CLERK: Guy Williams. Okay. Morgan Ovard.

15 THE COURT: Okay. So Mr. Williams had previously
16 been excused, so it's Morgan Ovard.

17 THE CLERK: Yes.

18 THE COURT: Okay. Mr. Summers has now joined us,
19 and again, we are here outside the presence of all other
20 jurors.

21 Mr. Summers, thank you for raising some of your
22 concerns. We are now going to drill down a little bit on that
23 here a little more privately.

24 A PROSPECTIVE JUROR: Okay.

1 THE COURT: And remind you, you're under oath and
2 just be as honest as you can.

3 A PROSPECTIVE JUROR: Okay.

4 THE COURT: And, again, the way we get to the
5 bottom of these is just asking some questions.

6 So, Ms. Mazza, do you have any questions for
7 Mr. Summers?

8 MS. MAZZA: Mr. Summers, I believe when we
9 initially questioned you, you had indicated to the Court you
10 could be impartial, but then when asked a few more questions,
11 some experiences you had maybe indicate that you might not be
12 able to be impartial.

13 A PROSPECTIVE JUROR: (Nodded head.)

14 MS. MAZZA: What are those experiences?

15 A PROSPECTIVE JUROR: Well, as I said, when I was
16 a teacher at Atilla high school, we had another teacher who
17 was found guilty of an inappropriate relationship with
18 students and was removed and served time. And I felt sorry
19 for the guy, but also didn't have much sympathy for him.

20 And as a coach at the school up there, I had a
21 situation where adults have warned me about an assistant coach
22 I had being inappropriate with kids and my players.

23 And I never witnessed anything out of the
24 ordinary, always made sure that other school personnel were in

1 the room and locker room and probably wasn't, but it was just
2 a constant issue as long as he was there coaching with me.

3 And I have to say I was pretty relieved when I
4 left that particular coaching situation and did not have to
5 deal with that and worry about anything.

6 MS. MAZZA: And so those two experiences, are
7 those why you believe you cannot be impartial in this case?

8 A PROSPECTIVE JUROR: Well, I'm not sure. Like
9 that one gentleman said, you know, a certain button gets
10 pushed, you don't know how you're going to react.

11 MS. MAZZA: And like Ms. Ristenpart had asked
12 him, if that were to occur, would you be able to let the Court
13 know?

14 A PROSPECTIVE JUROR: I would have to.

15 MS. MAZZA: Okay. And you'd be comfortable doing
16 that?

17 A PROSPECTIVE JUROR: I would.

18 MS. MAZZA: And would you be able to follow the
19 instruction from the Court?

20 A PROSPECTIVE JUROR: I would try and do the best
21 I could.

22 MS. MAZZA: And like we talked about during some
23 questioning, weigh the credibility of each witness and take
24 all of their testimony as evidence in this case and this case

1 only, not bringing in like other cases you experienced?

2 A PROSPECTIVE JUROR: Well, I would hope to. But
3 those things I've experienced are -- you can't just make them
4 vanish, you know.

5 MS. MAZZA: But would you follow the law from the
6 Court?

7 A PROSPECTIVE JUROR: I would try to do the best
8 I could.

9 MS. MAZZA: Your Honor, I would pass for cause.

10 THE COURT: Ms. Ristenpart, questions?

11 MS. RISTENPART: Thank you.

12 Mr. Summers, it kind of sounds like you had two
13 different experiences. But I also noticed that you said that
14 you couldn't believe that someone would lie about being
15 sexually abused.

16 A PROSPECTIVE JUROR: I don't -- you know, I
17 guess it's a different situation with different people. I
18 think someone could lie about it and then others couldn't, I
19 guess. I mean, it has happened.

20 People have lied about it. It's been found out
21 later that, you know, they lie and --

22 MS. RISTENPART: And, Mr. Summers, in your -- you
23 said it was a very difficult position that you were -- you
24 were notified that your assistant coach maybe being

1 inappropriate. When you say the term "inappropriate," were
2 you talking about actually sexually touching someone?

3 A PROSPECTIVE JUROR: Touching, yeah.

4 MS. RISTENPART: Okay. And --

5 A PROSPECTIVE JUROR: I mean, as a coach, you
6 know, someone hurts their back, I mean, you just have to try
7 and stretch their back out, or -- I mean, there's things that
8 some people would consider inappropriate, but I mean, that's
9 the thing about athletics, you know.

10 MS. RISTENPART: And was that ever -- was there
11 an investigation or is it just rumors, innuendo?

12 A PROSPECTIVE JUROR: They were just warnings
13 from --

14 MS. RISTENPART: Got it.

15 A PROSPECTIVE JUROR: Not from district
16 personnel, but from outside people.

17 MS. RISTENPART: And then --

18 A PROSPECTIVE JUROR: In the community.

19 MS. RISTENPART: Okay. And then the other person
20 you said was found guilty and spent time in prison, did they
21 go through the Court proceedings and --

22 A PROSPECTIVE JUROR: There was no court.

23 MS. RISTENPART: There was no trial?

24 A PROSPECTIVE JUROR: No. I think he just

1 admitted it and there was an investigation we all had to take
2 part in.

3 MS. RISTENPART: Um-hum. But beyond that, no
4 other personal experiences.

5 A PROSPECTIVE JUROR: (Shakes head.)

6 MS. RISTENPART: With this type of allegation?

7 A PROSPECTIVE JUROR: No.

8 MS. RISTENPART: We'll pass for cause,
9 Your Honor. Thank you, Mr. Summers.

10 A PROSPECTIVE JUROR: Okay.

11 THE COURT: Mr. Summers, thank you. You can go
12 ahead and enjoy the rest of the break that remains, about
13 15 minutes, and then we'll have you come back in here in a
14 little bit.

15 Thank you, sir.

16 A PROSPECTIVE JUROR: Okay.

17 THE COURT: Counsel, we'll give you a break here
18 as well. I just want to confirm that I have it correct. I
19 have as our new jurors joining the 24, joining the box, would
20 be Richard Cannon as Juror Number 13, Donald Henderson as
21 Juror Number 16, Morgan Ovard as Juror Number 17.

22 Ms. Mazza, did I get those right and any
23 additional ones that I missed?

24 MS. MAZZA: Your Honor, I believe that is

1 correct.

2 THE COURT: Ms. Ristenpart?

3 MS. RISTENPART: That is correct, Your Honor.

4 THE COURT: Okay. So we'll go ahead and take a
5 break. It's my thought that when we reconvene, I will ask
6 questions of the new folks who are joining the 24, and then
7 I'll give counsel an opportunity to ask questions as well as
8 to those folks.

9 So I think we're getting there and let's go ahead
10 and take our break.

11 MS. RISTENPART: Your Honor, the defense already
12 passed for cause, but I would ask if the Court may inquire if
13 anyone within the panel knows each other.

14 THE COURT: Will do.

15 MS. RISTENPART: Just because we did have a
16 married couple.

17 THE COURT: That's a good point. I will ask
18 that.

19 Ms. Mazza, do you have any problem with the Court
20 asking that --

21 MS. MAZZA: No, Your Honor.

22 THE COURT: -- when we reconvene?

23 MS. MAZZA: I agree. Thank you.

24 THE COURT: Okay. Very good. We'll do that and

1 we'll see you back here at 4:30. Court's in recess.

2 (Recess.)

3 THE COURT: The Court is back in session on Case
4 Number 19-CR-188. I show appearance of counsel for both
5 parties as well as the Defendant.

6 We are now convened in the presence of all
7 remaining prospective jurors.

8 Where is Richard Cannon?

9 Mr. Cannon, please come up and have a seat in
10 spot Number 13. Deputy Lindsay will assist.

11 Donald Henderson. Mr. Henderson, come on up and
12 have a seat in spot Number 16.

13 Morgan Ovard. Mr. Ovard, come on up. You're
14 going to be in seat Number 17.

15 I would like to know of those folks who are
16 seated here in the box, the 24, do you know any of the other
17 prospective jurors that are in the box?

18 So have a look around and raise your hand if you
19 think you might know one of the other potential jurors.

20 A PROSPECTIVE JUROR: (Raises hand.)

21 THE COURT: Mr. Moss, do you know somebody?

22 A PROSPECTIVE JUROR: Yeah, I know John Summers.

23 THE COURT: All right. How is it that you know
24 Mr. Summers?

1 A PROSPECTIVE JUROR: He's the -- he was also a
2 water operator, water system operator and -- for two water
3 companies that work next to each other. I work for Kingsbury
4 GID, he worked for Edgewood Water Company.

5 THE COURT: Okay. How long ago was that?

6 A PROSPECTIVE JUROR: Four years ago, three, four
7 years ago.

8 THE COURT: Is there anything about that
9 relationship that would cause problems if both of you were
10 seated as jurors in this case?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Would you feel compelled to vote one
13 way or another just because Mr. Summers voted a certain way?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: All right. Mr. Summers, do you
16 recollect Mr. Moss?

17 A PROSPECTIVE JUROR: Um-hum.

18 THE COURT: And did the way he explained your
19 relationship, was that accurate?

20 A PROSPECTIVE JUROR: It's accurate.

21 THE COURT: Is there anything you would like to
22 add to that?

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Is there anything about your

1 knowledge of him that would make it uncomfortable or would
2 cause problems if the two of you were seated as jurors in this
3 case?

4 A PROSPECTIVE JUROR: No, there is not.

5 THE COURT: And would your opinion of the case
6 when all the evidence is in, would it change just based upon
7 what Mr. Moss says?

8 A PROSPECTIVE JUROR: No.

9 THE COURT: All right. Okay. Thank you.
10 Anybody else know any of the other folks in the box here?

11 A PROSPECTIVE JUROR: (Raises hand.)

12 THE COURT: Yes, Mr. Henderson?

13 A PROSPECTIVE JUROR: Yes, I know Mrs. Kite.

14 THE COURT: Okay.

15 A PROSPECTIVE JUROR: She used to work with my
16 wife at the County.

17 THE COURT: So your wife and her work together?

18 A PROSPECTIVE JUROR: I'm not sure if they were
19 in the same department or not.

20 THE COURT: Okay. Both county employees. What
21 is it that your wife used to do?

22 A PROSPECTIVE JUROR: She worked in the
23 treasurer's and comptroller's office.

24 THE COURT: Treasurer's office. Okay. And how

1 well do you know Ms. Kite?

2 A PROSPECTIVE JUROR: Oh, just socially
3 occasionally.

4 THE COURT: Okay.

5 A PROSPECTIVE JUROR: I knew her husband, also.

6 THE COURT: In the event that you ended up on a
7 jury with Ms. Kite, would that present any discomfort or
8 problems?

9 A PROSPECTIVE JUROR: No.

10 THE COURT: And would you -- would your opinion
11 be swayed by what Ms. Kite said just because of your knowledge
12 of her?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Okay. Ms. Kite, do you recollect
15 Mr. Henderson?

16 A PROSPECTIVE JUROR: I'm sorry, I don't.

17 THE COURT: That's okay. We ask you to be honest
18 and appreciate the honesty.

19 A PROSPECTIVE JUROR: I might remember his wife,
20 but I don't know her name.

21 THE COURT: Okay.

22 A PROSPECTIVE JUROR: (Raises hand.)

23 THE COURT: Mr. Moss has raised his hand again.
24 Mr. Moss?

1 A PROSPECTIVE JUROR: I also know a gentleman
2 over there, Mr. Kingman. I know him. I used to take water
3 samples right next to your house.

4 THE COURT: Okay. Mr. Kingman shrugged his
5 shoulders. Mr. Kingman, do you have any recollection of
6 Mr. Moss?

7 A PROSPECTIVE JUROR: I'm sorry, I don't.

8 THE COURT: Okay. Mr. Moss, what -- as far as
9 what you know of Mr. Kingman, would that cause you any
10 discomfort or cause problems if you were seated on a jury
11 together?

12 A PROSPECTIVE JUROR: No, it would not.

13 THE COURT: And would his opinion sway you more
14 just because your knowledge of him?

15 A PROSPECTIVE JUROR: No.

16 THE COURT: Okay. Anybody else? Okay. So what
17 I'd like to do now is, first, I will start Mr. Cannon.

18 Mr. Cannon, stand, tell us your name. You've
19 heard the drill.

20 A PROSPECTIVE JUROR: Okay. My name is Richard
21 Cannon and I'm a widow, came over from California. I worked
22 30 years for Sara Lee Bakery Group in the sales segment of the
23 company.

24 Came back over here to -- for a change of scenery

1 and ended up going to work full time at the Carson Valley Swim
2 Center and became an aquatic supervisor to pursue my dream.

3 I was a competitive swimmer prior to my working
4 career and so, yeah, here I am. I retired from the bread
5 business and then I retired from the Carson Valley Swim Center
6 here in town, and then I went back to work for them just to
7 stay busy in part.

8 THE COURT: So you are still working then at the
9 swim center?

10 A PROSPECTIVE JUROR: Yes, I am. I'm just back
11 and now I'm a senior --

12 THE COURT: Okay.

13 A PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Have you ever served on a jury
15 before?

16 A PROSPECTIVE JUROR: Yes, I have in Amador
17 County and there was -- a verdict was reached.

18 THE COURT: Okay.

19 A PROSPECTIVE JUROR: I really don't remember
20 whether it was guilty or not guilty.

21 THE COURT: Well, that's really not important.

22 A PROSPECTIVE JUROR: Okay. Yeah, I did, sir.

23 THE COURT: What is, though, is you've told us
24 you reached a verdict. Do you -- and it sounds like it was a

1 criminal case?

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: Okay. Was there anything about that
4 service that left a distaste in your mouth for serving again?

5 A PROSPECTIVE JUROR: No, absolutely not.

6 THE COURT: Okay. Any reason why you cannot be a
7 fair and impartial juror in this case?

8 A PROSPECTIVE JUROR: No.

9 THE COURT: Were you able to hear all of the
10 questions that have been asked here this afternoon?

11 A PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: And a lot of questions by the
13 attorneys and by myself. In listening to those questions, did
14 anything raise concerns for you about whether you would be a
15 good juror in this case or not?

16 A PROSPECTIVE JUROR: No, Your Honor.

17 THE COURT: Okay. And were you able to hear the
18 list of witnesses?

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: Did you know any of those folks?

21 A PROSPECTIVE JUROR: Possibly one. I don't
22 know. I know Joe Duffy. I don't know if his name was Robert
23 listed there or not.

24 THE COURT: Okay.

1 A PROSPECTIVE JUROR: Whether that's his middle.

2 THE COURT: All right. Anything about -- how
3 well do you know -- was it Joe that you know?

4 A PROSPECTIVE JUROR: Yes.

5 THE COURT: How well do you know Joe Duffy?

6 A PROSPECTIVE JUROR: Well, I hung some signs for
7 him during his campaign when he ran for sheriff.

8 THE COURT: Okay.

9 A PROSPECTIVE JUROR: Got to meet him. His son
10 worked with me at the Carson Valley Swim Center as a life
11 guard. I actually got to know him, you know, pretty well.

12 I'm in a position where I mentor younger teams,
13 you could call it, mostly out of high school. I taught the
14 aquatics class, so as they come through, and got to know Joe's
15 son, Maverick, quite well.

16 THE COURT: All right. Is it --

17 A PROSPECTIVE JUROR: I was invited to the house
18 for a going away party as he entered the Air Force.

19 THE COURT: Is Joe the witness, either
20 Ms. Ristenpart or --

21 A PROSPECTIVE JUROR: His name is Robert.

22 THE COURT: -- Ms. Mazza, which Duffy?

23 MS. MAZZA: Your Honor, no, it would not be Joe
24 Duffy.

1 THE COURT: Okay. Do you know Robert?

2 A PROSPECTIVE JUROR: No, it must be his brother.

3 THE COURT: Okay.

4 A PROSPECTIVE JUROR: I know he has a brother.

5 THE COURT: All right. Thank you. And do you

6 know either me or either of the attorneys in this case?

7 A PROSPECTIVE JUROR: Nope. No.

8 THE COURT: All right. Thank you. Go ahead and

9 have a seat.

10 Mr. Henderson, your turn.

11 A PROSPECTIVE JUROR: Yes, sir. My name's Don

12 Henderson. I'm a natural resource consultant in Carson City

13 for Douglas. As I mentioned earlier, my wife worked for the

14 County for 28 years and she's retired about two to three years

15 ago now.

16 Please, your other questions.

17 THE COURT: Have you ever served on a jury

18 before?

19 A PROSPECTIVE JUROR: No, I have not.

20 THE COURT: And any reason why you do not believe

21 you could be fair and impartial in this case?

22 A PROSPECTIVE JUROR: Well, I have a COVID shot

23 coming up, my second on Friday. I'd be really disappointed if

24 I missed that.

1 THE COURT: Okay.

2 A PROSPECTIVE JUROR: But I would try not to hold
3 a grudge.

4 THE COURT: That's important and I thank you for,
5 you know, bringing that up. Do you have any knowledge
6 regarding how easy or hard it is to reschedule those?

7 A PROSPECTIVE JUROR: I did call during the lunch
8 break and they can reschedule it, but it's going to cause a
9 conflict with other schedules. I think part of the issue
10 is -- of course, I couldn't talk to the doctor, is I've been a
11 month out since my first shot and so it's getting to the point
12 where it's time to get the second shot.

13 THE COURT: If they have to reschedule, can they
14 get you in in the appropriate amount of time?

15 A PROSPECTIVE JUROR: That remains to be seen.

16 THE COURT: Okay. Are you asking to be excused
17 on that basis?

18 A PROSPECTIVE JUROR: Well, I would love it if I
19 could.

20 THE COURT: Okay. Counsel, I'll first ask
21 Ms. Mazza, what are your thoughts about excusing
22 Mr. Henderson?

23 MS. MAZZA: Your Honor, no objection from the
24 State.

1 THE COURT: Okay. Ms. Ristenpart?

2 MS. RISTENPART: Is your appointment during court

3 times or is your appointment --

4 A PROSPECTIVE JUROR: Yes, it's 11:15 on Friday,

5 this Friday.

6 MS. RISTENPART: And I don't know if the Court

7 would make accommodation or we go straight to 12 o'clock on

8 those days.

9 THE COURT: Mr. Henderson, I'm sorry, what -- I

10 was writing a note.

11 What time is it on Friday?

12 A PROSPECTIVE JUROR: 11:15 this Friday in

13 Carson.

14 MS. RISTENPART: Oh, in Carson.

15 A PROSPECTIVE JUROR: Yeah.

16 MS. RISTENPART: So you don't live here?

17 A PROSPECTIVE JUROR: I do live here.

18 THE COURT: Okay.

19 MS. RISTENPART: Right.

20 THE COURT: With that information,

21 Ms. Ristenpart, what is your position?

22 MS. RISTENPART: And they can't get you in for

23 another appointment that doesn't conflict?

24 A PROSPECTIVE JUROR: So they said -- I'll see if

1 I get selected, I'll call you tomorrow and see if they can try
2 and work us around.

3 MS. RISTENPART: Yeah, I know.

4 A PROSPECTIVE JUROR: Maybe if -- I think I can
5 get in at 8:00 and get back down here by 10:00. I'm not sure
6 what time it is, so --

7 MS. RISTENPART: Your Honor, Defense would
8 object. Thank you.

9 THE COURT: What was that?

10 MS. RISTENPART: Defense will object.

11 THE COURT: Okay. All right. Mr. Henderson,
12 just to follow up, you initially said they could reschedule?

13 A PROSPECTIVE JUROR: We'll try, yeah.

14 THE COURT: Okay.

15 A PROSPECTIVE JUROR: Yeah, they said they'd work
16 with me, try to work with me.

17 THE COURT: All right. So thank you for raising
18 that. I'm going to have you remain for now.

19 Do you have any other concerns that you would
20 like to raise?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: And have you heard all the questions
23 that have been asked today?

24 A PROSPECTIVE JUROR: I have.

1 THE COURT: Any of those questions that raise
2 concerns for you or that you think you ought to give an answer
3 to?

4 A PROSPECTIVE JUROR: No, I think I could be an
5 impartial juror.

6 THE COURT: Were you able to hear all the names
7 of the witnesses?

8 A PROSPECTIVE JUROR: I did. I know Mr. Morgan
9 through the County just by name, and I think it's been
10 clarified it's Robert Duffy, not Joe Duffy.

11 MS. MAZZA: Yes.

12 A PROSPECTIVE JUROR: Joe Duffy happens to be my
13 neighbor.

14 THE COURT: Okay. So -- and Mr. Morgan, you said
15 you just kind of knew the name?

16 A PROSPECTIVE JUROR: As a county employee, yes.

17 THE COURT: All right. Do you know myself or
18 either of the attorneys in this case?

19 A PROSPECTIVE JUROR: No, sir.

20 THE COURT: All right. Thank you. Go ahead and
21 have a seat.

22 A PROSPECTIVE JUROR: Thank you.

23 THE COURT: Mr. Ovard, go ahead.

24 A PROSPECTIVE JUROR: Morgan Ovard. I'm a

1 teacher at Carson high school and coach, married. My wife's a
2 physical therapist. I've never been part of a jury.

3 THE COURT: Thank you. And do you -- were you
4 able to hear all the questioning here today?

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: Any of those questions raise a
7 response to you that you think would be pertinent for us to
8 hear?

9 A PROSPECTIVE JUROR: I have a brother that's a
10 CHP officer. I still think I'd be impartial.

11 THE COURT: Okay.

12 A PROSPECTIVE JUROR: With the people on the
13 list, I believe I know three of them.

14 THE COURT: Who are those folks?

15 A PROSPECTIVE JUROR: Nick Lonnegren.

16 THE COURT: Okay.

17 A PROSPECTIVE JUROR: Rick Koontz and Joe
18 Girdner.

19 THE COURT: Okay. Let's start with
20 Mr. Lonnegren. How is it that you know him?

21 A PROSPECTIVE JUROR: We went to school together.
22 I played high school basketball with Nick. We've seen each
23 other on occasion when I worked at Carson Valley Swim Center
24 and through charity basketball between the two high schools.

1 THE COURT: So you guys are the same age?
2 A PROSPECTIVE JUROR: Yeah, he's a year older.
3 THE COURT: Okay. Played basketball together.
4 When was the last time you saw Nick?
5 A PROSPECTIVE JUROR: Three years ago.
6 THE COURT: And what about Deputy Koontz?
7 A PROSPECTIVE JUROR: I know him mainly through
8 my mom and dad. They live in the same neighborhood. My mom's
9 next door neighbors with his son and I see him on occasion
10 when I'm down there with my granddaughter -- or my daughters,
11 excuse me.
12 THE COURT: Okay. And then Mr. Girdner?
13 A PROSPECTIVE JUROR: I was a prospective
14 employee at Douglas high school and he was the principal and
15 my mom works for Douglas high school.
16 THE COURT: Okay. So you actually -- now you're
17 at Carson high, but --
18 A PROSPECTIVE JUROR: I've been at Carson high
19 school, yeah.
20 THE COURT: Okay. But you previously worked --
21 A PROSPECTIVE JUROR: I've always been in Carson.
22 It was when I was applying for a job here in Douglas.
23 THE COURT: Okay. Thank you.
24 A PROSPECTIVE JUROR: Yeah.

1 THE COURT: Okay. Mr. Ovard, thank you. Go
2 ahead and have a seat.

3 Okay. Counsel, we'll go ahead and open it up for
4 those new jurors. Ms. Mazza.

5 MS. MAZZA: Mr. Ovard, knowing all three of those
6 potential witnesses, does that impact how you would listen to
7 their testimony?

8 A PROSPECTIVE JUROR: I don't think so.

9 MS. MAZZA: Okay. And if I told you it was not
10 Rick Senior, but Rick Junior for the Koontz.

11 A PROSPECTIVE JUROR: I don't know Rick Junior.

12 MS. MAZZA: Okay. I apologize. If it's Rick --
13 it is Rick Junior, not --

14 A PROSPECTIVE JUROR: I know Rick Senior.

15 MS. MAZZA: Okay. You know the father?

16 A PROSPECTIVE JUROR: I know the dad.

17 MS. MAZZA: Okay. And then any part of your
18 employment make you think that you have any inability to be
19 impartial in this case?

20 A PROSPECTIVE JUROR: I don't think so.

21 MS. MAZZA: Okay. And, Mr. Henderson, so we were
22 talking about your COVID shot. Would that be on your mind
23 during the trial if you were being -- having to miss that and
24 potentially go past the time period for getting your second

1 shot?

2 A PROSPECTIVE JUROR: Well, yeah, it's on my
3 mind. I've been looking forward to getting the shot, yes.

4 THE COURT: Would it -- do you think it would be
5 a distraction?

6 A PROSPECTIVE JUROR: Probably not a distraction,
7 a disappointment.

8 MS. MAZZA: Okay.

9 A PROSPECTIVE JUROR: May be a better way to put
10 it.

11 MS. MAZZA: Okay. But do you think you could
12 still listen to the testimony and the evidence in the case
13 impartially without that in the back of your mind?

14 A PROSPECTIVE JUROR: Yes, I believe I can.

15 MS. MAZZA: Okay. Based upon the questions that
16 I asked to the three of you that have been added, do any of
17 you have a problem with the burden that the State has, that it
18 is beyond a reasonable doubt, not beyond all doubt?

19 A PROSPECTIVE JUROR: (Shakes head.)

20 MS. MAZZA: You're shaking your head no.

21 A PROSPECTIVE JUROR: I believe so, yeah.

22 MS. MAZZA: Okay. No problem with that,
23 Mr. Henderson?

24 A PROSPECTIVE JUROR: No.

1 MS. MAZZA: And any comments from any of the
2 questions that you heard me asking earlier?

3 A PROSPECTIVE JUROR: No.

4 A PROSPECTIVE JUROR: No.

5 MS. MAZZA: Mr. Cannon, no questions or concerns?

6 A PROSPECTIVE JUROR: No, ma'am.

7 MS. MAZZA: Thank you. I'll pass for cause,
8 Your Honor.

9 THE COURT: Thank you. Ms. Ristenpart.

10 MS. RISTENPART: Thank you, Your Honor.

11 Based upon the nature of the allegation that was
12 read to you, I'm looking at you three, did you guys have an
13 immediate reaction to it or a visceral reaction?
14 Mr. Henderson?

15 A PROSPECTIVE JUROR: Your previous questions to
16 the panel?

17 MS. RISTENPART: Correct.

18 A PROSPECTIVE JUROR: No.

19 MS. RISTENPART: Do you have any -- do you think
20 that someone could lie about being sexually abused?

21 A PROSPECTIVE JUROR: Yes.

22 MS. RISTENPART: Mr. Cannon, you've worked with a
23 lot of kids throughout your career.

24 A PROSPECTIVE JUROR: Yes, ma'am.

1 MS. RISTENPART: Do you believe that or do you
2 think that teenagers always tell the truth?

3 A PROSPECTIVE JUROR: No, I don't.

4 MS. RISTENPART: Do you think someone could lie
5 about being sexually abused?

6 A PROSPECTIVE JUROR: Absolutely.

7 MS. RISTENPART: Mr. Ovard, you also coach and
8 how long have you been a coach for, a teacher?

9 A PROSPECTIVE JUROR: Eight years.

10 MS. RISTENPART: Okay. And you just said you
11 have a daughter, a young daughter?

12 A PROSPECTIVE JUROR: I have two daughters, yes.

13 MS. RISTENPART: Okay. But you work primarily
14 with teenagers?

15 A PROSPECTIVE JUROR: Yes, I taught the Carson
16 middle school for five years and I'm currently at Carson high
17 school.

18 MS. RISTENPART: The last time you hung out with
19 Mr. Lonnegren was about three years ago?

20 A PROSPECTIVE JUROR: Hang out was kind of -- you
21 know, we were playing in a charity basketball game against
22 each other and that was about it.

23 MS. RISTENPART: You don't go over to each
24 other's houses.

1 A PROSPECTIVE JUROR: No.

2 MS. RISTENPART: Talk?

3 A PROSPECTIVE JUROR: No. If we see each other

4 passing by, it's small talk.

5 MS. RISTENPART: And do you think that teenagers

6 can lie?

7 A PROSPECTIVE JUROR: I believe so, yeah.

8 MS. RISTENPART: Do you think that someone can

9 lie about being sexually abused?

10 A PROSPECTIVE JUROR: Yes.

11 MS. RISTENPART: No further questions. Pass for

12 cause. Thank you.

13 THE COURT: Okay.

14 A PROSPECTIVE JUROR: Excuse me.

15 THE COURT: Ms. Kite.

16 A PROSPECTIVE JUROR: I'm sorry. And I'm sorry,

17 Mr. Henderson, I thought you said your name was Anderson, and

18 with the mask, I didn't recognize him. Indeed, I know him and

19 his wife.

20 THE COURT: Ms. Kite. Thank you for your

21 honesty. It is hard with the masks and hearing in here and

22 all of that, so I thank you for raising your hand.

23 So anything about your knowledge of him that

24 would cause you any discomfort or concerns?

1 A PROSPECTIVE JUROR: No.

2 THE COURT: Sitting as a juror with him?

3 A PROSPECTIVE JUROR: Of course not.

4 THE COURT: And would his opinion on the case
5 give undue weight to you when you give your opinion?

6 A PROSPECTIVE JUROR: No.

7 THE COURT: All right. Given Ms. Kite's newest
8 information, Ms. Mazza, any follow-up questions based on that?

9 MS. MAZZA: No, Your Honor. Thank you.

10 THE COURT: Ms. Ristenpart?

11 MS. RISTENPART: No, Your Honor.

12 THE COURT: Okay.

13 A PROSPECTIVE JUROR: (Raises hand.)

14 THE COURT: So where we are at in this case --
15 oh, one more.

16 A PROSPECTIVE JUROR: Sorry.

17 THE COURT: Ms. Rhodes.

18 A PROSPECTIVE JUROR: I do know Nick Lonnegren, I
19 just didn't recognize the last name. But I just know he was
20 my coach for a while for like probably four months. So I do
21 know him, but --

22 THE COURT: Okay. What I heard is coach.

23 A PROSPECTIVE JUROR: A personal --

24 THE COURT: Was he -- he is your coach or was

1 your coach?

2 A PROSPECTIVE JUROR: A personal trainer at the
3 community center.

4 THE COURT: Okay.

5 A PROSPECTIVE JUROR: For about four months. And
6 I would -- you know, if I saw him, I would say hello. So I
7 just want to disclose that because I didn't put the last name
8 with the first name.

9 THE COURT: Thank you. How long ago was that?

10 A PROSPECTIVE JUROR: It was -- probably would be
11 two and a half years ago, three years.

12 THE COURT: And for a period of about four
13 months?

14 A PROSPECTIVE JUROR: Yeah.

15 THE COURT: What did he coach you in?

16 A PROSPECTIVE JUROR: You know, workout stuff,
17 working out, personal trainer kind of thing.

18 THE COURT: Okay. All right. Anything about
19 that, your knowledge of him, that would make you give undue
20 weight to his testimony?

21 A PROSPECTIVE JUROR: I don't think so, no.

22 THE COURT: Okay. Or the other way, anything
23 that you know about him that would make you give discredit to
24 him just because of your knowledge of him?

1 A PROSPECTIVE JUROR: No.

2 THE COURT: Okay. Thank you for raising that.

3 Ms. Mazza, do you have any follow-up questions
4 with Ms. Rhodes regarding that information?

5 MS. MAZZA: No, Your Honor. Thank you.

6 THE COURT: Ms. Ristenpart?

7 MS. RISTENPART: No, Your Honor. Thank you.

8 THE COURT: Okay. Going once, going twice? Any
9 other hands? Okay. So where we are at in this case is both
10 sides have passed the panel for cause. The panel is the 24
11 folks here in the box.

12 So what that means is the rest of you, if you are
13 not in the box, you are going to be excused here in a moment
14 and your service here is complete. And I thank you for your
15 service and being here patiently today and punctual and being
16 part of the process.

17 For those of you who are in the 24, I'm going to
18 be excusing you for about 15 minutes, and then when you come
19 back in, we will be announcing who will be seated as jurors in
20 this case.

21 And those of you who are seated as jurors, we'll
22 have you return tomorrow to take up the jury trial and then
23 the rest of you would be excused. So, in other words, we're
24 going to have a jury selected here fairly soon.

1 So at this point in time, again, if you're here
2 in the box, you got to be back in 15 minutes. And if you are
3 not in the box, you are excused and I thank you. I do need to
4 read the admonishment one more time.

5 It is your duty not to converse amongst
6 yourselves or with anyone else on any subject connected with
7 the trial either by phone, email, text, internet, or any other
8 means.

9 To read, watch, or listen to any report of or
10 commentary on the trial or any person connected with the trial
11 by any medium of information, including, without limitation,
12 newspapers, television and radio.

13 To form or express any opinion on any subject
14 connected with the trial until the cause is finally submitted
15 to you; to do any research, such as consulting dictionaries,
16 using the internet or using other reference materials, or make
17 any investigation, test a theory of the case, recreate any
18 aspect of the case, or in any other way investigate or learn
19 about the case on your own.

20 Thank you, folks. We'll be in recess for
21 15 minutes.

22 (Recess.)

23 (Prospective jury panel not present.)

24 THE COURT: The Court is in session on Case

1 Number 19-CR-188. I show the appearance of counsel for both
2 parties as well as Mr. Jenkins. We are convened outside the
3 presence of prospective jurors. The parties will here, in a
4 few moments, be selecting their preemptory challenges.

5 Counsel, each of you will be given four
6 preemptory challenges as to the general jurors. Once each
7 side has gotten through each of their four preemptory
8 challenges, the first 12 years jurors that are seated are your
9 regular jurors.

10 The Court does intend to seat two alternates in
11 this case and so each side will get one additional preemptory
12 challenge just as to the alternates.

13 We've arranged the chairs here in the box. No
14 longer are there 24 chairs, there's 14, and we've arranged it
15 in the same configuration it will be in the courtroom so that
16 they'll know where to sit tomorrow morning.

17 Before we begin with the preemptories -- oh, one
18 other thing I would say: After each side exercises their
19 preemptory, take a little bit of a pause to see if there's any
20 Batson kind of challenge, then the other side goes ahead and
21 exercises their challenge. We go back and forth until we're
22 finished.

23 Ms. Mazza, do you have any questions about the
24 process?

1 MS. MAZZA: No, Your Honor.

2 THE COURT: Ms. Ristenpart?

3 MS. RISTENPART: No, Your Honor.

4 THE COURT: Okay. So, Ms. Mazza, are you
5 prepared to go forward with your first preemptory challenge?

6 MS. MAZZA: Yes, Your Honor.

7 THE COURT: You may do so.

8 MS. MAZZA: The State for our first preemptory
9 challenge will be Clayton D. Johnson.

10 THE COURT: Okay. That would be -- I have him as
11 Number 18. So the State exercises its first challenge on
12 Clayton Johnson.

13 Ms. Ristenpart, when you are ready, you may go
14 forward with your first challenge.

15 MS. RISTENPART: Defense would like to thank and
16 excuse Juror Number 1, Josephine Sanguinetti.

17 THE COURT: Defendant exercises his first
18 preemptory challenge to excuse Juror Number 1, Josephine
19 Sanguinetti.

20 Ms. Mazza, your second challenge.

21 MS. MAZZA: For the second challenge, the State
22 would like to excuse Stephanie Kirk.

23 THE COURT: The State exercises its second
24 preemptory challenge to excuse Stephanie Kirk, Juror

1 Number 20.

2 Ms. Ristenpart, your second challenge.

3 MS. RISTENPART: Defense would like to thank and
4 excuse Juror Number 2, Cynthia Aiazzi.

5 THE COURT: Defendant exercises his second
6 challenge on Juror Number 2, Cynthia Aiazzi.

7 Ms. Mazza, State's challenge number three.

8 MS. MAZZA: Number three, the State would like to
9 excuse Kristina Wose, Number 6.

10 THE COURT: The State exercises its third
11 preemptory Juror Number 6, Kristina Wose.

12 Ms. Ristenpart, Defendant's third challenge.

13 MS. RISTENPART: With the Court's indulgence.

14 THE COURT: Take your time.

15 MS. RISTENPART: Thank you. Thank you. Defense
16 would like to thank and excuse Juror Number 3, Catherine Kite.

17 THE COURT: Defendant exercises his third
18 preemptory challenge to excuse Juror Number 3, Catherine Kite.

19 Ms. Mazza, the State's last -- fourth and last
20 challenge as to the general jurors.

21 MS. MAZZA: Your Honor, the State would like to
22 excuse Number 13, Richard Cannon.

23 THE COURT: The State exercises its fourth
24 challenge to excuse Juror Number 13, Richard Cannon.

1 And, Ms. Ristenpart, the Defendant's final
2 challenge as to the regular jurors.

3 MS. RISTENPART: Apologies, Your Honor.

4 THE COURT: Take your time.

5 MS. RISTENPART: Big decision, so thank you.

6 THE COURT: No hurry. Take your time.

7 MS. RISTENPART: So sorry, Your Honor. Thank
8 you.

9 THE COURT: Take your time. Again, no hurry.

10 MS. RISTENPART: Defense would like to thank and
11 excuse Juror Number 16, Donald Henderson.

12 THE COURT: The Defendant exercises his fourth
13 challenge to excuse Juror Number 16, Donald Henderson.

14 So before we proceed with the alternate
15 challenges, first, any Batson type challenges or objections as
16 to the first 12 jurors?

17 Ms. Mazza?

18 MS. MAZZA: No, Your Honor.

19 THE COURT: Ms. Ristenpart?

20 MS. RISTENPART: No Batson challenges,
21 Your Honor.

22 THE COURT: Okay. So what I'm showing is the 12
23 regular jurors would be Marty Stoner -- and, Madam Clerk,
24 please check me. Kristina Kane (sic). Ronda Teruya.

1 Brittany Kane, not Kristina Kane.

2 THE CLERK: Correct.

3 THE COURT: Thank you. Thank you. Ronda Teruya.

4 William Kingman. Helene Rhodes. Meagan Osmer. Judy

5 Fletcher. What are we up to? How many is that?

6 MS. MAZZA: Seven.

7 THE COURT: Okay. Byran Moss. Ledene Johnson.

8 I'm not sure I pronounced her first name correctly.

9 THE CLERK: I think it's Ledene.

10 THE COURT: Ledene, thank you. Ledene Johnson.

11 Robert Albonico. Morgan Ovard. Candace Supiran would be

12 Number 12.

13 Madam Clerk, do you have the same?

14 THE CLERK: Yes.

15 THE COURT: Ms. Mazza, do you have the same?

16 MS. MAZZA: Yes, Your Honor. Thank you.

17 THE COURT: Ms. Ristenpart?

18 MS. RISTENPART: I do, Your Honor.

19 THE COURT: Okay. Okay. So as to the remaining

20 folks, again, both sides may exercise one preemptory challenge

21 as to the alternates.

22 Ms. Mazza, would you -- do you wish to exercise a

23 challenge as to the alternates?

24 MS. MAZZA: Yes, Your Honor. As to the

1 alternates, the State would like to challenge John Summers.

2 THE COURT: Okay. State uses its alternate
3 challenge to excuse John Summers who is Juror Number 24.

4 And, Ms. Ristenpart, does the Defendant wish to
5 exercise a challenge as to the alternates?

6 MS. RISTENPART: The defense would like to thank
7 and excuse Juror Number 21, Patrick Coons.

8 THE COURT: The Defendant exercises his alternate
9 challenge to excuse Juror Number 1, Patrick Coons, which
10 leaves as our alternates, if I'm not mistaken, Bo Young
11 Northcutt and Jacqueline Johnson.

12 Madam Clerk, do I have that right?

13 THE CLERK: Yes.

14 THE COURT: Ms. Mazza?

15 MS. MAZZA: Yes, Your Honor.

16 THE COURT: Ms. Ristenpart?

17 MS. RISTENPART: Yes, Your Honor.

18 THE COURT: Okay. The alternates are blind
19 alternates, meaning that they will not be told they are
20 alternates until the case comes to a conclusion and it's time
21 to deliberate. I believe we are ready to call in the
22 prospective jurors.

23 Ms. Mazza, anything else before we do that?

24 MS. MAZZA: No, Your Honor.

1 THE COURT: Ms. Ristenpart?

2 MS. RISTENPART: No, Your Honor.

3 THE COURT: Okay. Let's go ahead and bring in
4 the prospective jurors.

5 (Prospective Jury Panel enters.)

6 THE COURT: Deputy Lindsay, do you believe we
7 have everybody as best you can tell?

8 THE DEPUTY: Yes, Your Honor.

9 THE COURT: Okay. The Court is in session on
10 Case Number 19-CR-188. I show the appearance of counsel for
11 both parties as well as Mr. Jenkins. We have now invited in
12 the prospective jurors.

13 Ladies and gentlemen, the jury in this case has
14 been selected. In a moment, the clerk is going to announce
15 who those jurors will be and it is important here that you
16 maintain your seats in the manner in which you are called.

17 And so the clerk will announce a name and say,
18 for instance, Juror Number 1, and Deputy Lindsay will show you
19 where to sit and we'll fill up the 14 chairs that are here in
20 front.

21 Madam Clerk, would you go ahead and proceed to
22 call the jury?

23 THE CLERK: Yes.

24 Marty Stoner, Juror Number 1. Brittany Kane,

1 Juror Number 2. Ronda Teruya, Juror Number 3. William
2 Kingman, Juror Number 4. Helene Rhodes, Juror Number 4.
3 Meagan Osmer, Juror Number 6. Judy Fletcher, Juror Number 7.
4 Byran Moss, Juror Number 8. Ledene Johnson, Juror Number 9.
5 Robert Albonico, Juror Number 10. Morgan Ovard, Juror Number
6 11. Candace Supiran, Juror Number 12. Bo Young Northcutt,
7 Juror Number 13. Jacqueline Johnson, Juror Number 14.

8 THE COURT: Okay. Again, those of you who have
9 been called and seated in the 14 chairs in front of me are the
10 jurors in this case. I'm going to go ahead and excuse those
11 that remain in the back.

12 Thank you for your attendance and participation
13 throughout the day.

14 (Remaining prospective jurors excused.)

15 THE COURT: For scheduling purposes, folks, we
16 will begin the trial tomorrow morning at 9 o'clock in the
17 morning. That is going to be over at the judicial law
18 enforcement center and that's located at 1038 Buckeye Road.

19 Is there anybody here that doesn't know where
20 that's at?

21 THE PROSPECTIVE JURY PANEL: (No hands raised.)

22 THE COURT: Okay. You're going to Department II,
23 which is up on the second floor. Up on the second floor, we
24 have each of our court rooms. There's three. And

1 Department I's on one end, Department II is on the other end
2 and Justice Court's in the middle.

3 You're going to Department II and there's a name
4 plaque and department number out front with my name on it.

5 You folks have been prompt here today and I
6 really appreciate that and it will help us throughout this
7 trial if you are prompt. I intend to start at 9:00, so please
8 arrive at least a few minutes early.

9 Upon your arrival, one of the deputies will
10 assist you into the back jury deliberation room where you will
11 wait until you are called into the courtroom.

12 At that time, you'll be given some jury
13 instructions, most likely some of you folks have some
14 questions about jury duty and the instructions might answer
15 those questions.

16 You're also going to be given some badges that
17 you will wear every time you are there in the courthouse and
18 it's important that you wear those because it identifies you
19 as jurors and other folks who work in the court building know
20 that they are not supposed to converse with you while you are
21 seated as jurors.

22 But those are some things we'll talk about
23 tomorrow at 9 o'clock. Really, all we need to do today, I am
24 going to go ahead and have you sworn as jurors. And so the

1 clerk's going to have you rise here in a minute, raise your
2 right hands and be sworn. Most likely we will do that again
3 tomorrow as we get focused on hearing the evidence.

4 But, Madam Clerk -- folks, please stand, raise
5 your right hand to be sworn.

6 (Jury panel sworn.)

7 THE COURT: Thank you, folks. Go ahead and have
8 a seat. I will be reading this admonishment again, and even
9 though we all get tired of hearing it, it doesn't mean that
10 it's not important.

11 In fact, it's critical to your participation as
12 jurors in this case to follow the admonishment. And so,
13 again, generally refrain from any ideas you have about going
14 out on the internet or otherwise and trying to learn about the
15 case or talking about the case with other people.

16 Specifically, you are admonished that it is your
17 duty not to converse amongst yourselves or with anyone else on
18 any subject connected with the trial either by phone, email,
19 text, internet, or any other means.

20 Do not read, watch or listen to any report of or
21 commentary on the trial or any person connected with the trial
22 by any medium of information, including, without limitation,
23 newspapers, television and radio.

24 Do not form or express any opinion on any subject

1 connected with the trial until the cause is finally submitted
2 to you.

3 Do not do any research, such as consulting
4 dictionaries, using the internet, or using other reference
5 materials or make any investigation, test the theory of the
6 case, recreate any aspect of the case, or in any other way
7 investigate or learn about the case on your own.

8 It's also important that you understand that I
9 cannot converse with you about the case nor can the attorneys
10 or Mr. Jenkins or any of the witnesses. So please do not
11 engage any of us.

12 If you have a question, it's best to put that in
13 writing and hand it to the bailiff. Okay? Unless it has
14 something to do with -- well, I think that's just the best
15 course. If you have a question, submit it to the bailiff and
16 we'll proceed in that way.

17 So, again, tomorrow at 9:00, try to arrive a
18 little bit early. It will be a full day tomorrow. Typically,
19 we will take at least one recess during the morning, about
20 15 minutes in length.

21 We will take about one recess in the afternoon,
22 about 15 minutes at length. And usually we will recess for
23 about an hour and a half for lunch.

24 So that gives you an idea scheduling wise, you

1 know, how things will be going here until the conclusion of
2 the trial. We will not convene over the weekend, and so the
3 jury trial then would resume next week and we'll give you
4 further instructions on that.

5 If you need a note for your employer, some
6 employers want to see verification, that you've been here
7 today or that you're seated as a juror.

8 If you, again, put that in writing and hand it to
9 the bailiff, we will get a letter to you, informing your
10 employer that you're here serving jury duty. Okay.

11 With that, the Court is in recess. I thank you
12 for your participation today and we'll see you tomorrow at
13 9 o'clock.

14 A PROSPECTIVE JUROR: (Raises hand.)

15 THE COURT: Hold on. We have one question.

16 A PROSPECTIVE JUROR: Sorry. It was just about
17 like a note or something like that. My school secretary asked
18 me to give her one like today or something.

19 THE COURT: Okay. So do you need it today or --

20 A PROSPECTIVE JUROR: I mean, I can probably just
21 text her and make sure --

22 THE COURT: Okay.

23 A PROSPECTIVE JUROR: -- that she did say like,
24 make sure you bring that slip with you, so --

1 THE COURT: Okay. So we will have prepared for
2 you tomorrow.

3 A PROSPECTIVE JUROR: Okay.

4 THE COURT: And ready for you tomorrow a note
5 that you can give, and we'll have that ready for you.

6 Does anybody else already know that they would
7 like that type of note?

8 THE PROSPECTIVE JURY PANEL: (Several hands
9 raised.)

10 THE COURT: Okay. So we have two others. Take
11 some notes here. Okay. Ms. Plante, did you get all of those?
12 Where is Ms. Plante?

13 MS. PLANTE: I did not. I don't know the names.

14 THE COURT: Okay. I'm just going to -- it's
15 easier for us if you just say your name. Whoever wants a
16 note, let's just go across the back row.

17 A JUROR: Brittany Kane.

18 THE COURT: Thank you.

19 A JUROR: Ronda Teruya.

20 A JUROR: Byran Moss.

21 A JUROR: Helene Rhodes.

22 THE COURT: Anybody else?

23 A JUROR: Morgan Ovard.

24 THE COURT: Morgan Ovard.

1 A JUROR: Bo Young Northcutt.
2 THE COURT: Did you get all of those as well,
3 Madam Clerk?
4 THE CLERK: Six, yes. Got it.
5 THE COURT: Ms. Plante, you have it? Okay.
6 All right. Folks, we'll see you tomorrow at
7 9 o'clock. Thanks a lot. Court's in recess.
8 (Proceedings concluded at 5:34 p.m.)
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1 STATE OF NEVADA)
2 COUNTY OF DOUGLAS)

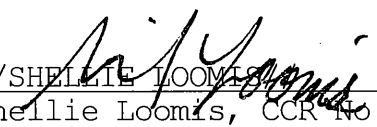
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I, Michel Loomis, Certified Shorthand Reporter of the Ninth Judicial District Court of the State of Nevada, in and for the County of Douglas, do hereby certify:

That I was present in Department No. II of the above-entitled Court and took stenotype notes of the proceedings entitled herein, and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said proceedings.

DATED: At Carson City, Nevada, this 18th day of October, 2021.


//SHELLIE LOOMIS
Shellie Loomis, CCR No. 228

Case No. 19-CR-0188

Department No. II

CERTIFIED
COPY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

THE HONORABLE THOMAS W. GREGORY

-oOo-

STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
RICHARD ALEXANDER JENKINS,)
)
Defendant.)
_____)

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL, VOLUME II

THURSDAY, APRIL 22, 2021

MINDEN, NEVADA

Reported by: Shellie Loomis, RPR
Nevada CCR #228

CAPITOL REPORTERS (775) 882-5322

APP0899

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APPEARANCES

For the State: Chelsea Mazza, Esq.
Deputy District Attorney
Minden, Nevada

For the Defendant: Theresa Ristenpart, Esq.
Reno, Nevada

(INDEX LOCATED AT THE BACK OF THE TRANSCRIPT.)

1 MINDEN, NEVADA, THURSDAY, APRIL 22, 2021, A.M. SESSION

2 -oOo-

3
4 THE COURT: Court is in session on Case Number
5 19-CR-188, State of Nevada versus Richard Alexander Jenkins.
6 I show the appearance of Chelsea Mazza on behalf of the State.

7 Good morning, Ms. Mazza.

8 MS. MAZZA: Good morning, Your Honor.

9 THE COURT: Theresa Ristenpart is appearing on
10 behalf of the Defendant.

11 Good morning, Ms. Ristenpart.

12 MS. RISTENPART: Good morning, Your Honor.

13 THE COURT: Also appearing out of lawful custody
14 is the Defendant, Mr. Jenkins.

15 Good morning, Mr. Jenkins.

16 THE DEFENDANT: Good morning, Your Honor.

17 THE COURT: We are convened outside the presence
18 of the jury.

19 Ms. Mazza, are you ready to have the jurors
20 brought in?

21 MS. MAZZA: Yes, Your Honor.

22 THE COURT: Ms. Ristenpart?

23 MS. RISTENPART: Yes, Your Honor.

24 THE COURT: All right. Thank you. Let's do so.

1 (Jury present.)

2 THE COURT: Ms. Mazza, do you stipulate to the
3 presence of the jurors?

4 MS. MAZZA: Yes, Your Honor.

5 THE COURT: Ms. Ristenpart?

6 MS. RISTENPART: I do, Your Honor.

7 THE COURT: Thank you.

8 Go ahead and have a seat, folks.

9 Good morning, ladies and gentlemen of the jury.

10 THE JURY PANEL: Good morning.

11 THE COURT: Thank you for being here on time this
12 morning, and so we're ready now to go forward with the trial
13 in this case.

14 So I'm going to begin by having the Clerk --
15 you've already been sworn yesterday afternoon. But as I told
16 you, we would most likely do that once again here this
17 morning, as we focus in and get ready for the case.

18 So Madam Clerk, would you swear the jurors in.

19 Jurors, please stand, raise your right hand, face
20 the Court Clerk to be sworn in.

21 (Jury panel sworn.)

22 THE COURT: Thank you. Please be seated.

23 We do have hearing devices that folks who are
24 hearing impaired have informed us work very well, here in the

1 courtroom.

2 Are there any jurors that would like to try those
3 out? Okay.

4 Did you raise your hand, sir? Mr. Summers, it
5 looked like maybe you were -- or Mr. Albonico, sorry.

6 A JUROR: No.

7 THE COURT: Okay. If at some point in time, you
8 are having difficulty hearing, please raise your hand and let
9 me know that, and we'll make sure that we get those hearing
10 devices to you.

11 I would like to take a few moments to introduce
12 court staff who will be assisting you throughout these
13 proceedings.

14 Again, my name is Tom Gregory, District Court
15 Judge. I preside here in Department II, and it's my honor to
16 preside over this jury trial here this week and into next
17 week.

18 To my left is Madam Clerk, Marilyn Carney. She
19 will be the clerk in these proceedings. You will see her
20 doing various functions, such as swearing in witnesses and
21 handling evidence, and also some jury management as well.

22 Below me is the court reporter, Shellie Loomis.
23 There might be other reporters here throughout the course of
24 trial, or we might have Ms. Loomis here everyday. But the

1 court reporter's job is to take down everything that's said in
2 the courtroom as we proceed.

3 We also have Bailiffs Eric Lindsay, Deputy Eric
4 Lindsay, and Deputy George Schram. There might other bailiffs
5 at different times throughout the proceedings, but primarily
6 you'll be dealing with Deputy Lindsay and Deputy Schram.

7 Their role is to keep us all safe here in the
8 courtroom, and they -- as you saw here this morning, they'll
9 be ushering you to and from the jury selection room -- or
10 excuse me, the jury deliberation room.

11 Also, as we indicated yesterday, if you have any
12 questions as things go along, the best thing to do is to put
13 that in writing, hand it to one of the bailiffs, and they will
14 get that to me.

15 You all have your badges on. We discussed those
16 yesterday. Make sure that you keep those on during recesses.

17 When we do recess, rather than keeping you cooped
18 up back there, I do like to let you folks out and let you walk
19 around a little bit, get some fresh air.

20 So when you do that, it's really important to
21 wear those badges so that folks in the courthouse know that
22 you are jurors, and they should not be communicating with you.

23 I would remind you that I cannot communicate with
24 you, the attorneys cannot communicate with you, witnesses and

1 investigators should be not be communicating with you at all
2 about the case.

3 Sometimes that can be taken as being rude. You
4 might pass one of us in the hallway. And literally when I
5 pass a juror in the hallway, I put my head down and try to
6 walk right by you. And I'm not doing that to be rude.
7 Counsel will probably be doing the same thing with you. Not
8 being rude, that's just what they are supposed to do.

9 I want to talk to you a little bit about the
10 format of the case, and how things will be proceeding here.
11 In a few moments, the State will be given an opportunity to
12 give an opening statement.

13 Opening statements are not mandatory. A party
14 does not have to give an opening statement. And the defense
15 can either give an opening statement now or later in the case.
16 And again, they are not obligated to give any opening
17 statement.

18 If a party gives an opening statement, the
19 opening statement is not evidence in the case. It's simply
20 the attorney's opportunity to inform you of what they believe
21 the evidence is going to be in the case, and to give you an
22 idea of what things might be important for you to listen to.

23 The State, as we've discussed yesterday, they
24 have the burden of proof in this case; and the burden is

1 beyond a reasonable doubt. The Defendant, Mr. Jenkins, is
2 presumed to be innocent, and has no burden in this case at
3 all; in fact, does not need to put on any evidence.

4 In the event that there is a defense in this case
5 or witnesses and evidence offered, the State would be give an
6 opportunity to present rebuttal evidence; at which time, then,
7 that would conclude the evidence-taking portion of the jury
8 trial.

9 After the evidence taking is finished, then the
10 Court will read the jury instructions to you. Jury
11 instructions are instructions on the law. That's the Court's
12 province: Is to decide the law, and tell you and inform you
13 of the law.

14 Your role is the fact-finding function. You get
15 to decide the facts in the case, based upon the evidence, and
16 in applying the law.

17 After I read to you the jury instructions, the
18 parties then can give closing argument. Arguments are also
19 not evidence in the case, but they are the attorney's -- it's
20 an attorney's opportunity to summarize the evidence for you,
21 and makes recommendations.

22 Once the parties have finished their closing
23 arguments, then the case is given to you for your decision.
24 At that time, you are then excused to the jury deliberation

1 room, where you would remain until you've reached a verdict in
2 the case.

3 I will tell you right now in advance, that when
4 it comes time for jury selection [sic], you will not be
5 allowed to take cell phones back there.

6 So I suggest, if you really don't have a need for
7 them here, especially on the date when you are going to be
8 deliberating, don't bring your phones that day. If you bring
9 them, please know they will be held by the deputies until jury
10 deliberations are complete.

11 There will be times throughout this case where
12 there's a need for me to have conversations with the attorneys
13 outside your presence. That is normal. It happens in just
14 about every case.

15 When that happens, you will be excused to the
16 jury deliberation room while I have those conversations with
17 counsel. You are not to concern yourself with what it is
18 we're talking about. Usually, it has to do with issues of law
19 that have come up that we need to have decided before we
20 proceed.

21 As I indicated yesterday, trials are not
22 scripted, and as much as counsel and myself attempt to prepare
23 in advance of these cases, issues arise. And again, there are
24 times we'll have to meet outside your presence.

1 The role of the Judge in this case is as follows.
2 It's the role of the Judge to instruct you regarding the law
3 that applies to the case. You must not concern yourself with
4 the wisdom of any legal instructions.

5 Regardless of any opinion you may have as to what
6 the law ought to be, it would be a violation of your oath to
7 base a verdict upon any other view of the law than that given
8 to you by the Court.

9 No statement, ruling, remark, or comment which I
10 may make during the course of the trial is intended to
11 indicate my opinion as to how you should decide the case, or
12 to influence you in any way in your determination of the
13 facts.

14 I may take notes throughout the proceedings, and
15 you are not to make any inference from my note-taking or any
16 actions that I take.

17 So what is your role? The purpose of your role
18 as jurors is to find and determine the facts. Under our
19 system, you are the sole judges of the facts. You determine
20 the facts from the testimony you hear, and the other evidence,
21 including exhibits, introduced in court. It is up to you to
22 determine the inferences which you feel may be properly drawn
23 from the evidence.

24 It is the duty of a lawyer to object to evidence

1 which he or she believes may not be properly offered, and you
2 should not be prejudiced in any way against the lawyer making
3 an objection, or the lawyer responding to the objection.

4 I may sustain an objection and order that you
5 disregard certain testimony or exhibits. You must not
6 consider any evidence to which an objection has been
7 sustained, or which I have instructed you to disregard it.

8 Anything you see or hear outside of the courtroom
9 is not evidence, and may not be considered.

10 If the lawyers in the case stipulate to any fact,
11 you will regard that fact as being conclusively established.

12 A question asked of a witness is not evidence,
13 and may be considered only as it supplies meaning to an
14 answer. You must not speculate to be true any insinuation
15 suggested by a question.

16 There are two types of evidence: Direct and
17 circumstantial. Direct evidence is proof of a fact, such as
18 testimony of an eyewitness. Circumstantial evidence is
19 indirect evidence; that is, proof of a chain of facts from
20 which you could find that another fact exists, even though it
21 has not been proved directly.

22 You are entitled to consider both kinds of
23 evidence. The law permits you to give equal weight to both,
24 but it is for you to decide how much weight to give to any

1 evidence.

2 You must not be influenced in any degree by any
3 personal feelings of sympathy or prejudice against the
4 Defendant or the State. Both sides are entitled to the same
5 fair and impartial consideration.

6 You shall not form any opinion as to the final
7 determination, until such time as all the evidence has been
8 submitted to you.

9 During the course of evidence taking, the jurors
10 are not allowed to ask questions. That's not your function.
11 That's the function of the attorneys in the case.

12 You do have the ability to take notes, and you
13 have all been provided with a note pad.

14 Do all of you have one now in front of you? No
15 note pads?

16 Deputy Lindsay, do we have note pads?

17 THE DEPUTY: They were on the table, Your Honor.

18 THE COURT: Okay. We need to have those brought
19 in. I'll just pause for a moment.

20 Actually, we'll go ahead and start discussing
21 those a little bit. You're each going to get a notebook and a
22 pen. What I'm going to ask that you do is on the very first
23 page, write just your name, and nothing else.

24 And the reason for that is that will help us

1 identify, help you identify your notepads in the morning.
2 Your notes are for you, not for others. The notepads will be
3 collected at the end of every day.

4 Why don't you go ahead at this time and write
5 your name on that first page.

6 Are we missing a couple of -- oh, they're coming
7 down. I see it. Okay. Everybody has a notepad now.

8 Now, I do caution you not to allow copious
9 note-taking to interfere with your ability to consider the
10 evidence.

11 If during the trial, you discover that you have
12 personal knowledge of any fact in controversy in the case, do
13 not disclose that to your other fellow jurors. Instead, you
14 shall disclose that information to me, by way of a written
15 note given to the bailiff.

16 The Defendant in this case is being tried upon an
17 Amended Information. You were read that Amended Information
18 in its entirety yesterday. I'm not going to have it reread in
19 its entirety again to you today.

20 I would remind you that the allegations are just
21 that. They are allegations that have been brought by the
22 State. And your job will be to determine, at the end of the
23 day, if the State has proven those allegations beyond a
24 reasonable doubt.

1 Ms. Mazza, does the State desire to present an
2 opening statement?

3 MS. MAZZA: Yes, Your Honor.

4 THE COURT: You may proceed.

5 MS. RISTENPART: Your Honor, before that, I would
6 invoke the Rule of Exclusion.

7 THE COURT: Yes, thank you.

8 The Rule of Exclusion has been invoked. What
9 that means is that when one witness is testifying, other
10 witnesses cannot remain in the courtroom. That also includes
11 during the periods of opening statements.

12 And so any witnesses, if there are any witnesses
13 in the courtroom, they need to be excused. I need to rely on
14 counsel here to make sure that any witnesses do not remain
15 here in the courtroom.

16 Ms. Mazza, are there any witnesses in the
17 courtroom?

18 MS. MAZZA: Not that the State is aware of.

19 THE COURT: Ms. Ristenpart?

20 MS. RISTENPART: No, Your Honor.

21 THE COURT: Okay. And that admonishment applies
22 throughout these proceedings. So again, witnesses are only
23 inside the courtroom when they are up here on the witness
24 stand; and they can remain then in the courtroom after they've

1 testified, but only if both sides have excused the witness.

2 Okay. Ms. Mazza, you may proceed.

3 MS. MAZZA: Your Honor, with the Court's
4 permission, may I remove my mask?

5 THE COURT: You may.

6 MS. MAZZA: Thank you.

7 THE COURT: Ladies and gentlemen of the Jury, I
8 have informed counsel that when they are communicating with
9 you, communication in these cases is critical and so I have
10 advised them that if they feel comfortable and they desire to
11 remove their masks when they're speaking, they may do so.

12 And it's the same for witnesses and also for
13 Mr. Jenkins at times if he needs to remove his mask, he may do
14 that.

15 Go ahead, Ms. Mazza.

16 MS. MAZZA: Thank you, Your Honor. A romantic
17 embrace, that is what was observed by Ashley Gosney when they
18 reported conduct between Richard Jenkins and GW.

19 Throughout this case you're going to hear the
20 title, "GW," and you heard a name GW on the witness list
21 yesterday. We also have charged that as Corey Collins, and
22 you'll actually hear that as pseudonym for GW.

23 But this romantic embrace by the two of them was
24 observed by Ashley Gosney. Ashley Gosney then came forward to

1 her then boyfriend, now husband, who was a trainer at the
2 Douglas County Community Center and indicated she observed
3 some conduct between the two of the them that was alarming.
4 She ended up then going to the Community Center and reporting
5 this conduct she observed on September 17th, 2018.

6 What she observed and what she will testify to is
7 observing the Defendant and GW while she was playing
8 volleyball at the Community Center. What she observed between
9 the two of them was they were touchy throughout the time that
10 she was playing at the Community Center.

11 And then she finally observed them in what was
12 described as an embrace, described as hugging and the
13 Defendant kissing GW's neck or cheek. This was in the area
14 that will later be described as an alcove near the arcade.

15 As indicated, she reported this to her boyfriend,
16 Nick Lonnegren, and they came forward to the Community Center.
17 He also described what he had observed, what he had observed
18 between GW and Richard Jenkins.

19 He had observed them being clearly touchy, feely
20 throughout their relationship. And he can actually be seen in
21 surveillance footage that was later found of GW and Richard
22 Jenkins.

23 After these reports, the Community Center became
24 concerned, and they began to attempt to find any surveillance

1 footage of what was reported by Ashley Gosney and Nick
2 Lonnegren.

3 This was found, this romantic embrace between the
4 Defendant and GW. As this attempt to look through footage is
5 initially started, employees from the Community Center then
6 observed the conduct between GW and Mr. Jenkins.

7 They then approached the two of them while
8 they're in an area which is known as the Squishy Room. The
9 Squishy Room is a multipurpose room at the time which had
10 floor that was Styrofoam, so it was squishy.

11 At this time now it is a rock climbing wall, but
12 at the time it was in between being made into the rock
13 climbing wall. So it was just an area that people would hang
14 out in. You'll actually hear it was an area children would
15 hang out in.

16 However, Mr. Jenkins and GW are found in that
17 area. They're found in a corner of that area which is not on
18 surveillance video footage. They're found described as what
19 is holding each other in that corner, sitting next to each
20 other, Mr. Jenkins' arm around GW.

21 Scott Doerr and Kurt Ahart approached Mr. Jenkins
22 and stated: This conduct needs to stop. And at this time
23 Mr. Jenkins says: Well, she's a friend of my daughter's. She
24 lost her father. I'm a father figure to her. So this

1 explains his conduct with GW.

2 As they find them cuddled in the corner of the
3 alcove of the Squishy Room, they asked him to leave.
4 Mr. Jenkins is asked to leave. And then he's also later asked
5 not to come back to the Community Center. He asks for a
6 meeting with the Community Center. And to explain the conduct
7 with GW, he says he's a father figure to her.

8 At the time, as I indicated they were sitting out
9 of view of any cameras in the Squishy Room, but where was his
10 actual daughter? She wasn't with them.

11 The Community Center then continues to review any
12 footage to see if they can find any additional conduct between
13 the two, GW and Richard Jenkins.

14 They then find several more clips. They find
15 clips of them going into the equipment closet at the Community
16 Center. The equipment closet which is long, and they're found
17 going in there several minutes at a time, several occasions
18 over, just over two days, they're found going into there. And
19 they're found coming out with no equipment in this equipment
20 closet. They're also going in there without equipment in that
21 equipment closet.

22 They find more footage of two the of them.
23 They're found on the court grabbing each other, touching each
24 other, not acting the same way as he would be acting with his

1 own daughter. And we know this, because his own daughter is
2 on the footage as well.

3 In the footage, you'll see his own daughter
4 attempting to hold his hand how he's holding GW's hand, but he
5 pulls away from his own daughter.

6 They're also seen walking in and out of the
7 Community Center on one occasion holding hands. You can also
8 see him tapping her butt with what appears to be a Frisbee or
9 a disk.

10 You can see them sitting on bar stools where he
11 comes up behind her with his leg up behind her. He walks away
12 rubbing his hand against her waste. He walks away another
13 time brushing his hands through her hair.

14 In many of the videos, you can also see him
15 looking around with concern. Specifically, in the video of
16 the romantic embrace which Ashley Gosney saw, you can see him
17 look in the room next to him before he hugs GW.

18 They didn't collect every minute of video
19 surveillance of the two of them at the Community Center.
20 You'll hear evidence they were at the Community Center often,
21 very often throughout the summer of 2018. You'll hear this
22 conduct began in July and continued through September in the
23 summer of 2018.

24 What the Community Center collected was the dates

1 of the two reports that were concerning to them and they
2 collected footage from those dates.

3 These were not mistakes by law enforcement.
4 These were the community collecting what was concerning on the
5 dates they had reports from.

6 Again, you can see that he's out of view in the
7 equipment closet. When he goes in the equipment closet,
8 there's no cameras in there. You can see that he's out of
9 view in the Squishy Room or the Silo Room or multipurpose room
10 because the cameras don't hit the corners of that room.

11 The cameras also don't hit that room from the
12 rest of the Community Center on the basketball courts. Those
13 corners just cannot be seen.

14 And how would Mr. Jenkins know that these were
15 out of view of the surveillance footage? Because the
16 Community Center actually displays the surveillance footage on
17 TVs when you enter the Community Center.

18 At the front desk, there's actually several TV
19 that is that show all of the surveillance footage for the
20 Community Center. And so can you see what areas are not on
21 the camera.

22 So based upon these reports, the Community Center
23 then reports this to the Douglas County Sheriff's Office. The
24 Douglas County Sheriff's Office becomes involved and they

1 conduct an investigation.

2 They do interview GW about what has been
3 happening between the two of them. At first, in her first
4 interview, she indicates that they have a touchy relationship,
5 but she indicates that it is that of a father-daughter
6 relationship.

7 However, she then comes forward a second time and
8 indicates that she didn't give all the information to the
9 sheriff's office. That he actually had a different
10 relationship with her. And she was scared to get the
11 Defendant in trouble and that is why she did not come forward
12 the first time.

13 She'll also indicate she didn't come forward the
14 first time because she didn't -- she came forward the second
15 time, I apologize, because she didn't want this to happen to
16 anyone else.

17 When she comes forward the second time, in her
18 second interview, she indicates the Defendant would touch her
19 butt and put his hands down her pants, both in the front and
20 the back.

21 This was at the Rec Center in those three
22 locations that I've described. The alcove near the arcade as
23 well as the closet, the equipment closet, as well as the
24 Squishy Room in the corners that cannot be seen on

1 surveillance footage.

2 But this isn't the only location that GW will
3 describe where this occurred. She actually describes that
4 this began and his first touching of her started while at his
5 house while they would watch movies on the couch. He
6 originally would put his hand on her -- around her shoulder
7 while she would lean on him. And then eventually his hand was
8 on her butt. And then eventually he put his hands down her
9 pants. And she would report this to law enforcement.

10 And, again, she indicated she didn't tell the
11 truth the first time because she was scared to get the
12 Defendant in trouble. And why was this? Because he was the
13 father of her friend and he was the person who had taken care
14 of her for a little time there. He actually came forward to
15 console her when her stepfather passed away.

16 She will describe the touching between them
17 actually started right after he passed away. It began with
18 hugging from Mr. Jenkins. And then it gradually progressed to
19 more and more. And it progressed because she enjoyed her time
20 with Mr. Jenkins. He would take her on trips. He would take
21 her to watching him race RC cars. He would take her on trips
22 floating the river and he would take her to Burger King, the
23 two of them.

24 And now, this isn't what was described yesterday

1 as buying your kids' friends' coffee, buying your kids'
2 friends' food. He would go and take her to Burger King, just
3 the two of them. And how he would ask her to do this, and
4 you'll hear from testimony, by writing her a note. Instead of
5 asking her in front of his daughter, Alyssa, he writes her a
6 note. He said: Do you want to go to Burger King?

7 These are the things that bring Mr. Jenkins and
8 GW closer over time. And the touching gets more and more over
9 time.

10 This will describe that GW was the perfect target
11 for Mr. Jenkins. She recently lost her father figure. She,
12 and Mr. Jenkins knew, recently had issues in her home life and
13 she has a complete lack of confidence. And Mr. Jenkins took
14 complete advantage of that.

15 Now, talking about Miss -- GW, you will hear
16 testimony that she previously had alleged that her mother's
17 boyfriend had touched her inappropriately. And you will hear
18 that. That wasn't a report she made sworn under oath. It was
19 a report she made after he tucked her into bed and she was
20 uncomfortable.

21 And now we talked yesterday about can a teenager
22 be a liar? Of course, the teenager can be a liar. Anyone can
23 be a liar. But that does not mean they're a liar all the
24 time. That does not mean someone lies every time they report

1 something. She reported this because it made her
2 uncomfortable, and you'll hear her talk about it.

3 Does that make GW incapable of then reporting
4 something that made her uncomfortable? Absolutely not. And
5 you can watch the footage of what occurred that also describes
6 their relationship and believe that her story is absolutely
7 accurate.

8 The Douglas County Sheriff's Office then
9 continues to investigate and interview more persons. They
10 interviewed GW's mother, Tamara Woodbridge. She reports that
11 she had noticed inappropriate contact between the two of them,
12 Mr. Jenkins and GW.

13 She'd actually told them to stop touching each
14 other, stop holding hands, stop hugging, because reports had
15 been made to her that uncomfortable situations had been
16 occurring.

17 In fact, the principal from Douglas County High
18 School then called Tamara Woodbridge and told her he observed
19 inappropriate contact between the two of them while they were
20 watching a tennis match.

21 Mr. Jenkins then actually becomes suspended while
22 an investigation is done from his tennis coaching position.
23 Although, he was then put back as a coach on the tennis team,
24 that all just goes towards the conduct between the two of them

1 and how comfortable their relationship was.

2 Tamara Woodbridge will also tell you that there
3 is an absolute difference between the reports that GW made
4 against her mother's boyfriend when she was 11 years old and
5 the reports that she's made now against Mr. Richard Jenkins
6 and a 14 year old. There is absolutely a difference.

7 Tamara Woodbridge described she was very matter a
8 fact involving Gage who was Tamara's boyfriend. And in this
9 case, it's very emotional, very difficult and there is a
10 difference in these two scenarios.

11 The Douglas County Sheriff's Office, their
12 investigation then continued and they interviewed more people.
13 They interviewed KK. And, again, we'll be going by juveniles
14 as their initials through out this trial, all though you saw
15 names on that sheet yesterday, for their privacy, we will be
16 using initials.

17 And KK will come and tell you how she observed
18 the inappropriate conduct between Mr. Jenkins and GW. She
19 observed that while they were having volleyball practice, he
20 put his hands on her hips and he was telling her, you need to
21 move your hips more to start.

22 KK will describe she's never had a coach do this
23 with her. And she has had male coaches before. And this was
24 so concerning to her, that she and her sister then reported it

1 to the coach of that team, Suzy Townsell. She came forward
2 and reported this because it made her so uncomfortable.

3 You'll hear another volleyball player, BG. She
4 observed the Defendant pay particular attention to GW. She
5 felt it was awkward between the two of them, they were always
6 messing with each other's hands, hugging and getting really
7 close.

8 You'll hear another person, Erica Janicki. She's
9 BG's mother. She's the mother of a child playing volleyball
10 and observed the Defendant's conduct with GW. Observed it and
11 found it so concerning, at one point she took a photo while
12 she was in Katie's Restaurant inside the CVI.

13 She took a photo of the two of them while they
14 were cuddled in a booth and Defendant's own daughter was far
15 away from the two of them in the booth. They're cuddled in
16 the booth and Erica will describe it looked like a couple, a
17 romantic couple at dinner.

18 She also saw the two of them at a volleyball
19 tournament, a volleyball tournament where he was not GW's
20 coach. He was not coaching the team that she was playing on,
21 but he was constantly with her and she was secluded from the
22 team by herself with Mr. Jenkins.

23 You'll also hear testimony from VS. And, yes,
24 she is a friend of GW and we can admit that. But she will

1 testify to a phone conversation that she heard between
2 Mr. Jenkins and GW. A phone conversation where Mr. Jenkins
3 was very concerned who was with GW, where she was. Was the
4 door to her room closed, and all of this was concerning to
5 Mr. Jenkins because he had been warned to stop his contact
6 with GW. Yet, he couldn't stay away.

7 VS will also talk about a hug between of two of
8 them that was extremely concerning. She'll describe it as a
9 bear hug between the two of them after Mr. Jenkins had been
10 warned to stay away and stop his physical contact with GW.

11 Now, admittedly, Tamara Woodbridge would allow
12 Mr. Jenkins to still hang out with GW at the Community Center
13 with him and Alyssa. But she had said this physical contact
14 needs to stop and asked him to stop giving her rides alone.

15 In this case you're also going to hear from
16 Dr. Blake Carmichael. He's a psychiatrist the at UC Davis
17 Care Center. He'll testify to his 25 years in dealing with
18 kids who have dealt with child sexual abuse.

19 And he will testify to the common misconceptions
20 and the common misconceptions of children who are abused
21 sexually. He'll talk about how they cannot be expected to
22 respond to sexual abuse in any specific way.

23 He'll also talk about the conduct of an offender
24 and how it can impact a child. And that conduct can actually

1 keep a child from coming forward, can actually keep a child
2 engaged in the conduct, engaged in the inappropriate conduct
3 with that person because of how the offender treats them.

4 And Dr. Blake Carmichael will testify to you
5 about his experience in dealing with children who have been
6 abused sexually.

7 Throughout this entire case, what we'll be asking
8 is where is Mr. Jenkins' daughter? And how is he acting with
9 his own daughter? If this really is a father-daughter
10 relationship, how is he acting with his own daughter?

11 He's actually pushing her away in the video, you
12 can see. He pushes her a way to go to GW, to go grab GW. And
13 you'll see that in the surveillance footage.

14 Ladies and gentlemen, the State is confident that
15 in the search for truth of this case, you will find the
16 Defendant guilty of all four counts of lewdness with a child
17 under 16.

18 We just described a child who was 14 years old at
19 the time. We just described a relationship that was highly
20 inappropriate and reported and actually photographed.

21 Ladies and gentlemen, we believe you will find
22 Mr. Jenkins guilty of all four counts at all four separate
23 locations based upon his conduct with GW.

24 You will see that this romantic embrace that led

1 Ashley Gosney to report their relationship as inappropriate.
2 And you'll come to the conclusion that Defendant took
3 advantage of the perfect target in GW.
4 Thank you.
5 THE COURT: Thank you, Ms. Mazza.
6 Ms. Ristenpart, does you wish to give an opening
7 statement?
8 MS. RISTENPART: Defense does, Your Honor. Thank
9 you.
10 THE COURT: Okay. You may.
11 MS. RISTENPART: Your Honor, I have
12 demonstrative --
13 THE COURT: What's that?
14 MS. RISTENPART: I have demonstrative on mine.
15 THE COURT: Okay.
16 MS. RISTENPART: Thank you.
17 THE COURT: Thank you. Ladies and gentlemen,
18 you'll see there's going to be times when different things
19 might be displayed on a monitor. You'll notice that there are
20 some drop down monitors in front of you and there's also a big
21 monitor up on the wall. And we'll just make sure we're ready
22 to go here in just a moment, Ms. Ristenpart.
23 Ms. Ristenpart, will you be displaying that from
24 your desk?

1 MS. RISTENPART: Yes.

2 THE COURT: Okay. Okay. You may proceed.

3 MS. RISTENPART: Thank you, Your Honor.

4 Out of context and jumping to conclusions.

5 That's what you're going to hear for the next several days,
6 ladies and gentlemen. You're going to hear how GW told
7 several different versions of her story, of her allegation.

8 You're going to hear how a select few people who
9 didn't know the context of GW with the Jenkins' family, took
10 things out of context and jumped to conclusions.

11 When we're talking about the critical aspect as
12 to what actually was happening in the background as GW
13 disclosed her allegations, the timeline is critical, ladies
14 and gentlemen.

15 In February of 2018, GW and Mr. Jenkins' daughter
16 Alyssa became closer. They had known each other for several
17 years through volleyball on and off. Mr. Jenkins had played
18 volleyball growing up, teach volleyball. When his daughter
19 got more into it, and he started coaching also, and that's
20 something that he Alyssa bonded over.

21 Mr. Jenkins is a single father. Alyssa's mother
22 is not in the picture. He raised her. He's very close with
23 Alyssa, has full custody of Alyssa. And while GW and Alyssa
24 became closer, Mr. Jenkins fostered that relationship and

1 wanted Alyssa to have a close friend.

2 When we then proceed forward, as they get closer
3 over the spring and summer, unfortunately, in June of 2018,
4 GW's stepfather, Wayne, who she was very close to passes away.

5 Well, after that, GW became closer to the
6 Jenkins' family. Mr. Jenkin, Kim Copeland, his long-term
7 girlfriend who lived in the Jenkins' home with Alyssa, hung
8 out with Alyssa all the time, went every where with Alyssa.

9 In addition, she during that summer, would come
10 over to the Jenkins' home all the time, have dinner with them,
11 hung out with Alyssa at the house all the time. The family
12 would take her on a rafting trip with them that summer. They
13 would take them to competitions for little RC cars that they
14 competed with as a family.

15 You also are going to hear from Kim Copeland,
16 Mr. Jenkins' girlfriend, Steve Noble, Chris Field, Dan Hannah,
17 people who observed and knew GW and Rick, you're going to hear
18 them talk about how GW was very clingy. Always leaning on
19 someone, always trying to touch someone, not just Mr. Jenkins,
20 but with Kim, even sometimes with Chris Fields, their
21 roommate.

22 As they got closer and GW became more and more
23 part of the Jenkins' family, through the fall of 2018, and you
24 heard that GW was at the family home all the time.

1 In fact, you're going to hear GW tell law
2 enforcement that Rick really replaced the father figure in her
3 life. That he kind of stepped in when Wayne passed away.

4 You're then going to hear in the fall of 2018,
5 that GW tries out for the high school volleyball team and also
6 for a club team, but does not make the cut. You're going to
7 hear how the coach, Maria Foster is contacted and asked, GW
8 asked her: Why didn't I make the teams?

9 Then you're going to hear on September 17th of
10 2018, Ashley Gosney reports that she thinks she sees Rick
11 hugging and kissing an unknown younger player near the stairs
12 and makes a report to the Rec Center.

13 Now, ladies and gentlemen, Ashley Gosney does not
14 know GW. She knew Mr. Jenkins from around the Rec Center, but
15 she didn't know GW. Ashley Gosney had no context of their
16 relationship, did not know that GW and Alyssa were best
17 friends, did not know that GW hung out all the time at the
18 Jenkins' home.

19 Then you also are going to hear how on
20 September 19th of 2018, Ashley had told her fiance, Nick
21 Lonnegren, to also make a report as to what they felt was
22 inappropriate behavior.

23 And, again, Nick Lonnegren doesn't know GW,
24 doesn't know the context of their relationship. Doesn't know

1 that GW hangs out in the Jenkins' family home all the time.

2 And from that, ladies and gentlemen, on
3 September 20th of 2018, the Douglas County Community Center
4 bans Rick after watching what they thought was an
5 inappropriate hug near the stairwell. And then calls the
6 Douglas County Sheriff's Office.

7 Now, during this time, the Rec Center went back
8 and looked at the video surveillance of the report from Ashley
9 about this, what the State is claiming is a romantic embrace.

10 And when you look at and you also hear that the
11 Rec Center is full of video cameras. 36 different cameras.
12 But what you're only going to see is a few clips cut very
13 specifically for just a few seconds taken out of hours of
14 actual video surveillance and only from certain angles.

15 When they pull the video and they talk to the
16 Douglas County Sheriff's Office, they tell -- or somehow, it
17 gets told to the Douglas County Sheriff's Office that there
18 was a report of a volleyball coach making out with a
19 17-year-old in the corner.

20 You're going to hear how Douglas County Sheriff's
21 Office, Deputy Williams and Deputy Duffy responded on
22 September 20th, 2018, to the Rec Center and looked at the
23 video surveillance and this quote romantic embrace and you're
24 going to hear how Deputy Williams says: I don't think there's

1 a crime.

2 And you're also going to hear how Deputy Williams
3 calls back to his Sergeant Elges -- Elges, and says, yeah,
4 it's not what was reported to you. You'll also hear that
5 deputies instruct the Rec Center to go back and look for more
6 video surveillance of any what they think maybe inappropriate
7 touching.

8 You're also going to hear on this day after the
9 Douglas County Community Center just banned Rick from coming
10 back to the Rec Center. You're going to hear how Mr. Jenkins
11 came to the Douglas County Sheriff's Office himself and spoke
12 to now Sergeant Hubkey, asking him what was going on? There
13 is a claim that I was inappropriate. What was going on?

14 And at the time, Sergeant Hubkey had no idea,
15 because there had not been any report at the time, but
16 Sergeant Hubkey will explain that Mr. Jenkins was very, very
17 upset and even crying.

18 You're also going to hear how the Rec Center
19 could just ban Mr. Jenkins, didn't do any kind of
20 investigation. Didn't talk to GW. Didn't talk to GW's
21 family, mom. Didn't ask any questions to put in context what
22 they thought they were looking at.

23 And you're also going to hear that they clipped
24 all this video, mere seconds from very specific angles, and

1 that the rest of the video surveillance was destroyed.

2 So all the other times that Mr. Jenkins went into
3 the equipment room with another player or with his daughter,
4 gone. All the other times that Mr. Jenkins was hugging or
5 touching or playing with Alyssa, messing around, gone. So all
6 you're going to have is a taken out of context clips that they
7 want you then jump to a conclusion that something happened.

8 As we proceed forward on September 27, 2018, that
9 was GW's first interview with law enforcement. She states
10 nothing inappropriate ever happened between her and Rick.

11 She states numerous times that he never touched
12 her in any way that made her uncomfortable. She said nothing
13 sexual ever occurred between them and that she feels like Rick
14 is a father figure to her. She's very close to the Jenkins'
15 family, very close to Alyssa.

16 You're also going to hear that Tamara Woodbridge,
17 GW's mother, also was interviewed that day. And that Tamara
18 said: Yeah, no, they hang out all the time, but yeah, maybe
19 there's a little too affectionate, but then they also
20 describes that GW is a quote, clingy child.

21 And she'll explain that GW often leans upon
22 people or tries to hold their hand or touches people on the
23 argument and that GW is a quote, very physically affectionate.

24 And you're also going to hear GW explain that her

1 relationship with Rick was just like with her now deceased
2 stepfather who was like a father. And that she was also
3 physically affectionate with her stepfather, Wayne, hugging
4 him, leaning on him.

5 And then you hear, ladies and gentlemen, when her
6 story changes. On October 31st, Coach Marie Foster finally
7 agrees to meet with GW to talk about why she didn't make the
8 volleyball high school team and club team.

9 Marie Foster tells GW privately in a meeting,
10 because before she wouldn't even get to coaching her, she
11 said: I want to meet with you privately, GW. And tells her
12 I've heard rumors about you and Mr. Jenkins. I myself was a
13 victim of sexual abuse. You, in fact, GW were the perfect
14 victim. What happened?

15 And upon that, she -- GW tells Marie Foster, that
16 quote, Mr. Jenkins would shove me into the equipment room and
17 grope me.

18 Then on November 1st of 2018, excuse me, GW had
19 her second interview where she tells Detective Investigator
20 Nadine Chrzanowski that Rick stuck his hands down my pants in
21 the Squishy Room every time he saw me, or almost every other
22 time. That he never touched my private areas, but touched my
23 butt on the couch at the Jenkins' home and touched the top of
24 my butt outside my pants in the equipment room.

1 And then you're also going to hear that shortly
2 thereafter, amazingly GW is then playing on Marie Foster's
3 club team, the team that her family could not afford because
4 it cost \$5,000, and somehow she was playing afterwards for
5 free.

6 On November 8th, 2018, Mr. Jenkins was arrested
7 for the allegation of four counts alleged that you heard
8 yesterday. After that arrest, a few other players were
9 interviewed out of the hundreds that Mr. Jenkins has coached
10 in his lifetime. And a few players, approximately three,
11 said, oh, yeah, I kind of saw them, they made me uncomfortable
12 after the fact.

13 You have one parent that comes forward and claims
14 I saw them in a restaurant. I took a picture of them back in
15 July of 2018. But now this is the first time I'm actually
16 going to be talking about it in November of 2018.

17 And also, ladies and gentlemen, what you're going
18 to hear is all those people that the State's going to call and
19 claim, oh, it was inappropriate and made me uncomfortable.

20 None of those people view knew the context of GW
21 relationship with the Jenkins' family. None of them knew that
22 GW was there every single day. None of them knew that Alyssa
23 and GW were best friends. None of them knew how close GW was
24 to the Jenkins' family.

1 Then you're going to hear the changing stories,
2 ladies and gentlemen. On December 6th of 2019, you're going
3 to hear how GW testifies under oath that she can't recall
4 anything happening in the Squishy Room.

5 You're also going to hear how she changed her
6 story and said: Oh, he put his hands down my pants at the
7 house on the couch or maybe on the bed, I can't remember.

8 And, ladies and gentlemen, I don't know what
9 she's going to come and testify to here today. But I would
10 ask for you to look at and listen to carefully when GW does
11 tell whatever story she's going to tell today, her lack of
12 detail.

13 How many times is she going to claim, I don't
14 remember. Also her demeanor. Because, ladies and gentlemen,
15 it's also critical is that GW has made prior false
16 allegations, not just once, but twice.

17 In April of 2018, GW makes a false allegation
18 against her mom's boyfriend Gage Marcyes. She wrote a note to
19 her teacher stating that Gage touched her butt and got into
20 her bed.

21 The teacher then reports it to law enforcement
22 who then do an investigation, and GW claims to law enforcement
23 that Gage would get into her bed, put his hand under her
24 covers and rub her butt. That is a false allegation.

1 And you're also going to hear that in the fall of
2 2018, that should be 2018, I apologize, ladies and gentlemen,
3 that GW makes a false allegation that Gage Marcyes raped her.
4 That she tells Kim Copeland, Mr. Jenkins' girlfriend, over
5 social media exchange that Gage had raped her. And you're
6 also going to hear that that is a false allegation.

7 Ladies and gentlemen, you're going to hear GW's
8 inconsistent statements and stories. You're going to hear
9 from people who took things out of context, not knowing the
10 full extent of GW's relationship with the Jenkins family.

11 You're also going to hear how people jump to
12 conclusions without doing any kind of investigation. And
13 you're also going to hear how this is one individual who had
14 made prior false allegations before where no -- nothing
15 happened to her making those false allegations. Saw an
16 opportunity to use that and this to her advantage.

17 Ladies and gentlemen, the allegations here are
18 false allegations, just like her prior false allegations.
19 It's simple, it's the truth, it's because Rick didn't do this.

20 Thank you, ladies and gentlemen.

21 THE COURT: Thank you, Ms. Ristenpart.

22 Ms. Ristenpart, if it hasn't already been marked
23 as an Exhibit, would you mark your demonstrative.

24 MS. RISTENPART: I have already, Your Honor.

1 THE COURT: Thank you very much.
2 Madam Clerk, what was that marked?
3 THE CLERK: It was marked F-6.
4 THE COURT: F-6?
5 THE CLERK: Um-hum.
6 THE COURT: Okay. Thank you.
7 Ms. Mazza, you may call your first witness.
8 MS. MAZZA: Your Honor, the State calls Ashley
9 Gosney.
10 THE COURT: Ms. Mazza, do you desire use of the
11 lectern, or Ms. Ristenpart, for this examination?
12 MS. MAZZA: Your Honor, that would be great. I'm
13 just trying to think of an appropriate spot.
14 THE COURT: Take your time, and you may set it up
15 however you desire.
16 MS. MAZZA: Thank you.
17 Can everyone see the witness stand?
18 THE JURY PANEL: (Jurors nod heads.)
19 THE COURT: All right. Ms. Gosney, please raise
20 your right hand and face the Court Clerk to be sworn.
21 ASHLEY JEAN GOSNEY,
22 called as a witness on behalf of the
23 STATE, was duly sworn and
24 testified as follows:

1 THE COURT: Thank you, ma'am. Come on up here to
2 the witness stand, please. Right over here.

3 MS. MAZZA: Your Honor, may I approach the court
4 clerk for exhibits?

5 THE COURT: You may.

6 MS. MAZZA: Thank you. Your Honor, may I
7 proceed?

8 THE COURT: You may.

9 MS. MAZZA: Thank you.

10 **DIRECT EXAMINATION**

11 BY MS. MAZZA:

12 Q. Ma'am, can you please state your full name, and
13 spell your last name for the record?

14 A. Ashley Gosney. It's G-O-S-N-E-Y.

15 MS. MAZZA: And, Your Honor, would you like the
16 witness to remove her mask?

17 THE COURT: Yes, please.

18 Ms. Gosney, please remove your mask.

19 THE WITNESS: Thank you.

20 THE COURT: And if you could, too, if you could
21 scoot up a little bit, and that just helps the microphone pick
22 up.

23 THE WITNESS: Oh, okay.

24 THE COURT: Thank you.

1 BY MS. MAZZA:

2 Q. Now, Ms. Gosney, I'd like to direct your
3 attention to the summer of 2018.

4 Did you play any sports at that time?

5 A. Yes, volleyball.

6 Q. How long have you played volleyball?

7 A. Six, seven years, plus.

8 Q. Do you still play?

9 A. Yes.

10 Q. Where do you play?

11 A. Now I play at Silver State in Reno, Nevada.

12 Q. Okay. Back in 2018, where did you play?

13 A. I played at the Douglas Community Center.

14 Q. The Douglas County Community and Senior Center?

15 A. Yes. Off of Waterloo.

16 Q. Is that the new location?

17 A. Yes.

18 Q. What town is that in?

19 A. Gardnerville? Sorry, I get those two confused.

20 Q. Is that in Douglas County?

21 A. Yes.

22 Q. How often would you go play volleyball there?

23 A. Two days a week, two-plus days a week.

24 Q. Okay. Who would you go play with?

1 A. The team I was on, for a coed or a women's
2 league. Or I would just go play pick-up, mostly likely with
3 my friend Alex.

4 Q. Okay. So you were on two teams?

5 A. Correct.

6 Q. A coed?

7 A. Coed, and a women's league.

8 Q. Did you -- do you see the Defendant here today?

9 A. Yes.

10 Q. Do you know he is?

11 A. Yes.

12 Q. What's his name?

13 A. Rick Jenkins.

14 Q. How do you know him?

15 A. Actually, volleyball.

16 Q. You played coed with him?

17 A. Yes.

18 Q. All right. Can you describe what color shirt
19 he's wearing?

20 A. A white, long-sleeved shirt.

21 MS. MAZZA: Your Honor, the State would request
22 the record reflect identification of the Defendant.

23 THE COURT: The record will so reflect.

24 BY MS. MAZZA:

1 Q. So you played coed volleyball with Mr. Jenkins?
2 A. Yes.
3 Q. For how long, or how often?
4 A. Randomly at the church, in -- I think it was like
5 a school church there, or at Douglas County Rec Center.
6 Q. Leading up to 2018, how often had you played with
7 him?
8 A. Maybe like two years, maybe? I'm so sorry, I
9 don't remember that.
10 Q. Okay. For a while?
11 A. Yes.
12 Q. Was he ever a coach of yours?
13 A. Yes -- no, not a coach of mine, no.
14 Q. Okay. He was a coach that you know of?
15 A. Yes.
16 Q. Where?
17 A. At the Rec Center, and I believe for tennis.
18 Q. And like I said, directing your attention to the
19 summer of 2018, was there something involving Mr. Jenkins that
20 drew your attention?
21 A. Yes.
22 Q. What was that?
23 A. It's -- me and my friend went to go up to the
24 Douglas Rec Center to go play volleyball. We were just bump,

1 set and spiking. And then I don't remember if he asked us or
2 we asked him, but somehow we ended up on the same court.

3 And then I noticed him and a little girl were
4 being more interactive than all the other players; like
5 touching his back, holding her pinky; just kind of embracing
6 her more than everybody else. And from there, I just kind of
7 started watching throughout the night.

8 Q. So, it wasn't a full practice that he was
9 involved in, with a specific team?

10 A. It was a full practice with a team, with his
11 team.

12 Q. With his team?

13 A. Correct.

14 Q. And then you joined them?

15 A. Yes, but I don't remember how we went over there.
16 I don't remember if he asked to us to go over there and help.

17 Q. Okay. So you and your friend joined them and
18 helped them?

19 A. Correct.

20 Q. Were there other younger female players there?

21 A. At the time? Yes, during the practice.

22 Q. Was he acting the same with anyone else?

23 A. No, not that I noticed.

24 Q. Do you know Mr. Jenkins' daughter, Alyssa?

1 A. Yes, I do.

2 Q. Was she there?

3 A. I don't remember.

4 Q. Do you recall what the female Mr. Jenkins was
5 paying extra attention to was wearing?

6 A. A tie-dyed shirt, and I want to say black
7 leggings.

8 Q. When you saw this, what did you do?

9 A. I just kind of watched for a little while, and
10 then I asked my friend Alex to please watch as well, so that
11 whatever I'm seeing is legit, and it's not something that I'm
12 just over-thinking.

13 And then after a while, I talked to my husband
14 after it, to see what he thought about it. And then the next
15 day, I believe, I went to the Rec Center and I talked to Jen,
16 who was working the front desk, to give a verbal report. And
17 by the time I got home, they asked me to come back to do a
18 written report.

19 Q. Okay. I'm going to back you up just a little
20 bit?

21 A. Okay.

22 Q. So you said you talked to your friend who was
23 there playing with you?

24 A. Correct.

1 Q. You asked her to also watch?

2 A. Correct.

3 Q. Why was that?

4 A. There's things I saw, and the interaction I saw
5 between them two, it just didn't look right; it didn't feel
6 right. And I just didn't want to be a weak link and not say
7 anything.

8 Q. At that point, you've known Rick for a little
9 while?

10 A. Correct.

11 Q. You've never seen him act that way with anyone
12 else?

13 A. No.

14 Q. After telling your friend this, did you see
15 anything else?

16 A. I saw a long hug, and what I thought to be a
17 kiss. But unfortunately, Alex's back was facing them, and I
18 was looking at them.

19 Q. But I'm asking you what you saw?

20 A. What I saw?

21 Q. Yes?

22 A. I saw the hug, and what I think was a kiss.

23 Q. And where was that?

24 A. I was on the volleyball court, and Rick and the

1 girl were in like a bay area, next to the elevator.

2 MS. MAZZA: Your Honor, may I approach the
3 witness?

4 THE COURT: You may.

5 MS. MAZZA: And I'm showing Defense counsel
6 what's been previously marked as State's Exhibit 36.

7 BY MS. MAZZA:

8 Q. Ms. Gosney, do you recognize that?

9 A. Yes.

10 Q. What is that?

11 A. That is the Douglas County layout, of the
12 gymnasium.

13 Q. And in looking at that, is that a fair and
14 accurate representation of the Rec Center you've gone to many
15 times in 2018?

16 A. Yes.

17 MS. MAZZA: Your Honor, the State would move to
18 admit Exhibit 36.

19 THE COURT: Any objection?

20 MS. RISTENPART: No objection.

21 THE COURT: 36 is admitted.

22 (Exhibit 36 is admitted into evidence.)

23 THE COURT: And Ms. Mazza, I'm going to interrupt
24 for a moment. I need to give an instruction to the jurors.

1 Ladies and gentlemen, evidence of uncharged acts
2 are not admissible to prove the character of a person, in
3 order to show that the person acted in conformity therewith.

4 It may, however, be admissible for other
5 purposes, such as motive, or proof of motive; opportunity,
6 intent, preparation, plan, knowledge, or identity, or absence
7 of a mistake or accident.

8 Ms. Mazza, you may proceed.

9 MS. MAZZA: Thank you.

10 BY MS. MAZZA:

11 Q. Ms. Gosney, I'm going to hand you a pen. With
12 that pen, are you able to locate the area where you and
13 Mr. Jenkins and the girl you saw were playing volleyball
14 originally?

15 A. Originally, yes.

16 Q. If you could locate that, please, and put an X or
17 a circle. Then put your initials and the date?

18 A. (Complies.)

19 Q. And now on that same map, are you able to see
20 where you saw them, when you believe you saw Mr. Jenkins hug
21 the girl, and what you believe was kiss her?

22 A. Yes.

23 Q. Where is that -- are you able to --

24 A. Identify it? Yeah.

1 Q. -- identify that on the map?

2 A. Yeah, yeah.

3 Q. If you could put your initials and the date?

4 A. (Complies.)

5 MS. MAZZA: Your Honor, may I publish with the
6 lectern?

7 THE COURT: You may.

8 MS. MAZZA: Thank you.

9 (Exhibit 36 published to the jury.)

10 BY MS. MAZZA:

11 Q. All right. Ms. Gosney, now looking at
12 Exhibit 36, this physical first X that you put right here; is
13 that the basketball court where you were playing?

14 A. Volleyball, correct.

15 Q. Volleyball. And in that area, are there sheets
16 that come down, kind of just around the court?

17 A. To -- yes. So to do a divider between the two
18 courts, yes, there is a sheet that comes down.

19 Q. Okay. And then was that sheet down?

20 A. I don't remember.

21 Q. Now, the other X you've marked here, what is
22 that?

23 A. That is the bay where I saw Rick Jenkins and the
24 little girl secluded from the team, where I saw the hug and

1 what I believe to be a kiss.

2 Q. All right. And where is that located in the Rec
3 Center?

4 A. So if you're facing the elevator to go upstairs,
5 it is on the left-hand side, between the restrooms and the
6 elevator.

7 Q. Can you see that from behind -- the other side of
8 the stairs?

9 A. No. Unless you're in the play area, because it
10 is a netting behind. So there's like not a thick wall, I
11 don't believe. I believe it's just a netting right there.

12 Q. By "play area," do you mean the arcade?

13 A. Yes.

14 Q. Is that the area, there's kind of an oval shape.
15 And I'm going to put a number 1 and a number 2
16 next to what you marked.

17 A. Oh, okay.

18 Q. Which one would be the Number 1 that you marked
19 first?

20 A. The "X."

21 Q. And then the "O" is the second one you marked?

22 A. Correct.

23 Q. So Number 2, going over that, you're saying the
24 area of the playroom. Is that the extended area behind it,

1 that's kind of blank?

2 A. Yeah, like the bay, correct. There's a bay
3 that's blank in there. And then I believe it's a pony wall.
4 And then from the pony wall like, up it's a net, to the
5 finished ceiling.

6 Q. And if no one's in that play room, can they
7 see --

8 A. Through the netting? Yes.

9 Q. Ms. Gosney, I'm going to approach you with what's
10 been marked as State's Exhibit Number 8. I'm showing it to
11 Defense counsel.

12 Do you recognize Exhibit Number 8?

13 A. Yes. That's the bay that I was talking about.

14 Q. Is that where you observed Mr. Jenkins and the
15 female you described as the black pants and the tie-dyed
16 shirt?

17 A. Yes.

18 Q. Is that a fair and accurate representation of the
19 area you observed that day?

20 A. Yes.

21 MS. MAZZA: Your Honor, the State would move to
22 admit Exhibit 8.

23 THE COURT: Any objection?

24 MS. RISTENPART: No objection.

1 THE COURT: Exhibit 8 is admitted.

2 (Exhibit 8 admitted into evidence.)

3 BY MS. MAZZA:

4 Q. Now, again, using this exhibit, are you able to
5 identify where you saw them?

6 A. I just saw them inside that bay. I can't tell
7 you the exact location, but it was tucked into there.

8 Q. Behind the wall?

9 A. No. They were in front of the pony wall, but
10 they were inside the bay.

11 Q. All right. Behind the shorter wall; is that what
12 you mean?

13 A. Nope. They were in front of the shorter wall.
14 They were kind of close to the TV.

15 Q. Okay.

16 A. Like in depth.

17 Q. So around the corner?

18 A. Yes.

19 Q. Okay. So, when you saw this, you had already
20 asked Alex to watch for you as well?

21 A. Um-hum.

22 Q. And then you saw this behind this kind of closed
23 area?

24 A. Correct.

1 Q. What did you do?

2 A. I basically tried to tell Alex to turn around and
3 look and look and look. And then she turned, and then by the
4 time she turned, they separated.

5 Q. Okay. And so did you notice anything about them
6 after that?

7 A. No, because I believe after that, Rick grabbed
8 his stuff, came and grabbed it, and then everybody left.

9 Q. Okay. And did you leave too?

10 A. I believe shortly after. I don't remember.

11 Q. Okay. Was it kind of still on your mind after
12 you left?

13 A. Yeah, because I haven't seen the tape or
14 anything, but I do remember what she was wearing.

15 Q. Right.

16 A. So yes.

17 Q. So after you left -- so it's still ingrained in
18 your mind, is what you're saying?

19 A. Correct.

20 Q. Even that day, though, after you left, was it
21 still on your mind?

22 A. Correct.

23 Q. Did you talk to anyone about it?

24 A. I talked to my husband about it.

1 Q. Okay. And what did you do, based upon that
2 conversation?

3 A. We basically -- I basically told him what I saw.
4 He told me what he'd been seeing throughout the week. And
5 then I told him that I think we both need to go back to the
6 Rec Center, and go say something.

7 Q. Okay. And did you?

8 A. Yes.

9 Q. Why did you do that?

10 A. Because what I saw was not right. And if I was a
11 kid in that situation, I would hope to God somebody would do
12 the same for me.

13 MS. MAZZA: Your Honor, I have no further
14 questions.

15 THE COURT: Thank you.

16 Ms. Ristenpart, any cross-examination?

17 MS. RISTENPART: I do, Your Honor.

18 **CROSS-EXAMINATION**

19 BY MS. RISTENPART:

20 Q. All right. Ms. Gosney, going back to
21 September of 2018, you stated you were playing volleyball with
22 your friend Alex?

23 A. Correct.

24 Q. And you just told us you saw Rick and a younger

1 female in a hug?

2 A. Yes.

3 Q. Underneath the stairwell?

4 A. Yeah, I believe that the stairwell might go above
5 it, or the floor above.

6 Q. Well, the State just showed us one picture. I am
7 showing you --

8 Any objection?

9 MS. MAZZA: No.

10 MS. RISTENPART: Ask for admission of Defense
11 Exhibit N.

12 THE COURT: Any objection to N?

13 MS. MAZZA: No, Your Honor. The State has no
14 objection to this line of photos.

15 THE COURT: N is admitted.

16 Are there others?

17 MS. RISTENPART: G, Your Honor.

18 THE COURT: G.

19 MS. RISTENPART: And Defense Exhibit F.

20 THE COURT: And F.

21 Ms. Mazza, no objection to N, G or F?

22 MS. MAZZA: No, Your Honor.

23 THE COURT: Thank you.

24 N, G and F are admitted.

1 (Exhibit N admitted into evidence.)

2 (Exhibit G admitted into evidence.)

3 (Exhibit F admitted into evidence.)

4 BY MS. RISTENPART:

5 Q. I'm going to show you Exhibit F.

6 So, in this picture, that's the area you were
7 talking about; correct?

8 A. Correct, yeah.

9 Q. So it's not closed off to the rest of the Rec
10 Center?

11 A. No.

12 Q. It's just a little area underneath the stairwell?

13 A. Correct.

14 Q. Right?

15 A. Just two blind sides, yes.

16 Q. Okay. But in what's already been admitted as G.
17 That's another angle of this area; right?

18 A. Yeah.

19 Q. It opens up right into the hallway, anyone
20 walking by to use the restrooms; right?

21 A. Correct.

22 Q. And I'm showing you what has already been
23 admitted as N.

24 That's another angle of this area; right?

1 A. Yeah, with more blind sides, yes. That's
2 correct.
3 Q. And we're talking about right around here?
4 A. Or deeper, I don't remember exactly the location.
5 Q. Okay. And when you were observing what you
6 thought to be a hug and -- well, you're clearly saying today,
7 you think it was a kiss, you don't know?
8 A. Correct. I've never seen the video.
9 Q. And you were about 40 feet away, on the --
10 A. Correct.
11 Q. -- volleyball court?
12 A. Yeah.
13 Q. Okay. And you were playing volleyball; you were
14 hitting, spiking and setting?
15 A. Yes.
16 Q. And what you observed, you never saw Rick grab
17 the girl's butt?
18 A. No.
19 Q. You never saw Rick touch her butt?
20 A. No.
21 Q. You never saw Rick stick his hands down her
22 pants?
23 A. No.
24 Q. You never saw Rick touch her vaginal area?

1 A. No.

2 Q. And you never saw Rick touch her private area?

3 A. Correct.

4 Q. In fact, Ms. Gosney, you didn't see what happened

5 before this hug; right?

6 A. I saw the interaction throughout, before --

7 throughout the practice, yes.

8 Q. Immediately prior to this hug --

9 A. No.

10 Q. -- do you know --

11 A. No.

12 Q. -- what happened?

13 A. No.

14 Q. Do you know if GW was upset about something?

15 A. No.

16 Q. In fact, we talked about that you know Coach

17 Rick --

18 A. Correct.

19 Q. -- right?

20 But you don't know that teenager, GW?

21 A. No.

22 Q. You did not talk to her?

23 A. No.

24 Q. You have no idea who she is to the Jenkins

1 family?

2 A. Correct.

3 Q. You, in fact, didn't even know her name?

4 A. Correct.

5 Q. You have no idea how close she was to the Jenkins

6 family?

7 A. Correct.

8 Q. You have no idea how often she was at the

9 Jenkins' home?

10 A. Correct.

11 Q. You have no idea how close she was to

12 Mr. Jenkins' daughter?

13 A. Correct.

14 Q. And Ms. Gosney, you stated that you went home and

15 you talked to your now-husband. He was your fiance at the

16 time?

17 A. I believe so, yeah.

18 Q. And you actually talked to law enforcement also.

19 You were interviewed; right?

20 A. Yes.

21 Q. And you told law enforcement that when you talked

22 to your husband, Nick, that you -- you admitted that you kind

23 of got onto him; right?

24 A. I honestly don't remember. But if you have it in

1 front of you, then that's what I said. But I don't remember
2 the quote-to-quote.

3 Q. Would looking at a transcript of your interview
4 with the police help refresh your memory?

5 A. If you need to show it, then yes, but -- yeah, if
6 I have to see it.

7 MS. MAZZA: Your Honor, I'm going to object to
8 the use of these transcripts. While I appreciate that the
9 transcripts have been created, Ms. Ristenpart's office
10 transcribed them and they sent them to me last Friday.

11 I have not had any time to review them, and make
12 sure that they actually match what is in the interviews.

13 THE COURT: Ms. Ristenpart, are they -- can you
14 respond to that, please?

15 MS. RISTENPART: I can, Your Honor. They are
16 accurate reflections of what we hear on the recorded
17 transcripts -- in the recorded video and audio that Ms. Mazza
18 has had since September of 2018.

19 And as to the transcripts itself, Your Honor,
20 we've given her plenty of time to review. I believe it's
21 approximately ten pages.

22 THE COURT: Okay.

23 MS. RISTENPART: And it's used to refresh memory,
24 Your Honor.

1 THE COURT: Okay, thank you.

2 Ms. Mazza, when did you get those transcripts?

3 MS. MAZZA: Your Honor, they have sent them to me
4 in several groups of transcripts; I believe the first being
5 last Friday. They sent several at a time. If I had to check
6 the exact date, I could do that for Your Honor, but I know it
7 was within the last week.

8 THE COURT: Have you had an opportunity to review
9 them to see if they are accurate?

10 MS. MAZZA: Not every single one of them, no,
11 Your Honor.

12 THE COURT: Okay.

13 MS. MAZZA: They sent every single interview
14 transcribed, and they've been transcribed by Ms. Ristenpart's
15 assistant.

16 THE COURT: Ms. Ristenpart, what is the length of
17 the transcripts that you're going to use here to refresh? How
18 lengthy?

19 MS. RISTENPART: Your Honor, it is -- yes, thank
20 you. Looking at Exhibit WWWWW. And it is six pages, Your
21 Honor.

22 MS. MAZZA: Your Honor, I have reviewed that one.
23 I'm saying, they gave me no time to compare them to the actual
24 interviews.

1 THE COURT: Would you like some time to review
2 those for accuracy?

3 MS. MAZZA: Your Honor, I think with this
4 witness, I don't have a problem, but I will have a problem
5 with the other witnesses.

6 THE COURT: Okay. So we'll take things one step
7 at a time. So the Exhibit WWW?

8 MS. RISTENPART: I'm sorry, Your Honor, it's five
9 Ws.

10 THE COURT: Five W's has been marked, and you may
11 approach the witness.

12 (Exhibit WWWWW marked for
13 identification.)

14 MS. RISTENPART: Page 5, lines 25 to 26.

15 MS. MAZZA: Thank you.

16 THE WITNESS: Okay.

17 BY MS. RISTENPART:

18 Q. Does that refresh your memory?

19 A. It has to; right? I said it. But I don't
20 remember.

21 Q. So, you remember telling police that you kind of
22 got into --

23 A. I told him that he needed to say something if he
24 saw something, correct.

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ALEXANDER JENKINS,

Appellant.

v.

STATE OF NEVADA,

Respondent.

Case No. 83465

APPELLANT'S APPENDIX
VOLUME V

**APPEAL FROM JUDGMENT OF CONVICTION AND
SENTENCING**

NINTH JUDICIAL DISTRICT
STATE OF NEVADA

THE HONORABLE THOMAS W. GREGORY, PRESIDING

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No. 83465

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1 Q. And you told Nick that he needed to make a
2 report?

3 A. Yeah, but he's a man of his own, and he can do
4 whatever he wants. So it's his free will, too.

5 MS. RISTENPART: No further questions. Thank
6 you.

7 THE COURT: Redirect?

8 **REDIRECT EXAMINATION**

9 BY MS. MAZZA:

10 Q. Just briefly, Ms. Gosney, did you go into an
11 equipment closet with Mr. Jenkins?

12 A. No. Not that I remember, no.

13 Q. The three of you never went into an equipment
14 closet?

15 A. No.

16 Q. Did the three of you ever sit together in the
17 Squishy Room or the Silo Room?

18 A. No.

19 Q. Did you ever watch a movie night with the three
20 of -- the two of them --

21 A. No.

22 Q. -- at Mr. Jenkins' home?

23 A. No.

24 Q. Has Mr. Jenkins ever consoled you or hugged you

1 or held you the way that he was holding GW?

2 A. No.

3 Q. That hug that you observed, which has been
4 described in the exhibits that you've gone over?

5 A. Um-hum.

6 Q. Was Mr. Jenkins's daughter embraced in the hug
7 with them?

8 A. No.

9 MS. MAZZA: No further questions, Your Honor.
10 Thank you.

11 THE COURT: Recross?

12 **RECROSS-EXAMINATION**

13 BY MS. RISTENPART:

14 Q. Ms. Gosney, you never went over to the Jenkins
15 family for dinner; right?

16 A. No.

17 Q. You weren't close with the Jenkins family at all;
18 right?

19 A. No.

20 Q. You just had strictly really a kind of
21 coach-player relationship with Mr. Jenkins?

22 A. Me?

23 Q. Yeah?

24 A. I guess player-player relationship, to be more --

1 Q. Right. Because you guys played coed later on?

2 A. Correct.

3 Q. But you never hung out with Mr. Jenkins alone?

4 A. No, that's not true. I've had lunch with him
5 before, with other people there.

6 Q. But you would not describe yourself as close to
7 the Jenkins family?

8 A. More of an acquaintance, correct.

9 MS. RISTENPART: Nothing further. Thank you.

10 THE COURT: Okay. Counsel, would you make sure
11 that the exhibits are returned to the Court Clerk.

12 Ms. Mazza, may this witness be excused?

13 MS. MAZZA: Yes, Your Honor.

14 THE COURT: Ms. Ristenpart?

15 MS. RISTENPART: Yes, Your Honor.

16 THE COURT: Ms. Gosney, thank you.

17 THE WITNESS: Thank you.

18 THE COURT: You may be excused.

19 Please do not discuss your testimony with anyone
20 except for the attorneys in this case today and investigators,
21 until the jury has reached a verdict.

22 THE WITNESS: Not even my husband?

23 THE COURT: Excuse me?

24 THE WITNESS: Not even my husband?

1 THE COURT: That is correct.

2 THE WITNESS: Okay.

3 THE COURT: Not even your husband.

4 THE WITNESS: Okay.

5 THE COURT: Yes, you are excused.

6 THE WITNESS: Thank you.

7 THE COURT: Yes.

8 We are going to take our morning recess. Ladies
9 and gentlemen, you are admonished that it is your duty not to
10 converse, amongst yourselves or with anyone else, on any
11 subject connected with the trial, either by phone, email,
12 text, internet, or any other means.

13 To read, watch, or listen to any report of or
14 commentary on the trial, or any person connected with the
15 trial by any medium of information, including, without
16 limitation, newspapers, television, and radio.

17 To form or express any opinion on any subject
18 connected with the trial until the cause is finally submitted
19 to you.

20 To do any research, such as consulting
21 dictionaries, using the internet, or using other reference
22 materials; or make any investigation, test a theory of the
23 case, recreate any aspect of the case, or in any other way
24 investigate or learn about the case on your own. I'll have

1 you leave your notebooks there.

2 During this recess, you are free to walk about
3 outside. We're going to take a 15-minute recess. We'll be
4 back in session at 10:45.

5 I remind you not to discuss the case with
6 anybody, and I would also ask, if somebody approaches you and
7 tries to discuss the case with you, that you report that by of
8 a written note to the bailiff.

9 We are in recess until 10:45.

10 (Recess.)

11 THE COURT: The Court is back in session on Case
12 Number 19-CR-188. I show the appearance of counsel for both
13 parties. Also appearing is the Defendant. We're meeting
14 outside the presence of the jury.

15 Deputy Lindsay, let's go ahead and bring in the
16 jury.

17 (Jury present.)

18 THE COURT: Go ahead and have a seat, folks.

19 Ms. Mazza, do you stipulate to the presence of
20 the jury?

21 MS. MAZZA: Yes, Your Honor.

22 THE COURT: Ms. Ristenpart?

23 MS. RISTENPART: I do, Your Honor.

24 THE COURT: All right. Thank you.

1 Ms. Mazza, you may call your next witness.

2 MS. MAZZA: Thank you, Your Honor.

3 The State calls Nick Lonnegren.

4 THE COURT: Mr. Lonnegren, please raise your
5 right hand, face the court clerk to be sworn.

6 NICHOLAS EDWARD LONNEGREN,
7 called as a witness on behalf of the
8 STATE, was duly sworn and
9 testified as follows:

10 THE COURT: All right, sir, come on up to the
11 witness stand, please.

12 THE WITNESS: You want me to keep my mask on?

13 THE COURT: You may remove your mask.

14 THE WITNESS: Thank you.

15 MS. MAZZA: May I proceed, Your Honor?

16 THE COURT: You may proceed.

17 **DIRECT EXAMINATION**

18 BY MS. MAZZA:

19 Q. Sir, can you please state your full name and
20 spell your last name for the court reporter?

21 A. Nicholas Edward Lonnegren, L-O-N-N-E-G-R-E-N.

22 Q. And Mr. Lonnegren, how are you employed?

23 A. I'm self-employed.

24 Q. Doing what?

1 A. Sports-specific training, personal training.

2 Q. Personal training?

3 A. (Nodded head.)

4 Q. And where do you do that?

5 A. At the Douglas County Rec Center.

6 Q. How long have you been doing that?

7 A. Probably about 2000 -- early 2016, over there,
8 maybe later 2015.

9 Q. And were you doing the same thing back then that
10 you're doing now, or a certain type of training that you do?

11 A. Yes, I'm -- yes, the same.

12 Q. So personal training; do you just help people
13 with fitness, or do you help with certain sports?

14 A. Yes. I do fitness upstairs, because that's where
15 all their strength-training equipment is at. But it has to do
16 with sports-specific basketball training, down on the courts.

17 Q. So you train people to try to get better at
18 basketball?

19 A. Yes, correct.

20 Q. Have you been doing that since 2016 as well?

21 A. Yes.

22 Q. And now I'd like to direct your attention to the
23 summer of 2018. Were you also working in that capacity?

24 A. Yes.

1 Q. At the Douglas County Rec Center?

2 A. Yes.

3 Q. Is that within Douglas County?

4 A. Yes.

5 Q. And in that time period, did you have any

6 training to be able to work in that position?

7 A. Yes.

8 Q. What kind of training?

9 A. You have to get certified, you know, through

10 various certifications for personal training. But for

11 basketball training, you don't have to be a specific

12 certification. But my background is, I played college

13 basketball, football, and track, and I have a four-year degree

14 in coaching administration, and a master's degree in sports

15 and exercise psychology.

16 Q. And at that time, did you have those degrees?

17 A. Yes.

18 Q. And so in the summer of 2018, how often did you

19 work?

20 A. About six to eight hours a day, weekdays.

21 Sometimes like Saturdays as well.

22 Q. So most weekdays you would be --

23 A. Yes.

24 Q. -- there?

1 A. Yes.

2 Q. Would you be there in the evenings?

3 A. Yes.

4 Q. When would your training for basketball coaching
5 happen?

6 A. Usually anywhere's between when the rec opens to
7 when it closes. So usually 8:00 a.m. to 8:00 p.m.

8 Q. Okay. When you are doing that kind of training
9 for basketball players, would there be other activities going
10 on?

11 A. Yes.

12 Q. What would those be?

13 A. Various kids playing their own basketball games;
14 volleyball games going on; kids throwing football. Pickle
15 ball. Whatever the case may be. Just a lot of sports, sports
16 activities.

17 Q. So specifically volleyball; would that be going
18 on when you would be coaching sometimes?

19 A. Yes.

20 Q. At that time, did you know anybody by the name of
21 Richard Jenkins?

22 A. Yes.

23 Q. Do you see him here in court today?

24 A. Yes.

1 Q. Can you describe what color shirt he's wearing?

2 A. White.

3 MS. MAZZA: Your Honor, the State would request
4 that the record reflect identification of the Defendant.

5 THE COURT: The record will so reflect.

6 BY MS. MAZZA:

7 Q. And how do you know Mr. Jenkins?

8 A. I know him through volleyball.

9 Q. So you play volleyball too?

10 A. Yes.

11 Q. Have you played with him?

12 A. Yes. Years ago, when I was 18, 19.

13 Q. Was he a coach to you, or did you --

14 A. No, just recreation play.

15 Q. And how often would you say you played with him?

16 A. At the time, one or two days a week, just in rec
17 leagues.

18 Q. For how long?

19 A. Early, just, you know, for one season, which
20 would be like three to six months, depending on how long the
21 rec leagues go. But occasionally just recreationally, like at
22 Saint Gall, the local church, where they have stuff. Just
23 sort of free play can go on.

24 Q. Over a period of a year or two?

1 A. I would say over a period of -- in and out of
2 months or years, just because I was in and out of college at
3 the time.

4 Q. Okay. So over a couple years --

5 A. Yes.

6 Q. -- you played with him intermittently?

7 A. Yes, yes.

8 Q. So, now, going to September of 2018, were you
9 dating with anyone at that point?

10 A. Yes.

11 Q. And who was that?

12 A. Ashley Gosney.

13 Q. Are you guys married now?

14 A. Yes.

15 Q. During that time, did you and her have a
16 discussion about Mr. Jenkins?

17 A. Yes.

18 Q. Now, without telling me what specifically she
19 said to you, what was that conversation regarding?

20 A. Just inappro -- potential inappropriate behavior
21 that was observed.

22 Q. Did you have any concerns about this?

23 A. I did, yes. I never presented anything until
24 Ashley brought it to my attention. But, yes, I have

1 witnessed.

2 Q. Did you not report it until Ashley spoke to you
3 because you didn't care about it?

4 A. I wouldn't say not because I cared about it. It
5 was more, I guess, the bystander effect. There's parents
6 around, you know; other coaches that he's involved with
7 around. Thinking that maybe they see something, or I'm seeing
8 something that I'm not seeing, you know.

9 Q. So it was concerning to you, but you kind of
10 didn't think -- you thought other people would report it?

11 A. Yeah.

12 Q. So it's not that you didn't think it was
13 concerning?

14 A. Yes.

15 Q. Did you see him specifically with one person that
16 concerned you?

17 A. Yes.

18 Q. Do you know that person's name?

19 A. Yes.

20 Q. Without saying her full name, can you give us her
21 initials?

22 A. G. I don't know the last, sorry.

23 Q. What did you observe between the two of them?

24 A. Specifically in the -- what I call the half-moon

1 area, just while sitting waiting for a court; Rick Jenkins
2 laying -- not laying down, but sitting down with his back
3 against the wall; and her laying -- her sitting next to him,
4 and then him rubbing her back -- rubbing her back shoulder
5 area, and then her laying down on his lap.

6 Q. Now, you said "the half moon area." Would it
7 help you to review a map of the Community Center to describe
8 that area?

9 A. I'm pretty familiar with it, yeah. Um yeah. I
10 know it's referred to as "the Squishy Room." I know a lot of
11 people --

12 Q. Okay.

13 A. -- have been calling it.

14 MS. MAZZA: Your Honor, may I approach with
15 what's been marked as State's Exhibit 37?

16 THE COURT: You may. And while you're doing
17 that, I'm going to give an instruction to the jurors.

18 Ladies and gentlemen, as I've instructed you
19 before, evidence of uncharged acts are not admissible to prove
20 the character of a person, in order to show that the person
21 acted in conformity therewith.

22 It may, however, be admissible for other
23 purposes, such as proof of motive, opportunity, intent,
24 preparation, plan, knowledge, identity or absence of mistake

1 or accident.

2 Ms. Mazza, you may proceed.

3 MS. MAZZA: Thank you, Your Honor. May I
4 approach the witness?

5 THE COURT: You may.

6 BY MS. MAZZA:

7 Q. Mr. Lonnegren, I'm approaching with Exhibit 37,
8 which has been marked by the State and reviewed by Defense
9 counsel. Do you recognize that?

10 A. Yes.

11 Q. What is it?

12 A. A blueprint of the Douglas County Rec Center.

13 Q. And is it a fair and accurate representation of
14 how the Douglas County Rec Center looked in the summer of
15 2018?

16 A. Yes.

17 MS. MAZZA: Your Honor, the State would move to
18 admit Exhibit 37.

19 THE COURT: Any objection?

20 MS. RISTENPART: No objection.

21 THE COURT: 37 is admitted.

22 (Exhibit 37 admitted into evidence.)

23 BY MS. MAZZA:

24 Q. Mr. Lonnegren, I'm going to hand you a pen. And

1 now on that exhibit, can you put a circle for the area that
2 you're describing where you saw Mr. Jenkins and G?

3 A. (Complies.)

4 Q. And did you observe them anywhere else that was
5 concerning?

6 A. On the court as well, which would be -- that
7 would be north of what I just circled.

8 Q. Okay. So next to the original circle that you
9 put, if you could put your initials and today's date?

10 A. (Complies.)

11 It's the 22nd; correct?

12 THE COURT: It's the 22nd today. Yes, sir.

13 BY MS. MAZZA:

14 Q. And now in the other area that you've described
15 seeing Mr. Jenkins and G, can you put another X and your
16 initials?

17 A. (Complies.)

18 Q. As well as the date?

19 A. (Complies.)

20 Q. Are those the two locations you observed contact
21 between the two that was concerning?

22 A. Yes.

23 Q. Now, Mr. Lonnegren, just going over this.

24 MS. MAZZA: And, Your Honor, if I could have --

1 or it did display. Thank you.

2 (Exhibit 37 published to the jury.)

3 BY MS. MAZZA:

4 Q. All right. Mr. Lonnegren, so the area with the
5 circle that you placed on Exhibit 37, that's where you
6 observed the two of them sitting next to each other?

7 A. Yes, correct.

8 Q. And in the area you've marked the X, what did you
9 observe there?

10 A. That's where the team was practicing and going
11 through, you know, drills of -- spiking drills, setting and
12 spiking drills. And after G did a spike, it would be the
13 touching of the shoulders and the back area again, and hugging
14 situations.

15 Q. Did you see Mr. Jenkins acting like that with any
16 other players?

17 A. No.

18 Q. Do you know Mr. Jenkins' daughter?

19 A. I know who she is, but I don't know her, yes.

20 Q. Would you ever be able to recognize her if you
21 saw her?

22 A. Yes.

23 Q. Was she at the court on that time too?

24 A. Yes.

1 Q. Was he acting that way with her?

2 A. No.

3 Q. And is there anywhere else that you observed the
4 two of them without other people?

5 A. Not visibly, no. The only other place would be
6 in a storage room, but I didn't see them, I just know they
7 went in the storage room.

8 Q. Okay. So the storage room; is that near any of
9 the markings you've placed on Exhibit 37?

10 A. That would be located to everybody's left of the
11 circle.

12 Q. Now, I give you Exhibit 37 back. Can you mark
13 that area as well?

14 A. With an X is fine?

15 Q. Yeah, an X would be fine.

16 A. (Complies.)

17 Q. All right. So now the third marking, you put an
18 X next to the circle. Describe what that area is?

19 A. It's just basically a storage room for the
20 Community Center, where they stored -- or store a lot of
21 basketballs, volleyballs and equipment for the on-court usage.

22 Q. Okay. So sporting equipment?

23 A. Yes.

24 Q. Describe what you saw Mr. Jenkins and G do?

1 A. It's mainly just going into that room for an
2 extensive amount of time, just those two.

3 Q. Just those two? Was anyone else in there that
4 you're aware of?

5 A. Not that I was aware of, no.

6 Q. Did you see anyone else come out with them?

7 A. No.

8 Q. Can you say, when you say "an extensive period of
9 time," how long you believe it was?

10 A. Three, four minutes.

11 Q. Was there anything that concerned you about this?

12 A. Yes. Just that's a lot of time to be alone with
13 somebody in a room, of -- what coaches do, or, you know,
14 trainers do.

15 Q. Have you ever gone in that room?

16 A. I have gone in that room, yes.

17 Q. To do what?

18 A. To find basketballs or volleyballs.

19 Q. Have you had to stay in there for an extended
20 period of time?

21 A. No.

22 Q. Have you gone in there with female players that
23 you're coaching?

24 A. Yes.

1 Q. Have you been in there for how long?

2 A. 15 seconds.

3 Q. Can you describe that equipment room? Is it
4 organized?

5 A. Yeah, it's organized. Two doors, swinging
6 outward. It's pretty organized. Everything is basically on a
7 wall or on a rack. You don't have to -- you don't have to
8 move anything, pretty much, to get to where you want to get
9 to.

10 Q. So when you saw Mr. Jenkins going into this room,
11 did you observe them leaving with any equipment?

12 A. No.

13 Q. Did you end up expressing your concerns to
14 anyone?

15 A. Not at that time, no.

16 Q. After speaking with Ms. Gosney?

17 A. Yes.

18 Q. What did you do?

19 A. Just kind of present -- when Ashley presented
20 what she saw to me, naturally, I presented what I saw to her.
21 And that's the first person I kind of talked to about it. But
22 that's -- you know, she said what she said.

23 And then I just kind of said what I saw. And
24 then we discussed if it was, in our recollection, appropriate

1 or inappropriate.

2 Q. And after that discussion, did you report it to
3 anyone else?

4 A. I have talked with others about it, but did
5 nothing officially in writing, reporting.

6 Q. Okay. Did you talk to Jen Calabrese about it?

7 A. Yes.

8 Q. Did you tell her your concerns?

9 A. Yes.

10 Q. Who is Jen Calabrese?

11 A. She's an employee at the Douglas County Rec
12 Center.

13 Q. And so did you observe Mr. Jenkins with other
14 athletes?

15 A. Yes.

16 Q. Did he act the same with them?

17 A. No.

18 Q. How did he act with them?

19 A. More in what you would stereotypically think what
20 a coach would act to a -- a teammate: More verbal, rather
21 than physical.

22 Q. So when you describe GW -- or G, I apologize, and
23 Mr. Jenkins in the -- what you marked as the "O" on the
24 diagram for 37, where were they? In that corner, that you put

1 the "O"?

2 A. Yes, correct.

3 Q. And you say that she was laying on his thigh?

4 A. Yes. They were laying back to back, and then she
5 would lay on his stomach area.

6 Q. So you kind of made some descriptions with your
7 hands. By "back to back," do you mean their backs were to
8 each other?

9 A. Oh, I'm sorry. Their backs are against the wall,
10 laying next to each other. And then she would lean over and
11 lay onto his belly.

12 Q. You kind of tilted your head over, like she's
13 leaned over onto Mr. Jenkins?

14 A. Yes.

15 Q. So this conduct that you saw between the two of
16 them; from your experience and your education, is this typical
17 between a coach and a player?

18 A. No.

19 Q. How do you act with players?

20 A. I'm a lot more verbal with them. Physical; I
21 learned years ago, get rid of high-five's. Fist bumps; I'm a
22 big fist bump with my athletes. Don't ever -- no touching
23 around the shoulder area, chest area, head area, anything like
24 that. No typical, you know, slaps on the thigh or anything

1 like that, nothing. So.

2 MS. MAZZA: If I can just have the Court's
3 indulgence?

4 Ms. Clerk, can I have State's Exhibits 10 and 11?

5 (Discussion held off the record.)

6 BY MS. MAZZA:

7 Q. Mr. Lonnegren, I'm going to hand you what's been
8 marked as State's Exhibit 10 and 11. Starting with
9 Exhibit 10, do you recognize that?

10 A. Which one's 10?

11 Q. Sorry. On the back side, they have the numbers?

12 A. Oh, okay. Ten, you said?

13 Q. Yes, sir.

14 A. Yes.

15 Q. What is Exhibit 10?

16 A. It's a picture of the storage area that I was
17 talking about.

18 Q. All right. And the storage area that you were
19 talking about, does it look the same today as it looked back
20 in 2018?

21 A. Yes.

22 Q. And that picture that you see right there,
23 Exhibit 10, does that fairly and accurately depict how it
24 looked in 2018?

1 A. Yes.

2 MS. MAZZA: Your Honor, the State would move to
3 admit Exhibit 10.

4 THE COURT: Any objection?

5 MS. RISTENPART: Your Honor, I'd like to voir
6 dire on the issue.

7 THE COURT: You may.

8 MS. RISTENPART: Thank you.

9 **VOIR DIRE EXAMINATION**

10 BY MS. RISTENPART:

11 Q. Mr. Lonnegren, do you know when those pictures
12 were taken?

13 A. No, I do not.

14 Q. Did you take those pictures?

15 A. No.

16 Q. Does the equipment room look the same every
17 single time you walk into it?

18 A. No.

19 Q. Things are moved around; right?

20 A. Um-hum.

21 Q. Depending on what was being played on the courts
22 or who was in the equipment room; right?

23 A. Um-hum.

24 Q. So do you know that's exactly how the equipment

1 room was, back in September of 2018?

2 A. When I -- it looks familiar in that sense of what
3 it would look like.

4 Q. Do you know how things were exactly placed when
5 you claim that you observed GW and Mr. Jenkins go into the
6 equipment room?

7 A. Not that specific day, no.

8 Q. Do you know if it was that organized on that day?

9 A. No.

10 MS. RISTENPART: Objection, Your Honor.

11 THE COURT: Objection's overruled. Exhibit 10 is
12 admitted.

13 (Exhibit 10 admitted into evidence.)

14 BY MS. MAZZA:

15 Q. And sir, looking at Exhibit 11, I'd ask you the
16 same question. What is Exhibit 11?

17 A. A picture of the storage.

18 Q. Is that the --

19 A. No, this is -- well, yeah, that is the storage,
20 yeah.

21 Q. Is that the equipment room we've been discussing?

22 A. Yes.

23 Q. Is it also a fair and accurate representation of
24 how it looked in 2018?

1 A. Yes.

2 Q. And how you typically would see it look in 2018?

3 A. Yes.

4 MS. MAZZA: Your Honor, the State would move to
5 admit Exhibit 10 -- or 11, I apologize.

6 THE COURT: Any objection?

7 MS. RISTENPART: Same objection.

8 THE COURT: The objection is overruled.
9 Exhibit 11 is admitted.

10 (Exhibit 11 admitted into evidence.)

11 BY MS. MAZZA:

12 Q. And so now when you describe the equipment room,
13 you can typically find equipment in it quickly; is that
14 because of how it's organized?

15 A. Yes.

16 Q. And so looking at this equipment room, when you
17 enter, is this what you see?

18 A. Pardon?

19 Q. When you enter the equipment room, is this what
20 you see?

21 A. Yes.

22 Q. And so that door that you see on the left --

23 A. (Nodded head.)

24 Q. -- is that the door to go into the equipment

1 room?

2 A. Yes, one of the doors, yes.

3 Q. Can you go right when you go into the equipment
4 room?

5 A. A little bit. They usually have the pole -- the
6 volleyball poles right there.

7 Q. So when you go left, there's no doors? If you go
8 left, there's a blank wall in between?

9 A. There's doors about 12 feet from these doors
10 located that we're seeing on the left.

11 Q. Okay.

12 A. There's two pairs of doors on that.

13 Q. And a wall in between the --

14 A. Yes, and a wall in between the doors, correct.

15 Q. Okay. And again, this is that same equipment
16 room?

17 A. Yes.

18 Q. Is it easy to go in and find what you're looking
19 for?

20 A. Yes.

21 MS. RISTENPART: Objection, speculation.

22 THE COURT: Overruled.

23 BY MS. MAZZA:

24 Q. Is it easy for you to go in and find what you're

1 looking for?

2 A. Yes.

3 Q. Now, have you ever had to blow up flat balls when
4 you're at the equipment -- the Rec Center?

5 A. Yes.

6 Q. Where do you do that?

7 A. It's located behind the desk, near the freezer
8 and fridge.

9 Q. Behind the front desk?

10 A. Behind the -- yes. Located in the front desk.

11 Q. Not in that equipment room?

12 A. No, not in that equipment room.

13 Q. And now, you don't -- do you know G that you've
14 described, personally?

15 A. No.

16 Q. Did you report this just because of your
17 observation that it was concerning?

18 A. Yes.

19 MS. MAZZA: I have no further questions, Your
20 Honor.

21 THE COURT: Cross-examination.

22 Ms. Mazza, did you return your exhibits to the
23 Clerk? Thank you.

24

CROSS-EXAMINATION

BY MS. RISTENPART:

Q. Mr. Lonnegren, going back to September 17th of 2018, you just said that you and your then-fiance Ashley were at the Rec Center; right?

A. Yes.

Q. And you kind of told us that you were there almost every day all the time; right?

A. A lot, yes.

Q. And that day in particular, September 17th of 2018, you were there, your fiance Ashley was there. And then later after practice, Ashley started talking to you about some of her concerns?

A. Um-hum.

Q. And she told you what she thought she had seen at a stairwell?

A. Yes.

Q. But you never saw what she said she thinks she saw?

A. I never saw what she thought she saw, yes.

Q. And we established you know Mr. Jenkins?

A. Yes.

Q. And you don't know G?

A. No.

1 Q. Never talked to her?

2 A. I've talked to her, but nothing more than a "Hi,
3 how are you doing."

4 Q. You don't have any idea who she was to the
5 Jenkins family; correct?

6 A. No.

7 Q. You have no idea how close she was to the Jenkins
8 family?

9 A. No.

10 Q. You have no idea how often G was at the Jenkins
11 home?

12 A. No.

13 Q. You have no idea how close G was to Alyssa,
14 Rick's daughter?

15 A. No.

16 Q. And you say you observed some observations about
17 G and Rick. And when you're watching them, as you told law
18 enforcement, you felt that G would kind of cling onto Rick?

19 A. They were next -- I wouldn't call it "clingy,"
20 but they were just next to each other. Yes.

21 Q. But you would see G kind of lean against him?

22 A. When they were sitting down, yes.

23 Q. Okay. And, in fact, you told law enforcement
24 that you saw G initiate a lot of the physical touching, like

1 hugging or things like that?

2 A. I've never talked to law enforcement.

3 Q. Do you remember going through an interview?

4 A. Oh, with -- I can't remember her name. Whoever
5 did -- sorry, ask the question again?

6 Q. You told law enforcement that you saw G initiate
7 a lot of the touching, like a lot of the hugs?

8 A. It was -- yeah, it was both ways, yes.

9 Q. Now, after Ashley and you talked, she kind of got
10 on to you to make a report; right?

11 A. No.

12 Q. On September 19th, two days later, you went and
13 told a Rec Center employee some of your, quote, "concerns";
14 right?

15 A. Yes. Before that even, yes.

16 Q. That would be Jennifer Calabrese?

17 A. Yes.

18 Q. But you never actually bothered to fill out a
19 witness statement or report; right?

20 A. I did not, because I was told Ashley was doing it
21 the next day.

22 Q. And even then, when you reported your, quote,
23 "concerns," Mr. Lonnegren, you still kind of had some
24 reservations; right?

1 A. Yes, correct.

2 Q. Where you circled, this whole area is just
3 completely open to the courts; right?

4 A. Yes.

5 Q. There's no corners, it's like a full semi circle
6 dome that --

7 A. I call it a half moon, yeah.

8 Q. The half moon.

9 And that's a lot where kids or players would hang
10 out waiting for practice?

11 A. Yeah.

12 Q. Play dodgeball?

13 A. Yes.

14 Q. Bump and spike some?

15 A. Um-hum.

16 Q. While they're waiting?

17 A. Yes.

18 Q. And this observation that the State had you
19 testify to, that you saw Mr. Jenkins and G in the Squishy
20 Room, you said their backs were up against the wall?

21 A. Um-hum.

22 Q. Right? So sitting down?

23 A. Yes.

24 Q. And that you, at one point, you saw G kind of

1 lean over onto Mr. Jenkins, onto his stomach area?

2 A. Yes.

3 Q. And you saw Mr. Jenkins rub G's upper shoulders?

4 A. Yes, like if she leans in, his arm would go over

5 the top, on her shoulder and her back area, yes.

6 Q. You never saw Rick touch G's butt?

7 A. No.

8 Q. You never saw Rick touch G's vaginal area?

9 A. No.

10 Q. You never saw Rick touch any private area?

11 A. No.

12 Q. Now, going to the equipment room, you said that

13 you go into the equipment room with kids also?

14 A. I have been in there with kids.

15 Q. Even a female --

16 A. Yes.

17 Q. -- right? And then you say you take less time.

18 I mean, you do have to go in and search for equipment if

19 you're looking for it?

20 A. Yes.

21 Q. And these times that you -- or the times you

22 observed G and Mr. Jenkins going into the equipment room, you

23 claim that you never saw them come out with equipment?

24 A. I -- no.

1 Q. Some times you did see this, the door to the
2 equipment room was open; correct?

3 A. 45 degrees, yes.

4 Q. Now you -- you have you just testified to the
5 State that this, what you observed would not be the way that
6 you personally would interact with a player; right?

7 A. Correct.

8 Q. But again, you don't know anything about G's
9 relationship with the Jenkins family; right?

10 A. No.

11 Q. Now, outside of a player-coach relationship, are
12 you -- do you personally hug people?

13 A. Do I personally --

14 Q. Um-hum?

15 A. Hug people --

16 Q. Um-hum?

17 A. Yes.

18 Q. And the closer they are to your family, the more
19 that you're physically affectionate with them?

20 A. Yes.

21 Q. And Mr. Lonnegren, do you have kids?

22 A. No.

23 MS. RISTENPART: No further questions. Thank
24 you.

1 THE COURT: Redirect?

2 **REDIRECT EXAMINATION**

3 BY MS. MAZZA:

4 Q. All right, Mr. Lonnegren, there's a couple areas
5 I just want to touch on again with you. You described how the
6 door was open in the equipment room when you would see them go
7 in. You said 45 degrees.

8 What is that, what do you mean by that?

9 A. If -- so if the -- if this is the wall
10 (indicating), and the two doors on the left side are in the
11 picture, the right-side door of those two doors was open
12 45 degrees, in an angle with the wall.

13 Q. Okay. So let's -- I'm going to just have you
14 describe that a little more.

15 Are there two doors --

16 A. There's --

17 Q. -- that open outwards together?

18 A. Yes, correct. Two doors that open outward, yes.

19 Q. From the middle?

20 A. Yes.

21 Q. And they're next to each other, two doors?

22 A. Correct.

23 Q. And so would one be shut?

24 A. One was shut, and one was 45 degrees.

1 Q. All right. So not fully open all the way?

2 A. No.

3 Q. And one other door would be shut?

4 A. Yes.

5 Q. 45 degrees; do you mean if you were to look in
6 there, you wouldn't be able to see straight forward, because
7 the door would be obstructing?

8 A. Yes.

9 Q. So --

10 MS. MAZZA: May I please have that exhibit back.

11 Thank you.

12 BY MS. MAZZA:

13 Q. Mr. Lonnegren, just to go back over this
14 description of the Squishy Room, or the multi-purpose room,
15 what is it now?

16 A. Pardon?

17 Q. What is the Squishy Room, currently?

18 A. It's a rock wall.

19 Q. And at the time, what was it?

20 A. It was -- it used to just be a concrete slab.

21 And then they ended up putting in foam padding in there,
22 because I think a lot of kids were falling and getting hurt,
23 people were just kind of getting hurt on that, so they added
24 padding. And then they ended up putting carpet over it as

1 well.

2 Q. So kind of a temporary use of it?

3 A. Yes.

4 Q. Is that right?

5 And when you look at this exhibit, Exhibit 37,
6 and you say that the Squishy Room is in the location it is
7 with the "O" that you put on there, where would parents sit,
8 in relation to that?

9 A. They would sit on the exact opposite side of the
10 gym.

11 Q. So if I give you Exhibit 37, can you mark on
12 there, maybe with the word "parents," where they would be?

13 A. (Complies.)
14 Initial and date?

15 Q. Yes, please.

16 A. (Complies.)

17 Q. So, the marker is not the best for writing a
18 word. But can you describe -- so you say exactly opposite
19 where parents would sit.

20 So what is there, where you've put the word
21 "parent"?

22 A. What kind of wall is that? Basically, it's like
23 a four-foot wall and then a space in between, just separating
24 the court from where parents will -- or people will walk to

1 stay off the court. And just kind of a separation point from
2 the courts to the rest of the Center.

3 Q. So when you say direct opposite from the Squishy
4 Room or the multi-purpose room, is that two basketball courts
5 in between?

6 A. Yes.

7 Q. Are there any drapes or anything that divides the
8 two courts?

9 A. Yes.

10 Q. Can you describe that?

11 A. There's, basically, if you put an X on the -- on
12 all the courts, they have dividers that come down that
13 separate -- just if teams are practicing on one court, balls
14 go flying, and that helps prevent all that. That encloses it
15 a little bit, to help keep it more private for each team.

16 Q. Now, I'm going to give you this back. If you
17 could put where the divider between -- or the closest dividers
18 to the Squishy Room?

19 A. With a line; is that okay?

20 Q. Yes, please.

21 A. (Complies.)

22 There's more dividers. Did you want me to -- or
23 just mark the one?

24 Q. That's great. Thank you.

1 A. Okay.

2 Q. And you can actually touch your screen that's in
3 front of you, if you want to notate more dividers?

4 A. Thank you. I can touch this?

5 Q. Get this set. One second?

6 A. Oh.

7 Q. So you can draw on the screen, if you want to
8 notate additional dividers?

9 A. There would be one here, and a big one down --
10 down the middle.

11 Q. All right. And what do those dividers look like?

12 A. They just look like -- I don't know how to
13 describe the fabric. But just a sheet that has little holes
14 in it every X amount, that you can kind of get a visual
15 through, but it's still kind of hazy.

16 Q. And does it come all the way from the ceiling
17 down?

18 A. Yes.

19 Q. Does it touch the floor?

20 A. It comes about two inches from the floor, maybe.

21 MS. MAZZA: Exhibit 12.

22 Your Honor, may I approach the witness with
23 Exhibit 12?

24 THE COURT: You may.

1 BY MS. MAZZA:

2 Q. Mr. Lonnegren, do you recognize Exhibit 12?

3 A. Yes.

4 Q. What is it?

5 A. It's a picture of the Squishy Room, but being
6 built.

7 Q. So did you work for the Rec Center, the entire
8 time while the Squishy Room was being built into something
9 more?

10 A. Yes.

11 Q. Did you see it looking like that?

12 A. Yes.

13 Q. Is that the same shape of the room that it was,
14 when Mr. Jenkins and G were observed in there?

15 A. The walls are; but the -- the rock wall wasn't
16 there, and the beams weren't there as well.

17 Q. Okay. But is the room still that half-moon
18 shape?

19 A. Yes.

20 Q. Is that fairly and accurately depicting the shape
21 of the room that it was back in 2018?

22 A. Yes.

23 MS. MAZZA: Your Honor, the State would move to
24 admit Exhibit 12.

1 THE COURT: Any objection?

2 MS. RISTENPART: Objection, Your Honor.

3 THE COURT: All right.

4 MS. RISTENPART: And also -- can I be heard on
5 that?

6 THE COURT: Yes, you may.

7 MS. RISTENPART: Thank you, Your Honor. It's a
8 mischaracterization, as this is not how it appeared back in
9 September of 2018.

10 THE COURT: Okay.

11 Ms. Mazza, your response?

12 MS. MAZZA: Your Honor, my response would be,
13 that Mr. Lonnegren has been able to see that room since 2018
14 through to now, when it is the rock wall, and through to that
15 construction at the time.

16 And he's able to testify that that is the same
17 shape of the room, the room he's described on Exhibit 37; and
18 that it fairly and accurately depicts the shape of that room
19 that we've been discussing here today.

20 THE COURT: The objection is overruled. The
21 exhibit is admitted.

22 (Exhibit 12 admitted into evidence.)

23 BY MS. MAZZA:

24 Q. And now, Mr. Lonnegren, looking at Exhibit 12,

1 this is the Squishy Room we've described. No longer the
2 Squishy Room; correct?

3 A. Yes. Right.

4 Q. In the process of being the rock wall?

5 A. Yes.

6 Q. Can you point on that screen where you saw
7 Mr. Jenkins?

8 A. (Complies.)

9 Q. In that corner, the very corner of that room?

10 A. Correct.

11 Q. Across the basketball court?

12 A. Correct.

13 Q. From where parents would sit?

14 A. Correct.

15 Q. And now just to go over with you, Ms. Ristenpart
16 asked you kind of about the -- why you didn't report it
17 originally, when you had seen Mr. Jenkins and G.

18 Had you seen them on more than one occasion?

19 A. Yes.

20 Q. A couple different dates?

21 A. Yes.

22 Q. Over the summer of 2018?

23 A. Yes.

24 Q. And you used the word "bystander effect" with why

1 you didn't report it. What did you mean by that?

2 A. Just kind of -- it's a term that, I don't know
3 where it was from, but I always attribute it to like New York
4 City, when someone --

5 MS. RISTENPART: Objection, Your Honor,
6 irrelevant.

7 THE COURT: Ms. Mazza?

8 MS. MAZZA: Your Honor, he's indicating why he
9 didn't report it.

10 THE COURT: Objection's overruled.

11 BY MS. MAZZA:

12 A. When someone's doing an act or doing -- whatever,
13 even in case of what I saw, you think that someone else,
14 because there's others inside or around, that they're going to
15 report it. So that's basically what the bystander effect is:
16 Someone else will do it.

17 Q. Not because you weren't concerned?

18 A. No.

19 Q. Ms. Ristenpart was speaking with you, and you
20 said you had to search for equipment. What do you mean by
21 "search" for it?

22 A. Well, I've -- I've been in there enough and I've
23 seen it enough that I know exactly where I'm going. So
24 "search" would literally open up the door, grab -- I'm in

1 there for volleyballs, not for basketballs, when I go. So I
2 grab a volleyball in this far rack and pull it right out.

3 Q. So when you were discussing how G would touch on
4 Mr. Jenkins, would Mr. Jenkins reciprocate?

5 A. Yes.

6 MS. MAZZA: No further questions, Your Honor.

7 THE COURT: Recross.

8 **RECROSS-EXAMINATION**

9 BY MS. RISTENPART:

10 Q. Mr. Lonnegren, you just testified for the State.
11 Actually, you just met with someone from the State, right,
12 right before you testified today?

13 A. Met with somebody?

14 Q. Um-hum?

15 A. My wife was there.

16 Q. And you were talking with them about your
17 testimony for today?

18 A. No.

19 Q. Going over some papers?

20 A. No, I never went over any papers today.

21 Q. And Mr. Lonnegren, you just testified for the
22 State that the parents always sat opposite in your diagram.

23 MS. RISTENPART: If I could have that, Ms. Clerk,
24 and the picture also.

1 BY MS. RISTENPART:

2 Q. On Exhibit 37, your claim that parents only sat
3 up over here; right?

4 A. Yes.

5 Q. They weren't told they had to sit there; it
6 wasn't like a "Parents Only" section; right?

7 A. No.

8 Q. In fact, parents sat around the court also;
9 right?

10 A. Not on the day I'm describing, okay.

11 Q. Okay, not on that specific day. But on other
12 days, parents mill around the courts; right?

13 A. Some do.

14 Q. Sit around watching; correct?

15 A. Yes.

16 Q. And I'm pointing towards the sides of the courts;
17 right?

18 A. I'm sorry?

19 Q. To the sides of the courts?

20 A. "The size of the courts"?

21 Q. "Sides"?

22 A. Side of the court, yeah, that would be the --
23 yes.

24 Q. Sometimes even bleachers are set up for parents

1 to sit, to watch --

2 A. Yes.

3 Q. -- practice and games?

4 A. Yes.

5 Q. And also in this picture admitted as Exhibit 12,
6 this doesn't look anything like what the Squishy Room looked
7 like in the fall of 2018, specifically, September of 2018;
8 right?

9 A. It looks similar, but not exact, no.

10 Q. Right. But none of that stuff that's in it was
11 there; right?

12 A. Correct.

13 Q. It was a completely empty, half-circle area?

14 A. Open, yes.

15 Q. And also as depicted in this picture, that's a
16 video camera over the Squishy Room; right?

17 A. Correct.

18 (Cell phone ringing.)

19 A JUROR: I don't why it's doing this, because I
20 have it off. Sorry.

21 BY MS. RISTENPART:

22 Q. Now, you just testified for the State that you
23 maybe were part of the bystander effect; that's why you didn't
24 report sooner your, quote, "concerns"; right?

1 A. Yes.

2 Q. Mr. Lonnegren, you're a mandatory reporter;
3 aren't you?

4 A. No.

5 Q. As a coach?

6 A. I work for myself. There's no certification that
7 says that for me, that I have.

8 Q. So you just banked on maybe someone else would
9 report it?

10 A. (Nodded head.)

11 Q. Only after Ashley had a conversation with you did
12 you make a verbal report to the Rec Center?

13 A. I agreed with Ashley, yes.

14 MS. RISTENPART: No further questions. Thank
15 you.

16 THE COURT: Ms. Mazza, may this witness be
17 excused?

18 MS. MAZZA: Yes, Your Honor.

19 THE COURT: Ms. Ristenpart?

20 MS. RISTENPART: Yes, Your Honor.

21 THE COURT: Mr. Lonnegren, thank you. You are
22 excused. Please do not discuss your testimony with anyone,
23 except for the attorneys in this case or their investigators,
24 until such time as the jury's reached its verdict.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you. You are excused.

3 Ms. Mazza, you may call your next witness.

4 MS. MAZZA: Thank you, Your Honor. The State
5 calls Jennifer Calabrese.

6 THE COURT: Ms. Calabrese, please raise your
7 right hand and face the clerk to be sworn.

8 JENNIFER MARIE CALABRESE,
9 called as a witness on behalf of the
10 STATE, was duly sworn and
11 testified as follows:

12 THE COURT: Thank you, ma'am. Please come on up
13 to the witness stand.

14 MS. RISTENPART: Your Honor, I do see the State's
15 witness has some papers in front of her that she's carrying.

16 THE COURT: Ma'am, we're going to -- not going to
17 allow you to bring up paperwork with you to the stand.

18 THE WITNESS: Okay.

19 THE COURT: If you could hand that to Deputy
20 Lindsay or Ms. Mazza. Thank you.

21 THE WITNESS: Can I have a seat here?

22 THE COURT: Yes, and you may remove your mask as
23 well.

24 THE WITNESS: Okay.

1 **DIRECT EXAMINATION**

2 BY MS. MAZZA:

3 Q. Ma'am, can you please state your full name and
4 spell your last name?

5 A. Jennifer Marie Calabrese. C-A-L-A-B-R-E-S-E.

6 Q. Ms. Calabrese, how are you employed?

7 A. I work for the Douglas County -- I'm a recreation
8 leader at the Douglas County Community Center.

9 Q. Can you describe some of your duties with that
10 position?

11 A. We welcome new members to the facility, open gym
12 memberships; help set up sports activities, volleyball,
13 basketball; all the youth recreation sports. Take care of
14 children that come there for Adventure Camp.

15 Q. And as part of that employment, were you so
16 employed there in 2018?

17 A. I was.

18 Q. How long have you worked for the Rec Center?

19 A. Four years, as of April 3rd.

20 Q. And in that position, do you take any reports or
21 incident reports in your position?

22 A. We do. We take accident reports, as well as
23 incident reports.

24 Q. And what are incident reports used for?

1 A. Incident reports are used for anything that makes
2 any members feel uncomfortable. If there's any arguments
3 between members, anything that happens that needs to be
4 documented or brought to our supervisors, that's our job to
5 fill those out for that.

6 Q. And so I'd like to direct your attention to
7 September 19th of 2018. Were you involved in taking any
8 incident reports?

9 A. I was.

10 Q. What were those reports?

11 A. I have received a verbal incident statement from
12 Nick Lonnegren saying -- telling me that --

13 MS. RISTENPART: Objection, hearsay.

14 THE COURT: Sustained. Well, sustained as to
15 saying what Mr. Lonnegren told you.

16 THE WITNESS: Okay.

17 THE COURT: All right. So just wait for another
18 question from Ms. Mazza.

19 BY MS. MAZZA:

20 Q. Is this your first time testifying in a case?

21 A. It is.

22 Q. So with that, I'll re-ask the question.

23 A. Okay.

24 Q. So without telling us what someone said to you,

1 did you take a report?

2 A. I did.

3 Q. What -- who was it regarding?

4 A. Rick Jenkins and [name redacted] G.

5 MS. MAZZA: Your Honor, I would ask that the
6 record be stricken and just place "G"?

7 THE COURT: That request is granted.

8 BY MS. MAZZA:

9 Q. So with regard to Mr. Jenkins, do you see him
10 here in the courtroom today?

11 A. I do.

12 Q. What color shirt is he wearing?

13 A. White.

14 MS. MAZZA: Your Honor, the State would request
15 that the record reflect identification of the Defendant.

16 THE COURT: The record will so reflect.

17 BY MS. MAZZA:

18 Q. You said an incident regarding Mr. Jenkins and,
19 is it a child?

20 A. It is.

21 Q. Do you know the initials of that child's name?

22 A. GW, I believe.

23 Q. And is that a female?

24 A. It is.

1 Q. And so you took that report from Nick Lonnegren?
2 A. Correct.
3 Q. And that was a verbal report?
4 A. It was.
5 Q. What did you do with his report?
6 A. I brought it to our manager, one of our managers,
7 Scott Doerr, as well as Scott Morgan, who is the director of
8 the Community Center.
9 Q. Did you receive an incident report regarding
10 Mr. Jenkins from anyone else?
11 A. I did.
12 Q. And who was that?
13 A. Ashley.
14 Q. Ashley who?
15 A. Glor -- or Gosley [sic]? I forget her maiden
16 name, she's a Lonnegren now. But I think it was Gosley [sic].
17 Q. And what was that report regarding?
18 A. Rick Jenkins and [name redacted] G, or G.
19 MS. MAZZA: And, Your Honor, I would ask that it
20 be stricken and replaced with G.
21 THE WITNESS: Okay.
22 BY MS. MAZZA:
23 Q. So another report regarding G and Mr. Jenkins?
24 A. Correct.

1 Q. What did you do with those -- that second report?

2 A. I brought it to Scott Doerr; and actually Sheryl
3 Christian, who was a manager at the time, and Scott Morgan.

4 Q. Was -- did you have any reason for taking that
5 report to management?

6 A. I did, because of the level and concern for the
7 cause of the incident.

8 MS. MAZZA: Your Honor, I have no further
9 questions.

10 THE COURT: Cross-examination.

11 **CROSS-EXAMINATION**

12 BY MS. RISTENPART:

13 Q. Ms. Calabrese, you don't know personally GW;
14 correct?

15 A. Correct.

16 Q. And you have no idea GW's relationship with the
17 Jenkins family; right?

18 A. I don't.

19 Q. You have no idea how often GW would go over to
20 the Jenkins' home?

21 A. I do not.

22 Q. You have no idea how close GW was to the Jenkins
23 family?

24 A. I do not.

1 Q. You have no idea how close GW was to Mr. Jenkins'
2 daughter, Alyssa?

3 A. No.

4 Q. That's your entire extent in this case; right?

5 A. Correct.

6 MS. RISTENPART: No further questions.

7 THE COURT: Thank you.

8 Redirect?

9 **REDIRECT EXAMINATION**

10 BY MS. MAZZA:

11 Q. Ms. Calabrese, did you ever receive any other
12 reports regarding GW and another male?

13 A. No.

14 MS. MAZZA: No further questions, Your Honor.

15 THE COURT: Any recross?

16 MS. RISTENPART: Nothing on that.

17 THE COURT: Ms. Mazza, may this witness be
18 excused?

19 MS. MAZZA: Yes, Your Honor.

20 THE COURT: Ms. Ristenpart?

21 MS. RISTENPART: Yes, Your Honor.

22 THE COURT: Ms. Calabrese, thank you for coming.

23 Pleases do not discuss your testimony with anyone, except for
24 the attorneys in this case or their investigators, until such

1 time as the jury has reached a verdict. Thank you. You are
2 excused.

3 THE WITNESS: Thank you.

4 THE COURT: Ms. Mazza, you may call your next
5 witness.

6 MS. MAZZA: Your Honor, my next witness will take
7 quite a bit of time. Would it be an appropriate time to take
8 our lunch now?

9 THE COURT: Yes, it would.

10 We will take our lunch recess. Ladies and
11 gentlemen, you are admonished that it is your duty not to
12 converse, amongst yourselves or with anyone else, on any
13 subject connected with the trial, either by phone, email,
14 text, internet or any other means.

15 Do not read, watch or listen to any report of or
16 commentary on the trial, or any person connected with the
17 trial, by any medium of information, including, without
18 limitation, newspapers television and radio.

19 Do not form or express any opinion on any subject
20 connected with the trial until the cause is finally submitted
21 to you.

22 Do not do any research, such as consulting
23 dictionaries, using the internet, or using other reference
24 materials; or make any investigation, test a theory of the

1 case, recreate any aspect of the case, or in any other way
2 investigate or learn about the case on your own.

3 We will be in recess until 1:15. I am going to
4 have to hold you back in the jury deliberation room for a few
5 moments while I take up an issue with counsel. Once we are
6 done, you will be released and we'll see you back at 1:15.

7 So I will go ahead and excuse you now to the jury
8 deliberation room.

9 (Jury exits the courtroom.)

10 (Jury not present.)

11 THE COURT: We are convened outside the presence
12 of the jury. Counsel, the Court has received a note from one
13 of the jurors. I'm going to ask that the Court Clerk make the
14 note part of the record in this case, and I have a copy to
15 provide to both counsel.

16 I'm going to give you a moment to review it, and
17 then make any requests that you have for any follow-up by the
18 Court.

19 Madam Clerk, this is the original. Please make
20 it part of the record.

21 And Counsel, Deputy Lindsay is going to hand you
22 both a copy.

23 Ms. Mazza, does the State require any follow-up
24 in regard to the note?

1 MS. MAZZA: No, Your Honor. I'm looking at the
2 note saying he would be about 80 now. I think he might be
3 thinking of someone else.

4 THE COURT: Okay.

5 Ms. Ristenpart, do you desire the Court to
6 follow-up in regard to the note?

7 MS. RISTENPART: That's correct, Your Honor.
8 Gage Marcyes is not 80. And if there's a family connection,
9 it doesn't sound like this juror has any thoughts or has seen
10 him since 1961. So --

11 THE COURT: All right. Very good. Thank you,
12 Counsel.

13 The rest of us will also now be in our lunch
14 recess. Why don't we give the jurors a chance to exit first,
15 and then once they've done that, the rest of you folks can be
16 dispersed. And again, we'll reconvene at 1:15. Let's go
17 ahead and let them leave first.

18 The Court stands in recess.

19 (Luncheon recess.)
20
21
22
23
24

1 **MINDEN, NEVADA, THURSDAY, APRIL 22, 2021, A.M. SESSION**

2 -oOo-

3
4 THE COURT: The Court is back in session on
5 Case Number 19-CR-188. I show the appearance of counsel for
6 both parties. Also appearing is the Defendant, Deputy
7 Lindsay. Let's bring in the jury.

8 MS. RISTENPART: Your Honor, if we could do one
9 thing outside of presence?

10 THE COURT: Yes.

11 MS. RISTENPART: Thank you. I'd be asking the
12 Court to not give the Tavares instruction each time. The
13 Court has done it twice. I know that Defense can request
14 whether or not. I know the Court could also sua sponte, but I
15 believe it's been addressed twice now, the instructions in
16 front of the jury and I'd ask that it not be read each time.

17 THE COURT: Thank you, Ms. Ristenpart.

18 Ms. Mazza, what is the State's position?

19 MS. MAZZA: Your Honor, the State has no
20 objection to that request being that it is the request of
21 Defense.

22 THE COURT: Okay. Thank you.

23 MS. MAZZA: Your Honor.

24 THE COURT: Yes?

1 MS. MAZZA: I do have one more issue to address.
2 At the lunch hour, I did request if Ms. Clerk would allow me
3 to use one of the exhibits to review with the witness prior to
4 their testimony in an effort to speed up their testimony.

5 I was making that request with the knowledge that
6 defense counsel was in the courtroom already. I was asking to
7 do that, but if the Court is not inclined to allow that, then
8 I would -- well, I wasn't allowed to do that, so --

9 THE COURT: Would you like to do that now outside
10 the presence of the jurors?

11 MS. MAZZA: I would like to. It would make it a
12 little bit quicker in front of the jury.

13 THE COURT: That request is granted. Who is the
14 witness?

15 MS. MAZZA: Scott Morgan.

16 THE COURT: Okay. And is it Mr. Morgan you'd be
17 calling next?

18 MS. MAZZA: I have one witness before Mr. Morgan
19 that should be pretty quick.

20 THE COURT: And is it -- what is the nature of
21 the exhibit you're going to be showing?

22 MS. MAZZA: Deputy Lenz footage.

23 THE COURT: Okay. All right. So what I'm going
24 to do is recess. I'll have counsel remain in the courtroom.

1 You can bring in Mr. Morgan, show him the video.

2 Ms. Ristenpart, do you have any objection to
3 that?

4 MS. RISTENPART: No objection, Your Honor.

5 THE COURT: Okay. So we'll be in recess and
6 leave the jury back into the jury deliberation room.

7 Ms. Mazza, about how long, roughly, do you think
8 that will take?

9 MS. MAZZA: I'd say no more than ten minutes.

10 THE COURT: Okay. So we'll check on you in about
11 ten minutes. If more time is needed, that's fine. Otherwise,
12 we will then come back in session.

13 Court's in recess.

14 (Recess.)

15 THE COURT: Court is back in session on
16 Case Number 19-CR-188. I show the appearance of counsel for
17 both parties. Also is appearing the Defendant.

18 Ms. Mazza, did you have sufficient time?

19 MS. MAZZA: Yes, Your Honor. Thank you.

20 THE COURT: All right. Let's go ahead and call
21 in the jury.

22 (Jury present.)

23 THE COURT: Ms. Mazza, do you stipulate to the
24 presence of the jury?

1 MS. MAZZA: Yes, Your Honor.

2 THE COURT: Ms. Ristenpart?

3 MS. RISTENPART: Stipulated, Your Honor.

4 THE COURT: Thank you, folks. Please be seated.

5 Ms. Mazza, you may call your next witness.

6 MS. MAZZA: Thank you, Your Honor. The State
7 calls Cheryl Christian.

8 THE COURT: Ms. Christian, please raise your
9 right hand, face the court clerk to be sworn.

10 CHERYL CHRISTIAN,
11 called as a witness on behalf of the
12 STATE, was duly sworn and
13 testified as follows:

14 THE COURT: Thank you. Please come on up to the
15 witness stand. And, ma'am, you may remove the mask.

16 THE WITNESS: Oh, thank you.

17 THE COURT: Thank you.

18 Ms. Mazza, you may proceed.

19 MS. MAZZA: Thank you, Your Honor.

20 **DIRECT EXAMINATION**

21 BY MS. MAZZA:

22 Q. Ma'am, can you please state your full name and
23 spell your last name for the court reporter?

24 A. Yes. Cheryl Christian, C-H-R-I-S-T-I-A-N.

1 Q. Ms. Christian, are you employed?
2 A. No, I'm retired.
3 Q. Is that pretty recent?
4 A. Yes, June. Last June.
5 Q. Where did you retire from?
6 A. From Douglas County.
7 Q. How did you work for Douglas County?
8 A. Well, I retired as a community service manager
9 when I retired.
10 Q. And as a community service manager, did you work
11 for any specific department for Douglas County?
12 A. Yes. I worked for recreation -- well, I oversaw
13 all of community services, but at the time of the incident, I
14 was a recreation supervisor.
15 Q. Okay. And you said "incident." What are you
16 referring to?
17 A. To when we viewed the videos of Rick.
18 Q. Okay. So let me take you back there.
19 A. Okay.
20 Q. Take you back a little bit. Working as a
21 recreation supervisor, you worked for the Douglas County
22 Community Center?
23 A. Yes, I did.
24 Q. In that capacity, did you know someone named

1 Richard Jenkins?

2 A. Yes.

3 Q. Do you see him here in the courtroom today?

4 A. Yes.

5 Q. Can you describe what color shirt he's wearing?

6 A. White.

7 MS. MAZZA: Your Honor, the State would request
8 that the record reflect identification of the Defendant.

9 THE COURT: The record will so reflect.

10 BY MS. MAZZA:

11 Q. And you indicated you had an incident involved --
12 that you knew about involving Mr. Jenkins; is that correct?

13 A. Yes. Yes.

14 Q. What was that?

15 A. Well, as a supervisor, I was responsible for all
16 the operation of the gym and fitness center as well as
17 recreation programs and --

18 Q. I'm going to stop you right there.

19 A. Okay.

20 Q. If you could speak up just a little bit --

21 A. Oh, okay. Sorry.

22 Q. -- so everyone can hear.

23 THE COURT: Actually, I'm going to pause a
24 moment. There's been a request to attempt to utilize the

1 hearing devices. Deputy Lindsay, if you could take care of
2 that and we'll just pause for a moment.

3 (Brief pause in proceedings.)

4 THE COURT: All right. One moment, Ms. Mazza.
5 Hearing devices have been passed out to two of the jurors. I
6 just want to maybe get a thumbs up if they're working for you.
7 All right. I see two thumbs up.

8 Ms. Mazza, thank you. You may proceed.

9 MS. MAZZA: Thank you.

10 BY MS. MAZZA:

11 Q. Ms. Christian, I'm just going to go back a little
12 bit and review what we just talked about. You indicated you
13 retired from Douglas County?

14 A. Yes.

15 Q. And you worked for the Douglas County Community
16 Center?

17 A. Um-hum.

18 Q. What position did you hold?

19 A. I retired as the community service manager, but I
20 was also the recreation supervisor.

21 Q. Okay. And as the recreation supervisor, what
22 sort of duties or expectations were upon you?

23 A. I was responsible for the overall operation of
24 the gym and fitness center as well as all recreation programs.

1 Q. Does the gym and fitness center include the
2 sporting activities?

3 A. Yes, it does.

4 Q. Such as what?

5 A. Youth -- a lot of youth programs, basketball,
6 youth volleyball, pickleball, just those kind of activities.

7 Q. And you identified that you knew Mr. Jenkins
8 through your employment; is that correct?

9 A. Yes.

10 Q. And I -- to direct your attention to the summer
11 of 2018, did anything happen with your employment that
12 involved Mr. Jenkins?

13 A. Yes. He was a volleyball coach at the time and
14 it was reported to me through staff through a code of conduct
15 form, we have a form that they fill out, incident that he was
16 seen being inappropriate with a young woman in our volleyball
17 program -- a young girl I should say. I'm sorry.

18 Q. And did that incident report come directly to
19 you?

20 A. It did, yes.

21 Q. From who?

22 A. I believe there was a few of them. Jen Calabrese
23 completed one, Kurt Ahart and Scott Doerr. I believe all
24 three of them completed a form.

1 Q. Did you have any reports from any other -- from
2 Ashley Gosney?

3 A. Yeah, there -- yes, exact -- there was one from
4 Ashley as well, yes.

5 Q. And based upon receiving those incident reports,
6 what did you do?

7 A. Well, normally I try to just deal with it myself,
8 but seeing how this was, I went to my supervisor, Scott
9 Morgan. We reviewed the videos and at that point, I called
10 Rick and said he was not allowed back in the gym until we did
11 an investigation.

12 Q. Now, to go back a little bit, you said you
13 reviewed videos?

14 A. Yes.

15 Q. What did you review?

16 A. There was a lot of them, just inappropriate
17 behavior with Rick and this young girl. He'd always look
18 around, making sure no one was seeing him, touching.

19 MS. RISTENPART: Objection on the best evidence,
20 Your Honor.

21 THE COURT: Ms. Mazza.

22 MS. MAZZA: Your Honor, I can rephrase.

23 THE COURT: Thank you.

24 BY MS. MAZZA:

1 Q. Did you watch the videos?

2 A. Yes.

3 Q. And based upon -- who pulled up those videos?

4 A. There was a few of us. Myself, Scott Doerr,
5 Georgiana. Probably three of us, I think.

6 Q. And based upon that and the incident report, you
7 called Mr. Jenkins?

8 A. Yes.

9 Q. And what did -- what was the conversation about?

10 A. I told him that I received a report of
11 inappropriate behavior and I told him he was not allowed back
12 into the gym until we had reviewed it further.

13 Q. And what did he say in response?

14 A. He didn't know why. He mentioned that she just
15 lost -- this young girl just lost her father and he was being
16 a father figure to her and that -- yeah, and he didn't want to
17 accept my answer.

18 So at that time, I said, well, you can talk to
19 Scott Morgan, the director.

20 Q. Did you help him make an appointment with Scott
21 Morgan?

22 A. Yeah, I said, Scott's here, just come on down.
23 Yeah.

24 Q. And when you notified Mr. Jenkins that he was no

1 longer to come back to the Community Center, what was that
2 based upon?

3 A. It was based upon the reports that I received and
4 the video footage that I viewed.

5 Q. And all of that, was that in violation of
6 anything -- any rules of the Community Center?

7 A. Yes. We have a code of conduct, I forgot what
8 number it is, but it's inappropriate behavior with -- yeah, it
9 was considered inappropriate behavior.

10 MS. MAZZA: Your Honor, may I approach the
11 witness?

12 THE COURT: You may.

13 MS. MAZZA: What's been marked as Exhibit 4.

14 BY MS. MAZZA:

15 Q. Ms. Christian, do you recognize Exhibit 4?

16 A. Yes.

17 Q. What is it?

18 A. It is the complaint form that I completed on
19 Rick.

20 Q. And that complaint form, does it include the code
21 of conduct which Mr. Jenkins was in violation of?

22 A. Yes. Number three, inappropriate behavior with a
23 minor.

24 Q. And looking at Exhibit 4, is that a fair and

1 accurate representation of the complaint that you filed
2 against Mr. Jenkins?

3 A. Yes.

4 MS. MAZZA: Your Honor, the State would move to
5 admit Exhibit 4.

6 THE COURT: Any objection?

7 MS. RISTENPART: Your Honor, it's hearsay.

8 THE COURT: Ms. Mazza?

9 MS. MAZZA: Your Honor, it is not hearsay. It's
10 statements from their code of conduct. They are not
11 statements of a person. Within the complaint, there is no
12 details, no writing. There's simply dates.

13 THE COURT: Is it just an uncompleted form?

14 MS. MAZZA: Your Honor, if I can provide it to
15 the Court.

16 THE COURT: So, Ms. Mazza, your response to the
17 hearsay objection is what?

18 MS. MAZZA: It is not hearsay, Your Honor. It's
19 not the statement of any person. The complaint just indicates
20 her name and date and signature, and then the attached code of
21 conduct is not hearsay, Your Honor.

22 THE COURT: The objection is sustained.
23 Exhibit 4 is not admitted.

24 BY MS. MAZZA:

1 Q. Ms. Christian, just to reiterate, Mr. Jenkins was
2 let -- asked not to come back to the Community Center for what
3 reason?

4 A. For being seen by video and the staff,
5 inappropriate behavior with a minor.

6 Q. And what was that a violation of?

7 A. It was a violation of our code of conduct for the
8 Community Center.

9 MS. MAZZA: Thank you. No further questions.

10 THE COURT: Cross-examination?

11 | CROSS-EXAMINATION

12 BY MS. RISTENPART:

13 Q. Ms. Christian, you worked there all summer of
14 2018; correct?

15 | A. Yes.

16 Q. You were there all the time?

17 | A. Yes.

18 Q. And you stated that you were the recreational --
19 or recreation supervisor?

20 | A. Yes.

21 Q. Okay. And throughout that summer, you personally
22 never observed anything inappropriate prior to Ashley Gosney's
23 report; right?

24 | A. Correct.

1 Q. And if you had, you would have done something;
2 right?

3 A. Yeah.

4 Q. Because you're a mandatory reporter; right?

5 A. Yes.

6 Q. And what is a mandatory reporter?

7 A. Reporting inappropriate behavior.

8 Q. So after your department received the complaints
9 or incident report from Ashley Gosney, then you're saying some
10 recreational employees pulled some video surveillance;
11 correct?

12 A. Yes, yes.

13 Q. And based upon that, the recreational --
14 Community Center, excuse me, banned Mr. Jenkins?

15 A. Yes.

16 Q. And you just testified for the State it was
17 because he, quote, violated rule number three, inappropriate
18 conduct or behavior with a minor?

19 A. Yes.

20 Q. That's not exactly what rule number three is;
21 correct?

22 A. I don't know. I'd have -- you know, see it.

23 Q. Would looking at it refresh your memory?

24 A. Sure.

1 THE COURT: For the record, you're showing her
2 which exhibit?

3 MS. RISTENPART: Thank you, Your Honor.
4 Exhibit --

5 THE CLERK: Four.

6 MS. RISTENPART: Four. Thank you, Ms. Clerk.

7 THE COURT: Thank you.

8 THE WITNESS: I think it says it right here,
9 sexual.

10 MS. RISTENPART: May I approach?

11 THE COURT: Yes.

12 BY MS. RISTENPART:

13 Q. Does this refresh your memory?

14 A. Yeah.

15 Q. So you just told the State that he was banned for
16 violating rule number three, inappropriate behavior with a
17 minor; correct?

18 A. Yes.

19 Q. But actually rule three is inappropriate behavior
20 or language to include abusive, obscene, threatening,
21 harassing, insulting, suggestive language, hate speech, or
22 epithets, racial ethic, sexist, homophobic, and religious
23 slurs; correct?

24 A. Sure. Yeah.

1 Q. So -- and you just claimed that it said something
2 about sexual?

3 A. I read it wrong. I thought it said sexual.

4 Q. And it doesn't say anything about minors?

5 A. No. Inappropriate behavior.

6 Q. And that summer, you had access to all the video
7 surveillance also; correct?

8 A. Yes.

9 Q. As a supervisor of the --

10 A. Yes.

11 Q. -- recreational center?

12 And there's a lot of cameras at the Rec Center;
13 right?

14 A. Yes.

15 Q. They capture a lot of different angles?

16 A. Yes.

17 Q. The video that was shown to you that you felt
18 was, quote, inappropriate behavior, did you look at it from
19 just one angle?

20 A. Yes.

21 Q. Were other angles ever shown to you?

22 A. No.

23 MS. RISTENPART: No further questions. Thank
24 you.

1 THE COURT: Ms. Mazza, redirect?

2 **REDIRECT EXAMINATION**

3 BY MS. MAZZA:

4 Q. Ms. Christian, through your employment, in your
5 position as the recreational supervisor, did you work in the
6 office or were you out on basketball and volleyball courts all
7 day?

8 A. No, I was both, in the office and walking around
9 the gym, going upstairs, yes.

10 Q. So you weren't on the court all day long?

11 A. No.

12 Q. Did you physically collect the surveillance in
13 this case or did someone else do that?

14 A. Physically. There was --

15 Q. You personally, did you burn them onto a disc or
16 a hard drive?

17 A. No, I didn't. There -- someone else did.

18 MS. MAZZA: Your Honor, I have no further
19 questions.

20 THE COURT: Ms. Ristenpart, any recross?

21 MS. RISTENPART: No, Your Honor.

22 THE COURT: And may this witness be excused?

23 MS. RISTENPART: Yes, Your Honor.

24 MS. MAZZA: Yes, Your Honor.

1 THE COURT: All right. Thank you. You are
2 excused. Please do not discuss your testimony with anyone
3 except for the attorneys in this case or their investigators
4 until the jury has reached a verdict.

5 THE WITNESS: Okay.

6 THE COURT: Thank you.

7 THE WITNESS: Thank you.

8 THE COURT: Ms. Mazza, you may call your next
9 witness.

10 MS. MAZZA: Your Honor, the State calls Scott
11 Morgan.

12 THE COURT: All right. Sir, stop there for a
13 moment. Please raise your right hand, face the court clerk to
14 be sworn.

15 SCOTT MORGAN,
16 called as a witness on behalf of the
17 STATE, was duly sworn and
18 testified as follows:

19 THE COURT: Thank you, sir. Come on up here to
20 the witness stand.

21 **DIRECT EXAMINATION**

22 BY MS. MAZZA:

23 Q. Sir, can you please state your name and spell
24 your last name for the court reporter?

1 A. May I remove my mask?

2 THE COURT: You may.

3 THE WITNESS: My name is Scott Morgan, S-C-O-T-T,
4 M-O-R-G-A-N.

5 BY MS. MAZZA:

6 Q. And, Mr. Morgan, how are you employed?

7 A. I am employed by Douglas County.

8 Q. In what sort of capacity?

9 A. I am the community services director for Douglas
10 County.

11 Q. How long have you been in that position?

12 A. Over 27 years.

13 Q. Can you give the jury a little idea of what sort
14 of duties you have?

15 A. Sure. The community services director for
16 Douglas County, I oversee the parks program, the recreation
17 program, senior services, social services, including the adult
18 daycare and public health clinic, animal care and services,
19 and the noxious weed control department in Douglas County.

20 Q. And in that capacity, where is your office
21 located?

22 A. My office is located at 1329 Waterloo Lane, which
23 is the community and senior center in Douglas County.

24 MS. MAZZA: And, Your Honor, may I approach the

1 clerk?

2 THE COURT: You may.

3 BY MS. MAZZA:

4 Q. And, Mr. Morgan, how long has the current
5 Community Center been around?

6 A. We opened the center December 2014.

7 Q. And were you a part of that process of getting
8 that new building?

9 A. Yes.

10 Q. What sort of input did you have?

11 A. I was in charge of the construction process, the
12 design, the pre-construction, the construction. I spent many,
13 many years researching and planning for the construction of
14 that facility.

15 Q. Are you pretty well aware of the facility?

16 A. I'm very aware of the facility.

17 MS. MAZZA: Your Honor, may I approach the
18 witness?

19 THE COURT: Yes, you may.

20 BY MS. MAZZA:

21 Q. Mr. Morgan, I'm going to hand you what's been
22 marked as State's Exhibit 32. Mr. Morgan, do you recognize
23 Exhibit 32?

24 A. Yes. I actually prepared this exhibit.

1 Q. What is it?

2 A. It is an outlet plan for the gymnasium that we
3 put together for groups that would come in to do events or
4 meetings or fundraisers and inside the facility.

5 Q. So is it a fair and accurate representation of
6 the Community Center?

7 A. It is a fair and accurate depiction of the
8 gymnasium portion of the Community Center. This is only about
9 one-third of the entire facility.

10 Q. It doesn't include the senior center?

11 A. It does not include the senior center, the
12 community rooms, the adult daycare, or the medical clinic or
13 our administrative offices.

14 Q. But is that a fair and accurate depiction of the
15 gymnasium?

16 A. Yes, it is.

17 Q. And, in fact, did you put together those maps?

18 A. Yes, I did.

19 MS. MAZZA: Your Honor, the State would move to
20 admit Exhibit 32.

21 THE COURT: Any objection?

22 MS. RISTENPART: No objection.

23 THE COURT: 32 is admitted.

24 (Exhibit 32 admitted into evidence.)

1 BY MS. MAZZA:

2 Q. Mr. Morgan, I'm going to hand you --

3 THE WITNESS: Your Honor, could I put my wallet
4 up? I don't want to sit on it?

5 THE COURT: You may.

6 BY MS. MAZZA:

7 Q. Sir, I'm handing you what's been previously
8 marked as State's Exhibit 8. Do you recognize that?

9 A. Yes, I do.

10 Q. What is that?

11 A. We commonly refer to that as the nook next to the
12 elevator.

13 Q. Okay. And --

14 A. It's also looking into the game room behind the
15 mesh.

16 Q. When you say "nook," what do you mean by that?

17 A. It's an alcove. It's a -- I guess an area on the
18 hallway that creates a space that is not -- that's contiguous
19 with the hallway, but has created an environment or a space
20 that is odd because of the elevator and the stairways going up
21 to the next level.

22 Q. So would you say it's underneath the stairway?

23 A. I would say that it is underneath the fitness
24 facility upstairs. The stairway is the -- underneath access

1 to the stairway would be on the other side of the elevator.

2 Q. Would the stairway be blocking view of that nook
3 from somewhere else?

4 A. Yes, and the elevator shaft itself is -- you're
5 seeing the -- this brick wall here is the elevator shaft
6 portion. So on the other side of the elevator shaft is the
7 stairway.

8 MS. RISTENPART: I don't think that's been --

9 MS. MAZZA: It has.

10 MS. RISTENPART: Is has? So permission to
11 publish.

12 MS. MAZZA: It has been admitted.

13 THE COURT: Just to make clear, let's check. I
14 believe Exhibit 8 has been admitted; is that correct, Madam
15 Clerk?

16 THE CLERK: Yes.

17 BY MS. MAZZA:

18 Q. And, Mr. Morgan, I'm going to hand you what has
19 not been admitted, Exhibit Number 15. Do you recognize that?

20 A. Yes, I do.

21 Q. And what is that?

22 A. That is a picture of essentially the same space
23 from a different angle.

24 Q. Is that a fair and accurate representation of

1 that same space?

2 A. Yes, it is.

3 MS. MAZZA: Your Honor, the State would move to
4 admit Exhibit Number 15.

5 THE COURT: Any objection?

6 MS. RISTENPART: No objection.

7 THE COURT: 15 is admitted.

8 (Exhibit 15 admitted into evidence.)

9 BY MS. MAZZA:

10 Q. And I'm going to show you again Exhibit
11 Number 16. Do you recognize that?

12 A. Yes, I do.

13 Q. And what is that?

14 A. That is a photo of that same space taken from a
15 different angle.

16 Q. Is that a fair and accurate representation of
17 that same space?

18 A. Yes, it is.

19 MS. MAZZA: Your Honor, the State would move to
20 admit Exhibit 16.

21 THE COURT: Any objection?

22 MS. RISTENPART: No objection.

23 THE COURT: 16 is admitted.

24 (Exhibit 16 admitted into evidence.)

1 BY MS. MAZZA:

2 Q. I'm going to hand you what's been previously
3 marked State's Exhibit 17 and 18, and you can see the numbers
4 on the back.

5 In looking at Exhibit Number 17, what is that?

6 A. This is a photo of the staircase going up to the
7 fitness portion of the gymnasium, the second level, and it is
8 a photograph taken looking down on the stairway from the
9 second level.

10 Q. Is that a fair and accurate representation of
11 that stairway?

12 A. Yes, it is.

13 Q. And then Exhibit 18? And if you could not turn
14 it to the jury?

15 A. Oh, okay. This is a photograph from the bottom
16 level taken of the stairways, going up to the top level of the
17 gymnasium.

18 Q. Is that also a fair and accurate representation
19 of the stairway?

20 A. Yes, it is.

21 MS. MAZZA: Your Honor, the State would move to
22 admit Exhibit 17 and 18.

23 THE COURT: Any objection?

24 MS. RISTENPART: No objection.

1 THE COURT: 17 and 18 are admitted.

2 (Exhibit 17 admitted into evidence.)

3 (Exhibit 18 admitted into evidence.)

4 BY MS. MAZZA:

5 Q. All right. Mr. Morgan, I'm going to hand you
6 what's been marked as State's Exhibit 9, 13 and 14.

7 Starting with Exhibit 9, do you recognize that?

8 A. Yes, I do.

9 Q. What is that?

10 A. That is a picture of the gymnasium, the floor,
11 and of the basketball courts and some of the cardio equipment
12 on the second floor.

13 Q. Is that a fair and accurate representation of the
14 gymnasium?

15 A. Yes, it is.

16 Q. In general?

17 A. Yes, it is.

18 Q. Now, speaking specifically to September 2018, is
19 that the condition it was in on that date when you reviewed
20 surveillance?

21 A. No. I'm not sure that the bleachers were in that
22 exact location, but the floor existed. I'm not sure of the
23 location of the basketball hoops at that point in time, but
24 the cardio equipment and the features upstairs were the same.

1 We had also completed the construction in this
2 photograph of the rock climbing wall and the 18th -- or in
3 2018, the rock wall had not been constructed and that area was
4 significantly different.

5 Q. And now, is that a fair and accurate
6 representation, aside from those items, of the area in 2018?

7 A. Yes.

8 MS. MAZZA: Your Honor, the State would move to
9 admit Exhibit 9.

10 THE COURT: Any objection?

11 MS. RISTENPART: No objection.

12 THE COURT: Nine is admitted.

13 (Exhibit 9 admitted into evidence.)

14 BY MS. MAZZA:

15 Q. And I believe in front of you, can you just let
16 us know what exhibit you're looking at now? There's a number
17 on the back.

18 A. I'm looking at 13.

19 Q. And what is that?

20 A. That is a photograph of the gymnasium from the
21 hallway, looking through the mesh net from the hallway onto
22 the gym surface.

23 Q. And now, again, is that a fair and accurate
24 representation of that area from September of 2018?

1 A. Yes, other than the same comment, it should be
2 noted that what you're seeing taking place is the actual
3 construction of the rock climbing wall.

4 In the area that was once referred to as "the
5 Squishy Room" is now -- they were constructing the rock wall.
6 These are the folks that were constructing it, are pictured in
7 this photograph.

8 Q. And in 2018, that was not done yet?

9 A. That is correct.

10 MS. MAZZA: Your Honor, the State would move to
11 admit Exhibit 13.

12 THE COURT: Any objection?

13 MS. RISTENPART: The same objection as with Nick
14 Lonnegren. It's not really depicting how it was.

15 THE COURT: Okay. The objection is overruled.
16 13 is admitted.

17 (Exhibit 13 admitted into evidence.)

18 BY MS. MAZZA:

19 Q. Now, lastly, I believe you have in front of you,
20 Exhibit 14?

21 A. Exhibit 14. That is a depiction of the
22 basketball court, standing outside what appeared to be
23 racquetball court number one. They are constructing the rock
24 wall at this time, that's what the bleachers are there and

1 configured the way they are, and it also has a photograph of
2 one of our equipment storage rooms in the back of the gym.

3 Q. And again, is that a fair and accurate
4 representation of the gymnasium from 2018?

5 A. Yes, with the same exceptions noted.

6 MS. MAZZA: Your Honor, the State would move to
7 admit Exhibit 14.

8 THE COURT: Any objection?

9 MS. RISTENPART: Same objection, Your Honor.

10 THE COURT: The objection is overruled. 14 is
11 admitted.

12 (Exhibit 14 admitted into evidence.)

13 BY MS. MAZZA:

14 Q. Now, Mr. Morgan, just going through what exhibits
15 that have been previously admitted, previously admitted
16 State's Exhibit 12, do you recognize this?

17 A. Yes, I do.

18 Q. And what is that?

19 A. This is the rock wall climbing wall area and it
20 is showing the construction in progress.

21 Q. And that construction was in progress after
22 September of 2018?

23 A. Yes, it was.

24 Q. And are you aware if there is a surveillance

1 camera in that room?

2 A. Yes, there is.

3 Q. Does it capture that entire room?

4 A. It does not.

5 Q. What areas does it not capture?

6 A. It does not cover some of the areas on the corner
7 of that room. You can see in the photograph, just right at
8 the very top, the actual camera globe, so it only covers
9 approximately 180 -- right where your finger was, yes, is
10 where the camera is and it only covers 180 degrees. So it
11 misses some of the edges of that room.

12 Q. Okay. And you said where my finger was, I was
13 touching the top of the photo. Is that --

14 A. That is correct. And it is at the top of the --
15 not quite center of the photo is where the camera is.

16 Q. Okay. And you are able to, on the screen in
17 front of you, touch it and show.

18 A. Oh.

19 Q. Can you tell us what areas are not captured on
20 the surveillance footage?

21 A. Well, they -- probably off camera, they'd be over
22 in this location and this location and the wood floor in
23 front. It is basically everything in front of that camera is
24 captured, but it misses the areas that I pointed out.

1 Q. Now, I'm going to show you what's been previously
2 admitted as State's Exhibit 11.

3 MS. MAZZA: Your Honor, if we could clear the
4 screen. Thank you.

5 BY MS. MAZZA:

6 Q. Do you recognize this exhibit?

7 A. Yes, I do.

8 Q. What is this?

9 A. This is one of the storage rooms off the
10 gymnasium.

11 Q. And does this accurately depict the organization
12 of that storage room?

13 A. Yes, it does.

14 Q. Is it pretty well organized?

15 A. If you call that organized, yes, then yes.

16 Q. Now, again, Exhibit 18, which was previously
17 admitted. Again, so you were describing this to the Court.
18 Where is this in relation to any other areas of the Rec
19 Center?

20 A. This is the stairway, the bottom of the stairway
21 going up to the upper level, the fitness track and fitness
22 equipment level. It is next to our control counter. It is
23 adjacent to the gymnasium floor and the entrance to the
24 gymnasium floor and it is also next to the game room.

1 Q. And if you were to walk past the stairs, are they
2 blocking view of anything?

3 A. They would be blocking view of the elevator
4 shaft, which is the wall that you can see where the GE sign
5 is. That is part of the elevator shaft and there's also
6 blocking view of the nook that I previously discussed.

7 Q. And that nook that you previously discussed,
8 showing you Exhibit 16, is this that nook?

9 A. That is that nook, the nook where the -- you see
10 that television, kind of at waist level, is what we refer to
11 as the nook.

12 Q. Okay. And that wall on the right side there,
13 what is that?

14 A. That is the elevator shaft.

15 Q. Now I'm showing you what's been marked as
16 Exhibit 15. What is that?

17 A. That is the nook that I refer to. The door you
18 see is a service door for the elevator shaft. You can see the
19 opening for the elevator and then you can also see the bottom
20 of the stairs. That was one of the first photos that you
21 showed me.

22 Q. And using the screen in front of you, can you
23 point to the elevator shaft?

24 A. (Complies.) This whole thing is the elevator

1 shaft.

2 Q. And is there an entrance to the elevator?

3 A. Yes.

4 Q. All right.

5 A. Right there (indicating).

6 Q. And would someone who is -- let me go back to
7 this exhibit. Someone who is down that hallway, can you see
8 into that nook if you continue going forward?

9 A. If -- from either end, if you're at either end of
10 the hallway, either near the entrance to the gymnasium or to
11 the -- where we have the lockers, which is an emergency exit,
12 you cannot fully see everything in that nook.

13 Q. And what is on the other side of -- it looks like
14 a smaller wall there, on the middle kind of?

15 A. This wall here?

16 Q. So to the right a little bit would be something
17 that looks like it's about waist height?

18 A. Oh, the pony wall? That is a pony wall. It also
19 has a net surface that is what we refer to as the game room.

20 Q. Are people always in that game room?

21 A. No.

22 Q. Is it dark when people aren't in there?

23 A. Sometimes, yes.

24 Q. Now, this is Exhibit 8. Does this depict that

1 area?

2 A. Yes, it does.

3 Q. And the net that you were discussing, is that
4 what's above the pony wall?

5 A. That is correct.

6 Q. And now Exhibit 14, what is this depicting?

7 A. This is depicting the end of the gymnasium by the
8 racquetball courts and the -- you can also see the doors to --
9 the double doors going into the storage room.

10 Q. And that storage room, would that be with the
11 equipment in the photos that we just reviewed?

12 A. That is correct.

13 Q. And now Exhibit 13, can you share with us what
14 there is depicting?

15 A. This is a view from the hallway, looking through
16 the -- a net mesh onto the gymnasium floor.

17 Q. And it looks a little dark at the bottom there,
18 but are -- is there anything going up to that, I guess, half
19 wall again?

20 A. Yes, there's a foot rail. Typically we have some
21 chairs there for people to view what's going on on the court,
22 from outside of the court, and then there's a mesh, fabric
23 mesh net to keep balls in the gym from going into the hallway.

24 Q. And now what's previously been admitted as

1 Exhibit 9, can you tell us about that, I guess, kind of white
2 fabric you see on the left side?

3 A. That is a gym divider curtain. There is one
4 there and there's also two others that can separate the courts
5 into half courts. One you cannot see in this picture.

6 Q. And now that last photo we looked at with the
7 seats, can that be separated from view from the other side?

8 A. I'm sorry?

9 Q. So these seats, the -- I guess, are they kind of
10 bar stools?

11 A. Yes.

12 Q. Do they look across the court?

13 A. Yes, they do look across the court.

14 Q. Where is the Squishy Room or the rock climbing
15 wall room in relation to that?

16 A. In relationship to where you -- if you can see
17 the single score board on the wall, kind of on the left side
18 of the photograph, that is the entrance to the rock wall
19 climbing area or, at the time, the Squishy Room.

20 Q. And can those mesh curtains come down and divide
21 that?

22 A. Yes, they can.

23 Q. Mr. Morgan, I'm going to show you what's been
24 marked as State's Exhibit 19. Do you recognize that?

1 A. Yes, I do.

2 Q. And what is that?

3 A. That is a photograph of the nook previously
4 discussed, showing the elevator shaft and the door going into
5 the maintenance room and the mechanical room for the elevator
6 shaft.

7 Q. Can that corner there be properly found on video
8 surveillance?

9 A. It can, yes.

10 Q. Okay. And on what video camera?

11 A. The best view of that area would be from the game
12 room, the fish lens camera in the game room.

13 Q. Okay. And does that fairly and accurately depict
14 how that area looked in September of 2018?

15 A. Yes, it does.

16 MS. MAZZA: Your Honor, the State would move to
17 admit Exhibit 19.

18 THE COURT: Any objection?

19 MS. RISTENPART: No objection.

20 THE COURT: 19 is admitted.

21 (Exhibit 19 admitted into evidence.)

22 MS. MAZZA: And again, Your Honor, may I publish
23 Exhibit 19?

24 THE COURT: You may.

1 BY MS. MAZZA:

2 Q. So again, Mr. Morgan, you just described this.
3 On that left side there, what looks like maybe a wall or
4 something, what is that?

5 A. That is the elevator shaft.

6 Q. Okay. And then is that the pony wall that you
7 can see in the very corner, left side?

8 A. Correct, with one of the bar stool, tractor seat
9 bar stools that we have as well.

10 Q. Okay. All right. And, Mr. Morgan, so it sounds
11 like you have pretty good knowledge of the Community Center;
12 is that correct?

13 A. That is correct.

14 Q. If anything is reported as wrong at the Community
15 Center, do you get alerted to that?

16 A. Depending on the significance of it, yes, I do.

17 Q. Okay. So if it's significant, you become
18 involved?

19 A. Correct.

20 Q. Okay. Was there ever a time that you became
21 involved in something involving Richard Jenkins?

22 A. Yes.

23 Q. Do you see Richard Jenkins here in the courtroom
24 today?

1 A. I do.

2 Q. Can you describe what he's wearing for the Court?

3 A. He's wearing a white shirt and has a tie on with
4 stripes.

5 MS. MAZZA: Your Honor, the State would request
6 that the record reflect identification of the Defendant.

7 THE COURT: The record will so reflect.

8 BY MS. MAZZA:

9 Q. Do you know Mr. Jenkins?

10 A. No, I do not. I know of him.

11 Q. How long have you known of him?

12 A. Really, since this incident.

13 Q. "This incident," when you refer to this, are you
14 referring back to September of 2018?

15 A. Correct.

16 Q. How did you become involved in anything reported?

17 A. On September 19th, I had two staff members come
18 into my office and learn me of an incident report that they
19 had just taken.

20 Q. And who were those staff members?

21 A. They were Jen Calabrese and Kurt Ahart.

22 Q. And when you were alerted to this, what did you
23 do?

24 A. I looked at some videotape of the -- of what the

1 incident report was referring to that evening and I confirmed
2 their conclusion of the incident report.

3 Q. Why did you look at any specific time or date?

4 A. There were times and dates mentioned in the
5 incident report.

6 Q. And after observing that surveillance, did you
7 save it in any way?

8 A. The next day, on the 20th, I reviewed the tape
9 again and I made a recording of a number of -- or incidents or
10 interactions that Mr. Jenkins had had.

11 Q. Did you end up preserving those and providing
12 them to the Douglas County Sheriff's Office?

13 A. Yes, I did.

14 Q. How did the Douglas County Sheriff's Office
15 become involved?

16 A. We called the -- I actually called undersheriff
17 at the time, Ron Elges, and asked -- said, here's what's going
18 on and would you send a deputy down, we'd like to make a
19 report. And he sent a deputy down.

20 Q. At that time, did you show that deputy every
21 single footage of Mr. Jenkins and what was concerning?

22 A. No. I believe I -- we showed him two tapes, but
23 gave him copies of everything that I had recorded.

24 Q. Later?

1 A. I believe they were on a thumb drive and they may
2 have been later.

3 Q. Mr. Morgan, I'm going to ask you to look at
4 what's been marked as State's Exhibit 21. Do you recognize
5 that?

6 A. Yes, I do.

7 Q. What is on -- what is it?

8 A. It is a thumb drive of recordings that I had
9 made.

10 Q. Do the recordings that are on that thumb drive
11 fairly and accurately depict the recordings that you saved?

12 A. Yes, they do.

13 Q. And do those fairly and accurately depict the
14 ones that you provided to the Douglas County Sheriff's Office?

15 A. Yes, they do.

16 Q. How do you know that Exhibit 21 is your
17 recordings?

18 A. I watched them.

19 Q. Is there anything specific about looking at it
20 right now that makes you know that?

21 A. I recorded the date that I just reviewed them and
22 I initialed them.

23 MS. MAZZA: Your Honor, the State would move to
24 admit Exhibit 21.

1 THE COURT: Any objection?

2 MS. RISTENPART: A standing objection,

3 Your Honor.

4 THE COURT: What was that?

5 MS. RISTENPART: Our standing objection.

6 THE COURT: Okay. Exhibit 21 is admitted.

7 (Exhibit 21 admitted into evidence.)

8 BY MS. MAZZA:

9 Q. Mr. Morgan, can you just -- let's go over the
10 surveillance system that is at the Douglas County Community
11 Center. What system does the Community Center have?

12 A. We have a digital recording system, 36 camera
13 locations throughout the building, and a system that's put in
14 shortly after construction.

15 Desert Hills Security provided us the system and
16 it was paid for from donations from the community services
17 foundation.

18 Q. Is it continually surveilling or recording?

19 A. It records motion, all the cameras at the 36
20 locations, and some of the cameras have four cameras -- those
21 locations have four cameras in them and every single camera
22 records nonstop based on motion. So if there's no activity
23 taking place, then nothing is recorded.

24 Q. Okay. How long does -- does the system keep the

1 footage recorded?

2 A. Yes, we have, I think if memory serves me right,
3 about two terabytes of storage on it. So once the storage is
4 full, then the first vision or the first items recorded are
5 then deleted to make room for the new recording. So it
6 stores, on average, between 4 to 6 months worth of tape or
7 video.

8 Q. And if there's a lot of activity, it could be on
9 the lower side?

10 A. Correct.

11 Q. And so how does it work to go into the system and
12 take security footage out?

13 A. I have access from my computer terminal to review
14 tape footage, live action, and you go in and you select -- you
15 view what you want to select, you identify it for an export,
16 and it asks you where you want to -- what time, the date you
17 want to start and when you want the recording or export to
18 end.

19 And so then it puts on a -- whatever device you
20 are saving it to, it puts a temporary viewer on there so you
21 can access it, and then it records, from start to beginning,
22 the time and date that you have identified.

23 Q. Can anyone just go use your system and record
24 something?

1 A. No.

2 Q. Who can?

3 A. People that have access to that, administrative
4 access only.

5 Q. And that entire process that you just described,
6 does it produce an accurate image?

7 A. Yes, it does.

8 Q. And so in Exhibit 21, the videos which you
9 pulled, why did you pull the ones that you did?

10 A. They were highlighted in the incident report as
11 suspect to review, so I reviewed those. I confirmed that,
12 yes, they are certainly suspect and I recorded them.

13 Q. And who were the incident reports from?

14 A. The incidents reports were from Nick Lonnegren
15 and his, at the time, fiancée, Ashley and I cannot recall her
16 name, Gosney. Gosney.

17 MS. MAZZA: Your Honor, the State would like to
18 publish Exhibit 21.

19 THE COURT: You may.

20 MS. MAZZA: Your Honor, if I could have the image
21 displayed?

22 THE COURT: Do you have it hooked into your desk?

23 MS. MAZZA: That would probably help. Thank you,
24 Your Honor.

1 THE COURT: You're welcome.

2 (Exhibit 21 published to the jury.)

3 BY MS. MAZZA:

4 Q. All right. Mr. Morgan, I've put Exhibit 21 into
5 display and it indicates Scott Morgan's files and recordings,
6 and I'll open those.

7 Is there a certain player you have to use in
8 that?

9 A. Yes. The Avalon control center player is what
10 automatically gets added to any hard drive or any situation in
11 order to --

12 Q. Now, from the files to pull up, do you recognize
13 these?

14 A. Yes, I do.

15 Q. And are these based upon the date that you burned
16 them or the date that they were --

17 A. The dates of the files are the date and the time
18 of the incidents. The date I recorded them are listed over on
19 date modified when I actually saved them on September 20th,
20 2018.

21 MS. MAZZA: And, your Honor, for the record, I
22 will playing ACC export Monday, September 17, 8:39 to 8:41.

23 BY MS. MAZZA:

24 Q. And, Mr. Morgan, looking at this from Exhibit 21,

1 what are we seeing?

2 A. You're seeing the fish lens camera location,
3 which is located -- or labeled Arcade No. 2.

4 Q. And does that depict the -- is someone in the
5 arcade room, are the lights on or off or what's going on?

6 A. The lights are off at this time.

7 Q. And now, is there a certain area that we should
8 be reviewing this video in?

9 A. Yes. You should modify the view, which this
10 particular camera allows you to focus on certain areas and
11 have a 360-degree view. But I would focus your view on what
12 we've referred to as "the nook."

13 Q. And if you could touch the screen in front of
14 you.

15 A. (Complies.)

16 MS. MAZZA: And for the record, I'm going to
17 press play and focus the view in the area Mr. Morgan has
18 identified as "the nook."

19 (Video played.)

20 BY MS. MAZZA:

21 Q. And, Mr. Morgan, is this footage that you pulled?

22 A. Yes, it is.

23 Q. And does it involve Mr. Jenkins?

24 A. Yes, it does.

1 MS. MAZZA: And for the record, I am playing
2 Exhibit 21, Monday, September 17th, 8:39 to 8:41.

3 (Video played.)

4 BY MS. MAZZA:

5 Q. And from this view, can you see onto the
6 basketball or volleyball court?

7 A. Yes, you can see the hallway, the pony wall and
8 then onto the basketball court.

9 Q. And are those people playing on the court?

10 A. They're actually playing volleyball on one of the
11 courts.

12 (Video played.)

13 BY MS. MAZZA:

14 Q. For the rest of this footage is Mr. Jenkins, seen
15 on footage?

16 A. I'm sorry?

17 Q. The rest of this footage, is Mr. Jenkins seen?

18 A. No.

19 Q. Now I'm opening what's been marked as Monday,
20 September 17, 8:39 to 8:41.

21 Now, what are we seeing here, Mr. Morgan?

22 A. This is a camera view from the end of the hallway
23 in front of the restrooms and showers of the gymnasium. You
24 can see the basketball court, but primarily down the hallway

1 and you can see a portion of the nook up in the upper
2 left-hand corner.

3 Q. And are these the best -- the cameras that get
4 the angles of that nook?

5 A. The one that we saw before is the best angle.
6 This is only a partial angle, but they are the only camera
7 views that capture that.

8 Q. They're the only camera views that capture that
9 area in the nook?

10 A. The -- there are some gymnasium views, but they
11 would be filtered either through the divider curtain and they
12 would not have great views of that. It would be highly
13 pixilated.

14 Q. And is there a camera right above the nook?

15 A. Yes, there is.

16 Q. Does it actually kind of -- does it actually
17 catch that corner where Mr. Jenkins is seen?

18 A. No.

19 Q. And I'm pressing play on that portion. Is there
20 a certain area that should be zoomed in on?

21 A. Yes.

22 Q. If you could focus that with your finger on the
23 monitor.

24 A. (Complies.)

1 MS. MAZZA: And now, for the record, I will zoom
2 into the area Mr. Morgan has indicated was of notice.

3 (Video played.)

4 BY MS. MAZZA:

5 Q. And I've paused that video. Now I'm opening
6 Wednesday, September 19th, 4:13 to 4:16.

7 Mr. Morgan, what are we observing here?

8 A. We are observing a camera view of basketball
9 Court 2B, which also shows the lower corner, right corner of
10 the entrance to the storage room, and on the lower right
11 corner is the emergency exit from the gymnasium.

12 Q. And I'm pressing play on that video. And again,
13 is this another one you've burned?

14 A. Yes, this is one that I burned.

15 Q. Or recorded or saved?

16 A. Yes.

17 (Video played.)

18 BY MS. MAZZA:

19 Q. In looking at that, can you tell any of the
20 people in that video?

21 A. Yes. I can tell that Nick Lonnegren is coaching
22 someone in the background. I don't know who the minor child
23 is who is currently dribbling and shooting the basketball, and
24 then you can see Mr. Jenkins and minor GW going to the storage

1 room.

2 Q. And is this that storage room we looked at the
3 photos of?

4 A. Yes, it is.

5 Q. And if I told you the name of Nick Lonnegren,
6 would that sound familiar?

7 A. Yes. He is the trainer that works in the
8 facility and he is in the -- in this recording.

9 Q. Mr. Morgan, there's a space coming up where
10 the -- on the bottom right corner. It's white rather than the
11 red or the blue. What does that mean?

12 A. That means that the camera stopped recording
13 because there was no movement.

14 Q. And where has Mr. Jenkins and GW gone?

15 A. It appears they went into what, at the time, was
16 referred to as "the Squishy Room."

17 Q. Mr. Morgan, I just -- looking at this one that
18 was titled September 19th, 4:13 to 4:16, can you, using the
19 screen in front of you, show us where the pony wall that those
20 bar stool type tractor seats you described would be?

21 A. (Complies.) And you can actually see those
22 windows that I put a square around are the actual game room.

23 Q. Okay. Now, going to Wednesday, September 19th,
24 4:29 to 44:32 (sic). Again, is this another video you saved?

1 A. Yes, it is.

2 Q. And I'm pressing play on that video.

3 (Video played.)

4 BY MS. MAZZA:

5 Q. And now I'm playing what's been marked as
6 Wednesday, September 19th, 5:03 to 5:05.

7 Again, what are we seeing here?

8 A. You're seeing the same camera angle from
9 basketball Court 2B, the storage door, and that was previously
10 reviewed by photographed as partially open.

11 Q. And the dates and the time stamps on these, are
12 they accurate?

13 A. Yes, they are.

14 (Video played.)

15 BY MS. MAZZA:

16 Q. Now I'll play Wednesday, September 19, 5:40 to
17 5:41.

18 And, Mr. Morgan, based upon your view of this
19 video, is there any area that should be zoomed in on?

20 A. Yes, I would zoom in on Mr. Jenkins.

21 (Video played.)

22 BY MS. MAZZA:

23 Q. Now I'll play what we marked September 19th, 6:15
24 to 6:57. And at some point in this video, does it become

1 important to zoom in on any area?

2 A. Yes, Mr. Jenkins.

3 (Video played.)

4 BY MS. MAZZA:

5 Q. And again, what area are they walking towards?

6 A. They were walking towards, at the time, the space
7 that is called "the Squishy Room."

8 Q. Do you see someone that just walked in on the top
9 area?

10 A. Yes, I do.

11 Q. Who is that?

12 A. That is our -- one of our employees named Kurt
13 Ahart.

14 Q. And I'm removing Exhibit 21.

15 Mr. Morgan, after a review of Exhibit 21, is
16 there anything that leads you to believe there was any issues
17 with that recording or anything that's not accurate?

18 A. No, they are accurate.

19 Q. And so talking about that Squishy Room,
20 multipurpose room or now the rock wall room, when it was the
21 Squishy Room, who would mostly hang out in there?

22 A. Mostly youth. It -- just to give you some
23 background, the reason it was called Squishy Room, it was in
24 preparation for the rock wall and it had a six-inch recessed

1 floor.

2 And so we didn't want to have that as a trip
3 hazard, so we put down a foam six-inch pad and put carpeting
4 over it. And the kids would go in there and wrestle or
5 practice volleyball. It was just a space, referred to it as
6 the Squishy Room.

7 Q. And when we look at those ones that you pulled,
8 you didn't record every single minute Mr. Jenkins was there
9 throughout the summer of 2018; is that correct?

10 A. That's correct.

11 Q. Why did you pick the ones that you picked?

12 A. Well, they were highlighted in the incident
13 report that were noted by the people that completed that
14 report. So those are the areas I focused in on.

15 Q. Now, after you reviewed that video, what did you
16 do next?

17 A. The next, I reviewed it that night. The night
18 was essentially over, Mr. Jenkins had left the building with
19 the volleyball program, the clinic or the club team that they
20 were with.

21 The next day I met with my assistant director as
22 well as the community services manager, Cheryl Christian, the
23 assistant director at the time was Brian Fitzgerald, and we
24 agreed to have Mr. Jenkins removed from the facility

1 indefinitely based on his conduct.

2 Q. What was that based upon, his conduct in
3 violation of anything?

4 A. Yes, the violation of our standards and our code
5 of conduct.

6 Q. That's a decision you could make?

7 A. Yes.

8 Q. And when he -- was he informed that he was to not
9 come back?

10 A. He was informed by Cheryl Christian, I believe on
11 the 20th, that he was prohibited from coming into the
12 building. We also contacted the person in charge of the
13 program and informed them as well that Mr. Jenkins could no
14 longer be a part of the volleyball program that they were
15 engaged in.

16 Q. Did Mr. Jenkins end up talking to you about being
17 asked not to come back?

18 A. Yes, he did. I believe he questioned who he
19 could appeal the decision to and he was informed that it was
20 myself, and so he did meet with myself.

21 It was either that day or shortly after that day
22 that he came into my office with Brian Fitzgerald, my
23 assistant director, and asked to appeal our decision.

24 Q. Did he make any explanation for his conduct?

1 A. He did not, not to me.

2 Q. Did he say how he had a relationship with that
3 girl?

4 A. He did. He said he was a coach on this team and
5 he was close family friends with the girl.

6 Q. Did he describe himself as a father figure?

7 A. I believe I read that in a report, but I don't
8 know if he told me that at the time of his appeal or not.

9 Q. Okay.

10 MS. MAZZA: Your Honor, I have no further
11 questions.

12 THE COURT: Thank you. Please return the exhibit
13 to the clerk, and Ms. Ristenpart, do you have any questions?

14 MS. RISTENPART: Your Honor, I don't know if it's
15 appropriate to take a break. I want to set up.

16 THE COURT: You may do that.

17 MS. RISTENPART: Thank you.

18 THE COURT: We'll go ahead and take a 15-minute
19 recess.

20 Ladies and gentlemen, you are admonished that it
21 is your duty not to converse amongst yourselves or with anyone
22 else on any subject connected with the trial either by phone,
23 email, text, internet, or any other means.

24 To read, watch or listen to any report of or

1 commentary on the trial or any person connected with the trial
2 by any medium of information, including, without limitation,
3 newspapers, television and/or radio.

4 Do not form or express any opinion on any subject
5 connected with the trial until the cause is finally submitted
6 to you.

7 Do not do any research, such as consulting
8 dictionaries, using the internet or using other reference
9 materials and do not make any investigation, test the theory
10 of the case, recreate any aspect of the case or in any other
11 way investigate or learn about the case on your own.

12 Mr. Morgan, please do not discuss your testimony
13 with anyone except for the attorneys in this case or their
14 investigators until this matter is finally decided by the
15 jury.

16 We will be in recess. We will go until three
17 o'clock.

18 (Recess.)

19 THE COURT: The Court is back in session on
20 Case Number 19-CR-188. I show the appearance of counsel for
21 both parties. Also appearing the Defendant, Mr. Jenkins.

22 The witness, Scott Morgan, has resumed the
23 witness stand.

24 Sir, you remain under oath.

1 Counsel, are you ready to have the jurors come
2 in?

3 MS. MAZZA: Yes, Your Honor.

4 THE COURT: Ms. Mazza?

5 MS. RISTENPART: Yes.

6 THE COURT: All right. Thank you.

7 (Jury present.)

8 THE COURT: Ms. Mazza, do you stipulate to the
9 presence of the jurors?

10 MS. MAZZA: Yes, Your Honor.

11 THE COURT: Ms. Ristenpart?

12 MS. RISTENPART: Yes, we stipulate.

13 THE COURT: Thank you, folks. Go head and have a
14 seat.

15 Ms. Ristenpart, you may go forward with your
16 cross-examination.

17 MS. RISTENPART: Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 BY MS. RISTENPART:

20 Q. Mr. Morgan, let's start with first with your
21 video surveillance system. You just told us just a few
22 minutes ago that there were 36 cameras at the Rec Center?

23 A. 36 camera locations.

24 Q. I'm showing you what has already been marked as

1 State -- excuse me, Defense Exhibit B, C, Q, R, S and T.

2 Do you mind taking a look at these?

3 A. (Complies.)

4 Q. Do you recognize what's depicted in those
5 pictures?

6 A. Yes, I do.

7 Q. And what do you recognize, generally, those to
8 be?

9 A. Those are the monitors above the counter, the
10 control counter in the gymnasium.

11 Q. And are these monitors -- where are they located
12 in the actual --

13 A. They're located above the cabinetry, behind the
14 front counter or reception counter, control counter of the
15 gymnasium.

16 Q. And do they accurately and correctly reflect the
17 bank of monitors?

18 A. There are more. There are some other monitors in
19 what they call "the fish bowl," which is a non-enclosed
20 office, just -- would be to the right of this picture as I'm
21 looking at it.

22 MS. RISTENPART: Move for admission, Your Honor.

23 THE COURT: Any objection to B?

24 MS. MAZZA: Your Honor, the State has no

1 objection to this series.

2 THE COURT: Okay. So that would be, just to be
3 clear, B, C, Q, R, S and T.

4 Ms. Mazza, any objection?

5 MS. MAZZA: No, Your Honor.

6 THE COURT: All right. Each of those exhibits
7 are admitted.

8 MS. RISTENPART: Thank you, Your Honor.

9 (Exhibit B admitted into evidence.)

10 (Exhibit C admitted into evidence.)

11 (Exhibit Q admitted into evidence.)

12 (Exhibit R admitted into evidence.)

13 (Exhibit S admitted into evidence.)

14 (Exhibit T admitted into evidence.)

15 BY MS. RISTENPART:

16 Q. Showing Defense Exhibit B. Is that the bank of
17 monitors that we were just talking about?

18 A. That is a partial bank of monitors, yes.

19 Q. And you have a pretty extensive video
20 surveillance system; right?

21 A. Correct, yes.

22 Q. Showing Exhibit C, is that a close-up of some of
23 the monitors of your video surveillance?

24 A. Yes, it is.

1 Q. And what is -- is that depicting outside the Rec
2 Center?

3 A. Yes.

4 Q. So you have cameras outside?

5 A. Correct.

6 Q. And Q, this is showing some monitors, showing
7 the -- or excuse me, it looks like the basketball courts?

8 A. Yes.

9 Q. From several different angles?

10 A. These are different courts. They are different
11 corners of the gym, so it's not the same court from different
12 angles there, different portions of the facility.

13 Q. Showing R. And that shows some other angles;
14 correct?

15 A. Correct, yes.

16 Q. Showing S. Some more angles; right?

17 A. Or locations, yes.

18 Q. Locations, thank you. And T, showing some more
19 camera locations; right?

20 A. Yes.

21 MS. RISTENPART: Your Honor, for -- I'd like to
22 admit Defense Exhibit GGGGGG. That's six G's, Your Honor.

23 THE COURT: Ms. Mazza, any objection?

24 MS. MAZZA: No, Your Honor.

1 THE COURT: Exhibit is admitted.

2 (Exhibit GGGGGG admitted into
3 evidence.)

4 BY MS. RISTENPART:

5 Q. Mr. Morgan, we just talked about this when you
6 testified for the State and this that diagram that we were
7 talking about; correct?

8 A. Yes.

9 Q. So let's orientate ourselves on this diagram.
10 Where is the entrance to the Rec Center? And, in
11 fact, you can draw on that with your fingernail.

12 A. Okay. This is the entrance.

13 Q. Okay. And that little nook area, we marked on
14 the other map, but for this one, I want to just kind of put a
15 little X where we're talking about.

16 A. (Complies.)

17 Q. And then the equipment room closet that we just
18 saw some video surveillance of?

19 A. (Complies.)

20 Q. And then the entire area of the rock climbing
21 wall room or Squishy Room?

22 A. (Complies.)

23 Q. Now, Mr. Morgan, would you please mark on there
24 all of the video cameras that would be depicted or seen in

1 this area?

2 A. Sure. Can we clear those X's off?

3 MS. RISTENPART: Your Honor, is there a way to
4 make a different color?

5 THE COURT: There is on the witness' monitor, I
6 believe.

7 THE WITNESS: I see color.

8 THE COURT: There you go.

9 THE WITNESS: Okay.

10 MS. RISTENPART: Thank you.

11 THE WITNESS: Sorry, by finger touch. I'm
12 touching accurately, but it is like off a quarter of an inch,
13 so -- and I'm only marking first floor. There's cameras on
14 the second floor of this facility.

15 BY MS. RISTENPART:

16 Q. Let's just start with the first floor.

17 A. Okay.

18 Q. Then we'll go to the second floor.

19 A. (Complies.) And you only want interior or
20 exterior?

21 Q. Exterior is great, too.

22 A. Okay. I believe that's all of them on the first
23 floor and exterior.

24 Q. So it looks like for the interior cameras on the

1 first floor, you marked one -- actually, let me just go back
2 through it with you as well: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,
3 11, and 12; correct?

4 A. Yes.

5 Q. And then you marked four on the outside?

6 A. Yes.

7 MS. RISTENPART: Your Honor, could we take a
8 screenshot to preserve this?

9 THE COURT: Yes.

10 MS. RISTENPART: Thank you.

11 THE COURT: Would you like to have that marked as
12 an exhibit?

13 MS. RISTENPART: I would, Your Honor. Thank you.

14 THE COURT: Madam Clerk, please mark that exhibit
15 next defense exhibit in order and let me know how that will be
16 marked.

17 THE CLERK: Six H's.

18 THE COURT: Okay. Six H's.

19 (Exhibit HHHHHH marked for
20 identification.)

21 THE COURT: You may proceed.

22 BY MS. RISTENPART:

23 Q. Mr. Morgan, a lot of those cameras that you just
24 pointed out that are on the interior inside of the first

1 floor, a lot of them have the capability to zoom in; right?

2 A. Yes.

3 Q. Similar to how we just watched, as Ms. Mazza
4 zoomed in on certain sections that you pointed her to; right?

5 A. Yes.

6 Q. Which ones are you able to zoom in on?

7 A. You know, I'm going to correct that statement.
8 The cameras themselves don't zoom in. The software allows you
9 to zoom in on the -- what is captured.

10 Q. Thank you.

11 A. The cameras are the only -- the cameras are
12 stationary.

13 Q. And what -- so you're able to actually zoom in on
14 any of the video surveillance?

15 A. I can enlarge any area of the surveillance, yes.

16 Q. So from all of those different 12 locations, you
17 could zoom in using the software?

18 A. Yes.

19 Q. And as we discussed, your video surveillance
20 rolls continuously; correct?

21 A. It records motion continuously, yes.

22 Q. 24 hours a day?

23 A. 24 hours a day.

24 Q. And it is stored for a limited time; right?

1 A. Yes.

2 Q. Now, Mr. Morgan, you're the one who chose which
3 security camera viewpoints that you were going to collect;
4 right?

5 A. Yes.

6 Q. I'm showing you Exhibit Number 21. The story was
7 that you received a report, incident report from some of your
8 staff members; correct?

9 A. That's correct.

10 Q. And based upon that, you went to a date; correct?

11 A. Yes.

12 Q. 9/17/20?

13 A. Yes.

14 Q. And based upon that and the report, you looked
15 for something near the stairwell -- or what you're calling or
16 referring to as the nook?

17 A. Yes.

18 Q. Now, Mr. Morgan, there is a video camera right
19 over the nook; correct?

20 A. No, it's more in the corner of the -- it's
21 actually -- it would be right above the pony wall.

22 Q. I'm showing you what has been marked as Defense
23 Exhibit G.

24 MS. RISTENPART: Your Honor, I don't believe

1 there's any objection to this one.

2 THE COURT: I think G is already admitted; is
3 that correct, Madam Clerk?

4 THE CLERK: Yes.

5 MS. RISTENPART: Thank you.

6 BY MS. RISTENPART:

7 Q. Mr. Morgan, G already admitted --

8 MS. RISTENPART: Your Honor, if we could clear
9 the --

10 THE COURT: Yes.

11 MS. RISTENPART: Thank you.

12 BY MS. RISTENPART:

13 Q. Is that that nook that you're referring to?

14 A. That is correct.

15 Q. And then right here where my pen is pointing, is
16 that a security camera?

17 A. It is.

18 Q. And the security camera captures part of the
19 nook, doesn't it?

20 A. Part of it, yes.

21 Q. In fact, here on Exhibit R, is that the angle of
22 the camera?

23 A. That is the angle of the camera.

24 Q. But based upon what you clipped, you did not

1 choose this angle, did you?

2 A. That is correct.

3 Q. You didn't preserve it at all?

4 A. No.

5 Q. And now it's forever lost; right?

6 A. Yes.

7 Q. Because once you don't actually preserve it and

8 some time has run, it all gets recorded or destroyed?

9 A. Yes.

10 Q. So recorded over is what I'm trying to say?

11 A. Yes.

12 Q. And you can never get it back, that particular

13 angle, can you?

14 A. I'm sorry. I missed that.

15 Q. You can never get it back?

16 A. I can never get that -- I can get -- not at that

17 time, no.

18 Q. So you pulled some video and then you called

19 Undersheriff Elges; right?

20 A. Yes.

21 Q. What exactly did you tell Undersheriff Elges?

22 A. I said we had a report come in to the Community

23 Center, and I'm recalling from memory, that there was some

24 behavior that was disturbing to us, the staff, that we

1 witnessed on the tape as well as that was issued or stated in
2 the report. And we were advised to have a deputy come down
3 and take a report.

4 Q. Did you ever tell Undersheriff Elges that there
5 was a --

6 MS. MAZZA: Objection, hearsay.

7 THE COURT: Let her finish the question.

8 BY MS. RISTENPART:

9 Q. That there was a coach making out with a
10 17-year-old in the corner?

11 THE COURT: Ms. Mazza, do you still have an
12 objection?

13 MS. MAZZA: Yes, Your Honor.

14 THE COURT: Ms. Ristenpart, your response?

15 MS. RISTENPART: Your Honor, it's effect on
16 listener.

17 THE COURT: All right. The objection is
18 overruled.

19 THE WITNESS: Can you restate that, please?

20 BY MS. RISTENPART:

21 Q. Did you ever tell Undersheriff Elges that there
22 was a coach making out with a 17-year-old in the corner?

23 A. No, I don't believe I said that.

24 Q. In response to your call to DCSO, Douglas County

1 Sheriff's Office, two deputies showed up; right?

2 A. I'm not sure if -- I recall one for sure. There
3 may have been two.

4 Q. And that deputy, you met with him?

5 A. Yes.

6 Q. Does Deputy Williams sound familiar?

7 A. It does not, but --

8 Q. And you showed Deputy Williams one video clip of
9 what we saw, the fish bowl and near the stairwell; right?

10 A. Yes.

11 Q. And you were in the room with Deputy Williams
12 when he called Sergeant Elges, weren't you?

13 A. I was in the room when the deputy called Sergeant
14 Elges? I don't recall that.

15 Q. Do you recall overhearing a conversation between
16 Deputy Williams and Sergeant Elges?

17 A. No.

18 Q. You first met with police around 10 o'clock that
19 day on September 20th of 2018; correct?

20 A. I don't recall the time.

21 Q. Well, when police officers got there, one of -- a
22 deputy, as you remember, got there, you gave them a copy of
23 what video you had collected so far; right?

24 A. Yes.

1 MS. RISTENPART: Your Honor, I am showing Exhibit
2 Number 21.

3 THE COURT: Is that going to be from your
4 machine?

5 MS. RISTENPART: It is, Your Honor.

6 THE COURT: Okay.

7 BY MS. RISTENPART:

8 Q. So as you discussed with the prosecution,
9 Mr. Morgan, you stated that there was -- your --

10 MS. RISTENPART: Your Honor, I don't know if it's
11 just me or you're getting an echo also from my table.

12 THE COURT: I didn't notice an echo.

13 MS. RISTENPART: Thank you, Your Honor.

14 THE COURT: Um-hum.

15 BY MS. RISTENPART:

16 Q. So as we discussed, you had the name and then
17 also the date modified; correct?

18 A. Yes.

19 Q. So the first one, it shows the date modified was
20 9/20/2018 at 10:09 a.m.; right?

21 A. Yes.

22 Q. The second one shows 9/20/2018 at 10:07 a.m.?

23 A. Yes.

24 Q. The third one shows 9/20, the date and time

1 modified at 3:33 p.m.?

2 A. Yes.

3 Q. Fourth one modified the same day at 3:35 p.m.?

4 A. Yes.

5 Q. Same one, 3:36 p.m. later that day?

6 A. Yep. Yes.

7 Q. 3:29 p.m.?

8 A. Yes.

9 Q. And then also 3:30 p.m.?

10 A. Yes.

11 Q. Based upon your conversation with the deputy, did
12 you feel that you had to go back and get more video clips?

13 A. I'm not sure if it was based on my conversation
14 with him or not, but I did go back and get more video.

15 Q. At any time, do you remember the deputy
16 instructing you to go back and find if there's any more video?

17 A. No.

18 Q. And of the videos that you provided and we just
19 watched, it's only of three angles?

20 A. Yes.

21 Q. And going to, for the record, Monday,
22 September 17th, 8:39 to 8:41 -- okay, player -- Mr. Morgan,
23 this is in relation to --

24 MS. RISTENPART: Your Honor, if I could get --

1 thank you, was marked as six H's, is it possible to flip back
2 over, Your Honor, to the Elmo?

3 THE COURT: Yes.

4 MS. RISTENPART: Thank you.

5 THE COURT: You're welcome.

6 BY MS. RISTENPART:

7 Q. Looking at your map, and it's very hard to tell
8 with the color, but that angle we just saw, where is it in
9 relation on this map?

10 A. It's looking this way from where I started.

11 Q. And does it also capture the other way? I mean,
12 I can see where you're looking towards the nook, but does it
13 capture --

14 MS. RISTENPART: Your Honor, if we could switch
15 back over to 21.

16 THE COURT: Um-hum.

17 BY MS. RISTENPART:

18 Q. It captures another angle also; right?

19 A. It captures a portion of the gym as well.

20 Q. And at the very back of that angle, what is that?

21 A. That is the storage room door.

22 Q. That's the equipment room; right?

23 A. The equipment room, yes.

24 Q. The ones that we just saw other videos of;

1 correct?

2 A. Right, yes.

3 Q. And then we're also looking at the ones that you
4 clipped later in the day.

5 So comparing that angle to the one we just saw,
6 they would have overlapped; right?

7 A. Yes.

8 Q. And --

9 A. Some portions of, yes.

10 Q. And they would have show a different perspective;
11 right?

12 A. They would show a different angle, yes.

13 Q. Now, when you clipped this camera angle at
14 basketball Court 2B, you didn't clip the other corresponding
15 angles that would have covered that same area, did you?

16 A. No.

17 Q. And now those angles, those other perspectives
18 are destroyed?

19 A. Lost, yes.

20 Q. Opening Wednesday, September 19th, that was
21 clipped at 3:35. Mr. Morgan, this one starts with Mr. Jenkins
22 opening the equipment room door; right?

23 A. Yes.

24 Q. So you clipped it, so we don't have any kind of

1 context as to what happened before they walked over there;
2 right?

3 A. That's correct.

4 Q. And you identified that that's Nick Lonnegren?

5 A. Yes.

6 Q. On the court?

7 A. Yes.

8 Q. And this one, I'm playing clip number four.

9 (Video played.)

10 BY MS. RISTENPART:

11 Q. Is this where you still see Nick Lonnegren?

12 A. Yes, I do.

13 Q. On the court?

14 And Nick Lonnegren is still on the court?

15 A. Yes.

16 Q. And Nick Lonnegren is still on the court; right?

17 A. Yes.

18 Q. What is Mr. Jenkins walking out with?

19 A. The volleyball carrier that had volleyballs.

20 Q. Would that be called equipment?

21 A. Yes.

22 Q. And Nick Lonnegren is still there; correct?

23 A. Yes.

24 Q. Showing clip number five.

1 Now, this one, Mr. Morgan, you clipped even
2 before Mr. Jenkins walked into the equipment room; right?

3 A. I'd have to watch the whole tape. I'm not sure
4 if he's already in there, or if he hasn't -- he's not in there
5 or he's coming in there. He may already be in there.

6 Q. Let me back up. Does the clip start at
7 5:02:59 p.m.?

8 A. Yes.

9 (Video played.)

10 BY MS. RISTENPART:

11 Q. Right here, on the bleacher, do you see an
12 individual?

13 A. Yes.

14 Q. Do you recognize that individual?

15 A. Yes.

16 Q. And who is that?

17 A. I don't -- can't recall his name right now, but
18 he's part of the volleyball program that Mr. Jenkins was
19 involved in.

20 Q. So he was another coach?

21 A. Yeah, he also does some officiating, I believe.

22 Q. Does the name Dan Hannah, you recognize?

23 A. Yes.

24 Q. Did you see Mr. Jenkins?

1 A. Yes.

2 Q. Leave the equipment room?

3 A. Yes.

4 Q. Is he holding equipment?

5 A. Yes, he is.

6 Q. Is the individual GW also holding equipment?

7 A. Yes.

8 Q. And that would be specifically flagpoles for
9 volleyball?

10 A. Yes.

11 Q. Going to this clip.

12 MS. RISTENPART: And for the record, Your Honor,
13 it is the sixth clip.

14 (Video played.)

15 BY MS. RISTENPART:

16 Q. Now, Mr. Morgan, based upon your exhibit that you
17 marked, all the security cameras from six H --

18 MS. RISTENPART: Your Honor, if I could switch
19 back over to the Elmo. Thank you.

20 BY MS. RISTENPART:

21 Q. You marked that there was the security camera
22 over by the Squishy Room; right?

23 A. Yes.

24 Q. And there was also another camera over in that

1 corner; correct?

2 A. Yes.

3 Q. And that there were other cameras over here;
4 correct?

5 A. Yes.

6 Q. And also several cameras over in that angle that
7 we spoke about earlier?

8 A. Yes.

9 Q. Now, from the other security cameras, would that
10 have caught different angles or perspectives of things that
11 were occurring on the courts?

12 A. Could you reask that question, please?

13 Q. From the other security cameras, it would have
14 caught other angles or perspectives of what was occurring on
15 the basketball courts; right?

16 A. Not all of them.

17 Q. But some of them?

18 A. Some of them would, and some of them would be
19 filtered because of the net or the screen.

20 Q. But any of the other angles or perspectives have
21 now been taped over; right?

22 A. Yes.

23 Q. So what looks like, Mr. Morgan, from your
24 perspective, that I could possibly be touching Mr. Jenkins on

1 his back; right?

2 A. I'm sorry?

3 Q. From your perspective, it would appear that I
4 could be possibly touching Mr. Jenkins on his back; right?

5 MS. MAZZA: Objection, Your Honor, calls for
6 speculation.

7 THE COURT: Sustained.

8 MS. RISTENPART: Going to the last clip,
9 Your Honor, if we could switch over from the Elmo. Thank you.

10 (Video played.)

11 BY MS. RISTENPART:

12 Q. The Squishy Room camera that you spoke about
13 would have also caught some of this; correct?

14 A. None of it.

15 Q. None of it. You're absolutely 100 percent
16 positive?

17 A. Yes, I -- well, obviously I can't say
18 100 percent, I'd have to look at it. But I'm sure I checked
19 that camera view in the Squishy Room and it was not on it.

20 Q. So just today you're now telling us that you
21 think that you checked the Squishy Room camera?

22 A. Yeah, because there were reports of activity in
23 the Squishy Room and none of it was caught on tape that I
24 recorded.

1 Q. And you see parents walking by with their kids?

2 A. I do. I see a parent.

3 Q. You see some other parents --

4 A. I see another parent.

5 Q. -- walking the other way, holding onto their
6 young child?

7 A. Yes.

8 Q. And, Mr. Morgan, out of that one day of
9 September 17th, 2018, practice was several hours; right?

10 A. I don't know.

11 Q. Well, going back to your clips, you started your
12 first one at 4:13, approximately; right?

13 A. Yes.

14 Q. And your second one is at 4:29?

15 A. Um-hum, yes. Correct.

16 Q. The third one is at 5:03?

17 A. Yes.

18 Q. 5:40?

19 A. Yes.

20 Q. 6:15?

21 A. Yes.

22 Q. And then 8:39?

23 A. Well, that's a different day. There are two
24 different days.

1 Q. Thanks for clarifying. So the first two are from
2 Monday, September 17th, 8:39; right?

3 A. Yes.

4 Q. And the other ones are from the 19th?

5 A. Starting at 4:13.

6 Q. So basically covering from 4:13 to 6:15,
7 approximately two hours; right?

8 A. Yes.

9 Q. And from those two hours, you clipped a few
10 minutes?

11 A. Yes.

12 Q. And the rest of the video showing the practice,
13 showing the context has now been forever lost?

14 A. Yes. And just a point of clarification, I don't
15 believe all that was practice. I believe some was setting up
16 for practice, so I cannot verify that the practice --

17 MS. MAZZA: Your Honor, I'm going to object to
18 that question. It calls for speculation, saying the context
19 of practice. I don't believe Mr. Morgan can in any way answer
20 that.

21 THE COURT: Ms. Ristenpart, can you rephrase,
22 please?

23 BY MS. RISTENPART:

24 Q. Mr. Morgan, you could have easily taken the

1 amount of time -- you could have -- well, actually, let's just
2 ask this question: How easy is it to record the video
3 surveillance just like you did for this?

4 A. I would say fairly easy. It takes time and a lot
5 of memory.

6 Q. So you could have -- you have the capability to
7 record everything from the moment Mr. Jenkins walked into the
8 Rec Center on September 19th, 2018, to the minute he left;
9 right?

10 A. If I'd had an external hard drive large enough to
11 carry that, I could have, but I did not.

12 Q. But because it wasn't preserved, it has been
13 taped over?

14 A. Yes.

15 Q. Did law enforcement ever ask you for the whole
16 video?

17 A. No.

18 Q. Now, Mr. Morgan, you stated that -- well, you've
19 been working there for quite a long time; correct?

20 A. Yes.

21 Q. And you were there all summer of 2018, weren't
22 you?

23 A. Yes.

24 Q. Working?

1 A. (Nodded head.)

2 Q. Correct?

3 A. Yeah, I'm sure I had vacation time during that
4 part of the summer.

5 Q. And during that summer of 2018, prior to the
6 report of Ashley Gosney and Nick Lonnegren to your staff, you
7 did not observe any inappropriate behavior between Rick
8 Jenkins and GW, did you?

9 A. No.

10 Q. Because if you had, you would immediately have
11 done something; right?

12 A. I'm speculating. I think, yes, I would have.

13 Q. You're a mandatory reporter; right?

14 A. Yes.

15 Q. And that summer, it was months of practice,
16 volleyball practice; right?

17 A. I --

18 MS. MAZZA: Objection, speculation.

19 BY MS. RISTENPART:

20 Q. You don't know personally?

21 A. No.

22 Q. And also you told us that you don't even really
23 know -- you don't know Mr. Jenkins at all; right?

24 A. No. I recognize him, but I do not know him.

1 Q. And you don't know GW?
2 A. No.
3 Q. You've never talked to her?
4 A. No.
5 Q. You don't -- even before this, you didn't even
6 know her name?
7 A. No.
8 Q. You have no idea who GW was to the Jenkins
9 family; correct?
10 A. Correct.
11 Q. You have no idea how close GW was to the Jenkins
12 family?
13 A. No.
14 Q. You have no idea, Mr. Morgan, how often GW was at
15 the Jenkins home?
16 A. No.
17 Q. You didn't even know that GW was best friends
18 with Mr. Jenkins daughter, Alyssa, did you?
19 A. No.
20 MS. RISTENPART: No further questions,
21 Your Honor.
22 THE COURT: Redirect.
23
24

1 **REDIRECT EXAMINATION**

2 BY MS. MAZZA:

3 Q. Mr. Morgan, where is your office located within
4 relation to the basketball courts?

5 A. It is almost on the other side of the building.

6 Q. Would you say it's anywhere near the basketball
7 courts?

8 A. No.

9 Q. Is it -- what's in between the basketball courts
10 and your office?

11 A. The community rooms, the restrooms, maintenance
12 facilities.

13 Q. Are you in your office or out on the basketball
14 courts all day?

15 A. Primarily in my office.

16 Q. Would you have been in your office in the summer
17 of 2018?

18 A. Yes.

19 Q. Now, in speaking with your -- regarding your
20 contact with the Douglas County Sheriff's Office and what you
21 showed that deputy that first day, was it everything you ended
22 up coming up with?

23 A. No.

24 Q. How much did you show him?

1 A. I believe we showed him the stuff from the 17th.

2 Q. And that was it?

3 A. That was it.

4 Q. And only the clips that you had briefly obtained
5 then?

6 A. Correct. It was enough for -- the clips were
7 enough for us to say this isn't right.

8 Q. Is there more footage that was collected?

9 A. There is more footage that was collected.

10 Q. Did you do it?

11 A. No.

12 Q. In order to pull footage and review footage, are
13 you watching it in realtime, meaning, is it the same timing,
14 minute for minute, as it is if you're sitting there watching
15 it?

16 A. The recordings are, I guess -- they're not --
17 they're raw, they're not edited and they are what is recorded,
18 if that answers your question.

19 Q. So to watch a minute of footage would take you a
20 minute to watch?

21 A. Correct, unless you -- you can hit fast forward
22 and you can skip around as well. If you want to watch it, you
23 can watch it for minute for minute and second for second.

24 Q. And you have to watch it to find a person; is

1 that correct?

2 A. Yes.

3 Q. Now, with regard to Exhibit 21, Ms. Ristenpart
4 was talking to you about that footage that is outside the area
5 we've been discussing as the nook. If you were to zoom into
6 that footage to get to the equipment room, across the
7 basketball courts, what would happen to that footage?

8 A. It was pixelate.

9 Q. Would you be able to see expressions on someone's
10 face?

11 A. No.

12 MS. RISTENPART: Objection, speculation.

13 BY MS. MAZZA:

14 Q. Have you zoomed in on that camera before?

15 A. Yes.

16 Q. Have you zoomed in on that camera across
17 basketball courts?

18 A. Yes.

19 Q. What happens when you do that?

20 A. It's pixelates.

21 Q. And what happens to peoples' facial expressions?

22 A. It blurs. It becomes almost irrerecognizable
23 (sic) -- or unrecognizable.

24 Q. Would the same be if you're going to zoom in on

1 that equipment closet from across the basketball courts, the
2 other cameras that you described?

3 A. Yes, that same effect would occur.

4 Q. Does that occur on all of the cameras?

5 A. Yes.

6 Q. Ms. Ristenpart showed you the two clips where
7 Mr. Jenkins comes out with equipment, the two items he comes
8 out with, I believe you described as -- what was the one
9 (inaudible)?

10 A. One was a basket of volleyballs or the volleyball
11 carrier and the other one were rods that go in the nets.

12 Q. Are they difficult to find in the closet?

13 A. No.

14 MS. RISTENPART: Objection, speculation as to
15 that day.

16 THE COURT: Sustained.

17 BY MS. MAZZA:

18 Q. Have you gone in that equipment closet?

19 A. Yes.

20 Q. Are you involved in any part of handling that
21 equipment closet?

22 A. Other than I oversee it.

23 Q. Had you gone in it in September?

24 A. Yes, I'm sure I have.

1 Q. Of 2018?

2 A. Yes.

3 Q. Was it organized the way that you -- I believe
4 you were disappointed with how organized it was in that photo,
5 but was it in that same --

6 A. Yes, during volleyball season, the volleyball
7 equipment is kept near the door.

8 Q. And easy to access; is that correct?

9 A. Yes.

10 Q. Ms. Ristenpart asked you about -- I believe she
11 gave you the name Dan Hannah, that person, and also asked you
12 about the angles of viewing the equipment closet door.

13 From that camera angle or from Mr. Hannah's
14 angle, can you see in the equipment closet and around the
15 corner?

16 MS. RISTENPART: Objection, speculation.

17 BY MS. MAZZA:

18 Q. Have you sat on that bleacher where Mr. Hannah
19 was located or stood there?

20 A. I have stood there.

21 Q. Has the door been cracked open as it was in the
22 video footage?

23 A. Yes.

24 Q. When you've stood there?

1 A. Yes.

2 Q. Have you viewed the camera angle from the one
3 outside the nook over to that closet door?

4 A. Yes.

5 Q. When it is cracked in that situation, from either
6 of those angles, can you see in there?

7 A. No -- or correct that, yes. It's so pixillated,
8 you cannot identify any activity or what's going on.

9 Q. From that camera angle?

10 A. It is just too blurred or pixillated.

11 Q. Now, when you're standing in the location of the
12 bleachers where Mr. Hannah was located, can you see in the --

13 A. Because of the extent the door was opened. If
14 the door was fully opened, you could see a small portion of
15 the equipment room.

16 Q. Would that be straight back?

17 A. That would be straight back.

18 Q. If the door is fully opened?

19 A. Yes.

20 Q. Would you be able to see anything else?

21 A. No.

22 MS. MAZZA: Your Honor, I have no further
23 questions.

24 THE COURT: All right. Ms. Ristenpart, recross.

1 **RECROSS-EXAMINATION**

2 BY MS. RISTENPART:

3 Q. Mr. Morgan, you claim that the other angles would
4 have just been too pixilated if we zoomed in; right?

5 A. Yes.

6 Q. We just have to take your word for it because the
7 videos have actually been forever lost; right?

8 A. We can pull up current video and I can show you
9 that it pixelates. We can actually watch from that one angle
10 and we can zoom in on that door, and we can show what the
11 graininess and what it actually looks like on one of those
12 videos if you wish, so you do not have to take my word for it.

13 Q. And you've met with the prosecutor several times
14 before testifying today, haven't you?

15 A. Today? I met one time today.

16 Q. You've met with this prosecutor several times
17 before testifying here today?

18 A. Yes.

19 MS. RISTENPART: No further questions.

20 THE COURT: Ms. Mazza, may this witness be
21 excused?

22 MS. MAZZA: Yes, Your Honor.

23 THE COURT: Ms. Ristenpart?

24 MS. RISTENPART: We'll keep him under subpoena,

1 Your Honor.

2 THE COURT: All right. Mr. Morgan, you remain
3 subject to being recalled. Please do not discuss your
4 testimony with anyone except the witnesses -- or excuse me,
5 except for the attorneys in this case or their investigators
6 until such time as the jury has reached a verdict. You are
7 excused for today, but again, subject to recall.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: We're going to take a quick recess
10 just to get everybody standing up a bit. I'm going to have
11 you remain back in the jury deliberation room because we're
12 only going to break for about five minutes.

13 During the break, the prior admonishment applies.
14 Specifically, you are admonished it is your duty not to
15 converse amongst yourselves or with anyone else on any subject
16 connected with the trial either by phone, email, text,
17 internet or any other means.

18 Do not read, watch, or listen to any report of or
19 commentary on the trial or any person connected with the trial
20 by any medium of information, including, without limitation,
21 newspapers, television and radio.

22 Do not form or express any opinion on any subject
23 connected with the trial until the cause is finally submitted
24 to you. Do not do any research, such as consulting

1 dictionaries, using the internet or using other referenced
2 materials, or make any investigation, test the theory of the
3 case, recreate any aspect of the case or in any other way
4 investigate or learn about the case on your own.

5 We will be in recess until four o'clock.

6 Thank you.

7 (Recess.)

8 THE COURT: The Court is back in session on
9 Case number 19-CR-188. Show the appearance of counsel for the
10 State, counsel for the Defendant, also Mr. Jenkins.

11 Deputy Lindsay, let's bring in the jurors.

12 (Jurors present.)

13 THE COURT: Ms. Mazza, do you stipulate to the
14 presence of the jury?

15 MS. MAZZA: Yes, Your Honor.

16 THE COURT: Ms. Ristenpart?

17 MS. RISTENPART: Yes, Your Honor.

18 THE COURT: Thank, folks. Please be seated.

19 Ms. Mazza, you may call your next witness.

20 MS. MAZZA: Thank you, Your Honor. The State
21 cause Georgiana Drees-Wasmer.

22 THE COURT: Ma'am, please raise your right hand,
23 face the court clerk to be sworn.

24

1 GEORGIANA DREES-WASMER,
2 called as a witness on behalf of the
3 STATE, was duly sworn and
4 testified as follows:

5 THE COURT: All right. Ma'am, please come on up
6 to the witness stand.

7 MS. MAZZA: Your Honor, may I approach the clerk?

8 THE COURT: You may.

9 MS. RISTENPART: Your Honor, may I have the
10 witness remove her mask?

11 THE COURT: Yes, please remove your mask. Thank
12 you.

13 **DIRECT EXAMINATION**

14 BY MS. MAZZA:

15 Q. Ma'am, can you please state your full name and
16 spell your last name for the record?

17 A. Georgiana Drees-Wasmer. It's D-R-E-E-S, hyphen,
18 W-A-S-M-E-R.

19 Q. Ma'am, how are you employed?

20 A. I am a recreation coordinator for Douglas County
21 senior services and recreation.

22 Q. How long have you been so employed?

23 A. Going on seven years.

24 Q. Have you had that same position for the last

1 seven years?

2 A. No, I have not.

3 Q. What else have you done?

4 A. I was a rec leader senior for the Community
5 Center and I was also a rec leader for kids club program.

6 Q. And so in your current position, what type of
7 duties do you hold?

8 A. I plan all of the senior activities and I
9 coordinate all the big community events for the county.

10 Q. Would you be known as an administrative staff for
11 the Rec Center?

12 A. Somewhat, yes.

13 Q. Do you have access to surveillance system?

14 A. I do.

15 Q. So I'd like to direct your attention to 2018.

16 A. Um-hum.

17 Q. About November. Did you have the occasion to
18 review surveillance footage?

19 A. Yes.

20 Q. And why was that?

21 A. Scott Morgan asked me to record some videos that
22 were part of an incident that occurred.

23 Q. And did you record everything?

24 A. I recorded the stuff that was given to me as well

1 as some things -- other things that we found.

2 Q. Okay. So you went and found times that were told
3 to you?

4 A. Yes.

5 Q. And then you also found additional times?

6 A. Yes.

7 Q. How did you find those?

8 A. Just reviewing the tapes, the surveillance tapes.

9 Q. How did you pick which angle would show what?

10 A. We reviewed various angles and picked out and
11 chose to record the ones that were most clear.

12 Q. Okay. And what did you do with those angles that
13 you found?

14 A. We recorded them, saved it, and then it was put
15 on a thumb drive and given to Scott Morgan.

16 Q. And are you aware of how the surveillance system
17 works for the Community Center?

18 A. Somewhat, yes.

19 Q. Is it recording all the time?

20 A. I believe so as long as there's movement.

21 MS. MAZZA: And, Your Honor, may I approach the
22 witness?

23 THE COURT: You may.

24 BY MS. MAZZA:

1 Q. Ma'am, I'm going to show you what's been marked
2 as Exhibit 20. Do you recognize that?

3 A. Yes.

4 Q. And how do you recognize that?

5 A. I signed it and dated it, initialed.

6 Q. What is on it?

7 A. It's the video clippings that we saved, that I
8 saved.

9 Q. That you saved?

10 A. Um-hum.

11 Q. Have you reviewed what's on Exhibit 20?

12 A. Yes.

13 Q. Is it a fair and accurate representation of the
14 videos you saved?

15 A. Yes.

16 MS. MAZZA: Your Honor, State would move to admit
17 Exhibit 20.

18 THE COURT: Any objection?

19 MS. RISTENPART: Same objection, Your Honor.

20 THE COURT: Objection is overruled. Exhibit 20
21 is admitted.

22 (Exhibit 20 admitted into evidence.)

23 BY MS. MAZZA:

24 Q. And are you aware of -- if Mr. Morgan had saved

1 some discs or footage as well?

2 A. Yes.

3 Q. Is it from the same surveillance system?

4 A. Yes.

5 MS. MAZZA: Your Honor, State would like to
6 publish Exhibit 20.

7 THE COURT: You may.

8 MS. MAZZA: All right. And for the record, I'm
9 placing Exhibit 20 to the player in the computer.

10 BY MS. MAZZA:

11 Q. Ms. Drees-Wasmer, do you recognize kind of what's
12 popped up on the screen?

13 A. Yes, I do.

14 Q. Opening the folder, do you recognize that even
15 more?

16 A. Yes, I do.

17 Q. What are these?

18 A. They are the recordings that I saved.

19 MS. MAZZA: I'm opening the player. And for the
20 record, I'm playing Rick Jenkins 1, ACC export, 11/20/2018.

21 BY MS. MAZZA:

22 Q. And now you pulled these in November?

23 A. I believe so, yes.

24 Q. Were you originally involved in any report

1 involved in this case?

2 A. No, I was not.

3 Q. Now, Ms. Drees-Wasmer, as I've indicated, this is
4 the Rick Jenkins 1, ACC export, 2018/11/20, 1:03:20.

5 What are we seeing here?

6 A. This is the front counter of the Community Center
7 side of the gym.

8 Q. And why did you record this area?

9 A. Mr. Jenkins is down on the second basketball
10 court up in the top right corner.

11 Q. And is he seen throughout this video?

12 A. Yes.

13 Q. And is there an area that's appropriate where --
14 to zoom in for -- to view him?

15 A. Yes. The top right corner where the walkway is
16 to go towards the basketball court.

17 (Video played.)

18 BY MS. MAZZA:

19 Q. And so this camera you have to zoom in a bit to
20 seed this; is that correct?

21 A. Yes.

22 Q. And so does this one -- when you're watching it,
23 if you zoom, does it pop you back out?

24 A. It does, yes.

1 Q. Do you know why?
2 A. I'm not sure.
3 Q. I'm going to show you what's been marked as
4 Exhibit 27.
5 MS. MAZZA: I'm showing it to Defense counsel.
6 BY MS. MAZZA:
7 Q. Do you recognize Exhibit 27?
8 A. Yes.
9 Q. How do you recognize it?
10 A. I signed and dated it.
11 Q. And what is it?
12 A. This is the recording of arcade window. So it's
13 of the --
14 Q. Where would that be?
15 A. -- video that we're watching.
16 Q. This one, the arcade?
17 A. No. This one is arcade window. I think this is
18 the other view. It might be this view, I'm not sure.
19 Q. Let me just hand you these two.
20 A. But it's of what we recorded.
21 Q. Do you recognize Exhibit 28 and 29?
22 A. Yes.
23 Q. What are those?
24 A. These are this video. This is a different one.

1 Q. What is Exhibit 28?

2 A. Is that this one here?

3 Q. Sorry. They have a number in the right -- right
4 on the top corner.

5 A. 28 is the first part of the bar stool area before
6 it cuts out and kicks you back away, and this one is zoomed in
7 after.

8 Q. And so are those the video we were just watching,
9 just zoomed in?

10 A. Yes.

11 Q. And so Exhibit 28 zoomed in, before it kicks you
12 out, does it fairly and accurately depict what we're seeing in
13 Exhibit 20?

14 A. Yes.

15 Q. Zoomed in?

16 A. Yes.

17 Q. And for Exhibit 28, does that fairly and
18 accurately depict the second portion of what we've just
19 watched on Exhibit 20 from September 17th, 2018?

20 A. 29, yes.

21 Q. Okay.

22 MS. MAZZA: Your Honor, State would move to admit
23 Exhibit 28 and 29 only.

24 THE COURT: Any objection?

1 MS. RISTENPART: Standing objection.

2 THE COURT: All right. Exhibits 28 and 29 are
3 admitted over objection.

4 (Exhibit 28 admitted into evidence.)

5 (Exhibit 29 admitted into evidence.).

6 MS. MAZZA: Your Honor, may I publish Exhibit 28
7 and 29?

8 THE COURT: You may.

9 BY MS. MAZZA:

10 Q. And now Exhibit 28, the part one, does it give a
11 better view of what's happening, that we're seeing in
12 Exhibit 20?

13 A. It's a closer view.

14 (Video played.)

15 BY MS. MAZZA:

16 Q. And is this the area that you were recording when
17 you chose to record this angle?

18 A. Yes.

19 Q. Is this when it kicks you back out of being
20 zoomed in?

21 A. Yes.

22 MS. MAZZA: Now, for the record, I'm putting
23 Exhibit 29 into the computer.

24 BY MS. MAZZA:

1 Q. Again, is this that same area we were looking at?

2 A. Yes.

3 (Video played.)

4 BY MS. MAZZA:

5 Q. Do you know who's depicted in this video?

6 A. Yes, three of them.

7 Q. So the male?

8 A. Mr. Jenkins.

9 Q. And do you know the female who is standing behind
10 him originally?

11 A. Yes.

12 Q. Without saying her name, do you know her
13 initials?

14 A. Yes.

15 Q. What are those?

16 A. GW.

17 Q. And is the date stamp on this correct?

18 A. Yes.

19 Q. What would that be?

20 A. That's September 17, 2018.

21 Q. And is that the entirety of what Exhibit 20,
22 Video 1, Rick Jenkins 1 shows?

23 A. Yes.

24 Q. And now I'm going back to Exhibit 20, Rick

1 Jenkins 2. Do you recognize this?

2 A. Yes.

3 Q. And in this video, is there any particular area
4 that is of importance?

5 A. I believe across the court and then in the bottom
6 right corner is a closet door that goes to our sports closet.

7 MS. MAZZA: For the record, I'm playing Rick
8 Jenkins 2 and I've zoomed into the court.

9 (Video played.)

10 BY MS. MAZZA:

11 Q. And again, are the time stamps on this accurate?

12 A. Yes.

13 Q. Now, going to Rick Jenkins 3, what are we seeing
14 here?

15 A. This is the entry way to the Community Center
16 side and the front counter.

17 Q. Is there any area, again, of importance or to
18 zoom in on?

19 A. Yes. The upper left area where they're walking
20 down the hallway.

21 (Video played.)

22 BY MS. MAZZA:

23 Q. Now, when they go outside, did you try to find
24 footage of them outside?

1 A. We did.

2 Q. Could you find any?

3 A. No, the angles of the cameras, we couldn't really
4 see where they went.

5 Q. And Rick Jenkins 4. So is this the same area?

6 A. Yes.

7 Q. Is there a particular area of importance, again,
8 to zoom in on?

9 A. Around where they get to the front counter.

10 Q. And can you explain just for when you're using
11 this program, how do you zoom in on something?

12 A. I use the hand tool on the top.

13 Q. Um-hum?

14 A. And I zoom in and then use the hand to pull the
15 camera around.

16 Q. Can you point or circle the hand on the screen in
17 front of you?

18 A. In the top right corner.

19 Q. Can you use the hand to find the area you want?

20 A. Um-hum.

21 Q. And then how do you zoom in?

22 A. The mouse that I use, I can usually just roll or
23 drag it and it zooms in.

24 Q. Can you press the plus button?

1 A. You can do that, too, yes.

2 Q. Okay. So I will -- using the plus button and
3 play this one as well.

4 (Video played.)

5 BY MS. MAZZA:

6 Q. And again, this is another video you saved?

7 A. Yes.

8 Q. And is the date and the time accurate?

9 A. Yes.

10 Q. Going to Rick Jenkins 5, what is this area?

11 A. This is basketball Court 2B.

12 (Video played.)

13 BY MS. MAZZA:

14 Q. And those two people leaving the room are, again,
15 Rick Jenkins and GW?

16 A. Yes.

17 Q. Rick Jenkins 5, and what is this one an
18 observation of?

19 A. This is the arcade room.

20 Q. And now an arcade room, do you have to manipulate
21 it to see what you had --

22 A. Yes.

23 Q. -- keyed in on, I guess you could say?

24 A. Yes.

1 Q. All right. I'm going to show you what's been
2 marked as Exhibit 27. The area that that shows, is that above
3 a certain area?

4 A. Yes, it's above the arcade.

5 Q. All right. And do you recognize that exhibit?

6 A. Yes.

7 Q. What is it?

8 A. This is a view -- zoomed in area of the arcade
9 area.

10 Q. And is it a fair and accurate representation of
11 if you were to zoom in on Exhibit 20?

12 A. Yes.

13 MS. MAZZA: Your Honor, the State would move to
14 admit Exhibit 27.

15 THE COURT: Any objection?

16 MS. RISTENPART: Standing objection.

17 THE COURT: Exhibit 27 is admitted.

18 (Exhibit 27 admitted into evidence.)

19 MS. MAZZA: Your Honor, may I publish Exhibit 27?

20 THE COURT: You may.

21 BY MS. MAZZA:

22 Q. And just to ask you, did you recognize
23 Exhibit 27, 28 and 29 based upon something specific on them?

24 A. Yes. I initialed and dated them.

1 Q. After reviewing them?

2 A. Yes.

3 Q. And I have placed Exhibit 27 in the computer.

4 And is that -- what do you call this area that we see?

5 A. This is the cut-out area behind the elevator.

6 Q. Why did you pick this angle of this?

7 A. It's the most clear for this cut-out.

8 Q. Any other cameras around the basketball court,
9 would you have to zoom in?

10 A. You can, but you would not get the full cut-out
11 of this area.

12 (Video played.)

13 BY MS. MAZZA:

14 Q. And removing Exhibit 27, I'll go back to
15 Exhibit 20, Rick Jenkins 7. And is this one that you found or
16 is it one that you were asked to retrieve?

17 A. I'm not 100 percent sure.

18 Q. You reviewed all of them, even the ones --

19 A. I did, yes.

20 Q. -- you were asked to --

21 A. I did.

22 (Video played.)

23 BY MS. MAZZA:

24 Q. I'm going to skip to Number 8, as I reviewed this

1 one. So again, I played 7, which was previously played
2 through another exhibit. Now, Rick Jenkins 8, what is our
3 view here?

4 A. This is the basketball Court 2A.

5 Q. And do you know who all these individuals are?

6 A. Yes.

7 Q. Who are they?

8 A. Mr. Jenkins, his daughter and GW.

9 Q. Now, Rick Jenkins 9, same view, same people?

10 A. Yes.

11 (Video played.)

12 BY MS. MAZZA:

13 Q. Now, Rick Jenkins 10. Is this the same people,
14 same location?

15 A. Yes.

16 (Video played.)

17 BY MS. MAZZA:

18 Q. Rick Jenkins 11. What area are we on again now?

19 A. This is Court 2B.

20 (Video played.)

21 BY MS. MAZZA:

22 Q. And again, did you try to find other angles of
23 what you see here?

24 A. Yes. They were not as clear as this angle.

1 Q. Rick Jenkins 12. And is this that same Court 2B?

2 A. Yes.

3 Q. And again, the time is accurate, not manipulated?

4 A. Yes.

5 Q. Rick Jenkins 13.

6 (Video played.)

7 BY MS. MAZZA:

8 Q. Is it helpful to zoom in on any area?

9 A. Yes, by the volleyball net.

10 Q. Rick Jenkins 14, again, is it helpful to zoom in
11 on any area?

12 A. Yes, same area.

13 (Video played.)

14 BY MS. MAZZA:

15 Q. Rick Jenkins 15. Again, is this the same area?

16 A. Yes.

17 (Video played.)

18 BY MS. MAZZA:

19 Q. Now, Ms. Drees-Wasmer, was -- when you pulled
20 these and I guess you could say saved them, what did you do
21 afterwards?

22 A. They were saved onto a thumb drive and it was
23 given to Scott Morgan.

24 Q. Are there a lot more camera angles than what are

1 shown here?

2 A. Yes.

3 Q. Did you -- why did you choose the ones you chose?

4 A. They were the most clear.

5 Q. And why did you choose the ones that you did
6 choose?

7 A. As far as the clips?

8 Q. Yes.

9 A. It looked like inappropriate behavior between a
10 coach and a student.

11 Q. And then you gave the recordings to Mr. Morgan?

12 A. Yes.

13 MS. MAZZA: Your Honor, I have no further
14 questions.

15 THE COURT: Okay. Cross-examination.

16 **CROSS-EXAMINATION**

17 BY MS. RISTENPART:

18 Q. Ms. Drees-Wasmer, am I saying that correct?

19 A. No, Drees.

20 Q. Drees-Wasmer?

21 A. Um-hum.

22 Q. We were just talking about, and you answered for
23 the State, that there is all different angles, the security
24 cameras; correct?

1 A. Yes.

2 MS. RISTENPART: And, Your Honor, if you could
3 switch over, I'm showing her State's Exhibit Number 20. Thank
4 you.

5 BY MS. RISTENPART:

6 Q. Now, before we even get to the camera angles, you
7 were told by Scott Morgan to go back and look at additional
8 videos; correct?

9 A. No.

10 MS. MAZZA: Objection, hearsay.

11 MS. RISTENPART: The effect on the listener.

12 THE COURT: Excuse me?

13 MS. RISTENPART: Effect on listener.

14 THE COURT: Sustained. The objection is
15 sustained. Go ahead.

16 BY MS. RISTENPART:

17 Q. Were you, at some point, instructed to go back
18 and look at more video?

19 A. No.

20 Q. You just did it on your own?

21 A. Yes.

22 Q. In November of 2018?

23 A. Yes.

24 Q. For events that allegedly occurred in September?

1 A. Yes.

2 Q. Of 2018?

3 A. (Nodded head.)

4 Q. And you -- were you looking for any kind of
5 particular video?

6 A. We were looking for anything that seemed similar
7 to what was reported, anything that seemed inappropriate or
8 uncomfortable.

9 Q. Did you look at other days?

10 A. I did.

11 Q. Besides September 17th and 19th?

12 A. Yes.

13 Q. And you saw nothing else?

14 A. Correct.

15 Q. Because you would have clipped it?

16 A. Correct.

17 Q. And you were looking only specifically for
18 interactions between someone identified to you as GW and
19 Mr. Jenkins; right?

20 A. Correct.

21 Q. Any interactions that he had with his daughter,
22 Alyssa, during the practices, you didn't clip?

23 A. Correct.

24 Q. Any interactions he had with other players during

1 that practice, you didn't clip?

2 A. No.

3 Q. Other times he went into the equipment room by
4 himself or with other players, you didn't clip that?

5 A. Nope.

6 Q. And when you were going back and looking at this,
7 you described it as you thought it was -- you clipped it
8 because you felt it was inappropriate for a coach player;
9 right?

10 A. Correct.

11 Q. You don't know Mr. Jenkins, do you?

12 A. No, I do not.

13 Q. You don't know GW, do you?

14 A. No, I do not.

15 Q. You have no idea what GW's relationship is to the
16 Jenkins family, do you?

17 A. No, I do not.

18 Q. You have no idea how close GW is to Mr. Jenkins
19 daughter, Alyssa?

20 A. No.

21 Q. You have no idea how often GW was at the Jenkins
22 home?

23 A. No.

24 Q. And also, when you clipped these, instead of

1 showing the whole entire practice, we're only seeing little
2 snippets; right?

3 A. Correct.

4 Q. And even some of the snippets that we were just
5 shown almost start in the middle of something going on or
6 finish before the conclusion. Like, for example, the video we
7 were watching and GW comes out of the closet, but we don't see
8 Mr. Jenkins?

9 A. Correct.

10 Q. And because it wasn't clipped even in November of
11 2018, it's since been recorded over and lost?

12 A. Correct.

13 Q. Whatever had not been clipped already by you?

14 A. Yes.

15 Q. And we were looking at what was referred to as 1A
16 CC export that you clipped on November 20th of 2018; correct?

17 A. Correct.

18 Q. And this one you stated you were taking from --
19 you had to zoom into that area where Mr. Jenkins was with
20 several other individuals; correct?

21 A. Correct.

22 Q. Now, you didn't talk to any of those individuals;
23 right?

24 A. No.

1 Q. You didn't interview them?

2 A. No.

3 Q. Ask them for what they saw or their perspective?

4 A. No.

5 Q. And they zoom in pretty far; right?

6 A. Yes.

7 Q. I'm showing you what's already been admitted as

8 Exhibit Number 21. There's another camera angle that captures

9 that area; correct?

10 A. Yes, I believe so.

11 MS. RISTENPART: Apologies, Your Honor.

12 BY MS. RISTENPART:

13 Q. And opening on Exhibit Number 21, it's labeled

14 Monday, September 17th, 8:39 to 8:41. This is another camera

15 that captures that area that you only have the back side of;

16 correct?

17 A. Correct.

18 Q. This was shown -- whoops, I have that -- another

19 angle of what was occurring; right?

20 A. Yes.

21 Q. But you didn't clip this angle?

22 A. No, I did not.

23 Q. You didn't clip this perspective?

24 A. No, I did not.

1 Q. And now this perspective angle of what we just
2 saw from behind is now forever lost?

3 A. Yes.

4 Q. And so on your own, as you stated in November of
5 2018, you went back to look at video to try to find some other
6 inappropriate behavior in your description; right?

7 A. Yes.

8 Q. And so who did you turn this video over to?

9 A. Which video? The one that I clipped?

10 Q. The one that you clipped?

11 A. To Scott Morgan.

12 Q. At any time, did you meet with law enforcement?

13 A. I did not.

14 Q. And so going back to your exhibits, Exhibit 20,
15 we saw that you clipped some on November 20th of 2018;
16 correct?

17 A. Yes.

18 Q. And also you went back seven days later on
19 November 27th of 2018; right?

20 A. I'm not 100 percent sure. I didn't look at the
21 date.

22 Q. Showing you Exhibit 20.

23 MS. RISTENPART: Apologies, Your Honor.

24 THE COURT: No problem.

1 BY MS. RISTENPART:

2 Q. Your date modified shows 11/20/2018 for several
3 clips; right?

4 A. Yes.

5 Q. And then shows 11/27/2018 for clips?

6 A. Correct.

7 Q. So again, just on your own, you decided seven
8 days later to go clip some more?

9 A. Yeah. So we were collecting it to put on the
10 disc. We kept watching to make sure we didn't miss anything.

11 Q. And who is "we"?

12 A. Myself and Scott Doerr clipped some of these
13 videos.

14 Q. Is Scott Doerr your supervisor?

15 A. No, he is a co-worker.

16 MS. RISTENPART: No further questions. Thank
17 you, Your Honor.

18 THE COURT: Redirect.

19 **REDIRECT EXAMINATION**

20 BY MS. MAZZA:

21 Q. Ms. Drees-Wasmer, would you have preserved the
22 footage if you had observed Mr. Jenkins inappropriate with
23 anyone else?

24 A. Yes, I would have.

1 Q. Why?

2 A. With the reports that we received, I would have
3 felt that that was important to bring to light to Mr. Scott
4 Morgan.

5 Q. Now, you said you could see who -- which one was
6 Mr. Jenkins' daughter; right?

7 A. Correct.

8 Q. Did you see him acting inappropriate with her?

9 A. No, I did not.

10 MS. MAZZA: Your Honor, I have no further
11 questions.

12 THE COURT: Recross.

13 MS. RISTENPART: Nothing on that.

14 THE COURT: All right. Ms. Ristenpart, may this
15 witness be excused?

16 MS. RISTENPART: Your Honor, I'm going to keep
17 her under subpoena at this time.

18 THE COURT: Okay. Ms. Drees-Wasmer, you might be
19 subject to recall here or you are subject to recall to the
20 stand. So I'm excusing you for today, but again, you might be
21 recalled.

22 Please do not discuss your testimony with anyone
23 except for the attorneys in this case or their investigators
24 until such time as the jury has reached a verdict.

1 You are excused at this time. Thank you.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: We are going to take our evening
4 recess. Madam Clerk, have all the exhibits been returned to
5 you?

6 THE CLERK: No, I need 20 and 21.

7 THE COURT: 20 and 21.

8 MS. RISTENPART: Your Honor, if we could turn off
9 my computer.

10 THE COURT: Yes.

11 MS. RISTENPART: Thank you.

12 THE COURT: We will reconvene tomorrow morning at
13 9 o'clock.

14 I admonish you, again, please understand it is
15 your duty not to converse amongst yourselves or with anyone
16 else on any subject connected with the trial either by phone,
17 email, text, internet or any other means.

18 Do not read, watch, or listen to any report of or
19 commentary on the trial or any person connected with the trial
20 by any medium of information, including, without limitation,
21 newspapers, television and radio.

22 Do not form or express any opinion on any subject
23 connected with the trial until the cause is finally submitted
24 to you. Do not do any research, such as consulting

1 dictionaries, using the internet, or using other referenced
2 materials, and do not make any investigation, test the theory
3 of the case, recreate any aspect of the case, or in any other
4 way investigate or learn about the case on your own.

5 Again, I would ask that you leave your notebooks.
6 I will collect those for the evening and they'll be handed out
7 again tomorrow morning. Again, we'll see you at nine o'clock.

8 Just like you did this morning, if you arrive a
9 couple minutes early, that helps us ensure a prompt start
10 time. Thank you, folks. We are in recess.

11 (Recessed at 4:58 p.m.)
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1 STATE OF NEVADA)
2 COUNTY OF DOUGLAS)

3

4 I, Michel Loomis, Certified Shorthand Reporter of
5 the Ninth Judicial District Court of the State of Nevada, in
6 and for the County of Douglas, do hereby certify:

7 That I was present in Department No. II of the
8 above-entitled Court and took stenotype notes of the
9 proceedings entitled herein, and thereafter transcribed the
10 same into typewriting as herein appears;

11 That the foregoing transcript is a full, true and
12 correct transcription of my stenotype notes of said
13 proceedings.

14 DATED: At Carson City, Nevada, this 2nd day of
15 July, 2021.

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//SHELLIE LOOMIS//
Shellie Loomis, CCR No. 228

1 Shellie Loomis
2 Capitol Reporters
3 628 East John Street #3
4 Carson City, NV, 89706
5 (775) 882-5322

6 IN THE NINTH JUDICIAL DISTRICT COURT
7
8 IN AND FOR THE COUNTY OF DOUGLAS, STATE OF NEVADA

9 STATE OF NEVADA,)
10)
11 Plaintiff,)
12)
13 vs.)
14)
15 RICHARD JENKINS,)
16)
17 Defendant.)
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25 AFFIRMATION

26 Pursuant to NRS 239B.030

27 The undersigned does hereby affirm that the following
28 document **DOES NOT** contain the social security number of
29 any person?

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CAPITOL REPORTERS (775) 882-5322

APP1140

1 Case No. 19-CR-0188

2 Department No. II

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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6

IN AND FOR THE COUNTY OF DOUGLAS

7

THE HONORABLE THOMAS W. GREGORY

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-oOo-

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STATE OF NEVADA,

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Plaintiff,

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vs.

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RICHARD ALEXANDER JENKINS,

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Defendant.

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TRANSCRIPT OF PROCEEDINGS

16

JURY TRIAL, VOLUME III

17

FRIDAY, APRIL 23, 2021

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MINDEN, NEVADA

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Reported by:

Shellie Loomis, RPR
Nevada CCR #228

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APPEARANCES

For the State: Chelsea Mazza, Esq.
Deputy District Attorney
Minden, Nevada

For the Witness: Theresa Ristenpart, Esq.
Reno, Nevada

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Tamara Woodbridge	614	628	643		642
G. W.	647	668	715	728	683
V. S.	734	743	747	749	
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RECEIVED

42	532
40	544
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MMM	672

1 **MINDEN, NEVADA, FRIDAY, APRIL 23, 2021, A.M. SESSION**

2 -oOo-

3
4 THE COURT: The Court is back in session on Case
5 Number 19-CR-188. I show the appearance of counsel for both
6 parties, as well as the Defendant.

7 Ms. Mazza, are you ready to bring in the jurors?

8 MS. MAZZA: Yes, Your Honor.

9 THE COURT: Ms. Ristenpart?

10 MS. RISTENPART: Yes, Your Honor.

11 THE COURT: All right. Thank you.

12 Deputy Schramm, let's bring in the jurors.

13 THE COURT: Ms. Mazza, do you stipulate to the
14 presence of the jurors?

15 MS. MAZZA: Yes, Your Honor.

16 THE COURT: Ms. Ristenpart?

17 MS. RISTENPART: I do, Your Honor.

18 (Jurors present.)

19 THE COURT: Please be seated, folks. And good
20 morning.

21 A JUROR: Good morning.

22 THE COURT: Ms. Mazza, you may call your next
23 witness.

24 MS. MAZZA: Thank you, Your Honor. The State

1 calls Scott Doerr.

2 THE COURT: Mr. Doerr, please raise your right
3 hand, face the Court Clerk to be sworn.

4 SCOTT DOERR,
5 called as a witness on behalf of the
6 STATE, was duly sworn and
7 testified as follows:

8 THE COURT: All right. Mr. Doerr, come on up to
9 the witness stand.

10 I seem to be hearing some sound coming from the
11 jury box. Does somebody have their cellphone on?

12 A JUROR: It's a hearing aid, your Honor. He's
13 fixing his hearing aid.

14 THE COURT: Okay, thank you. All right.
15 Mr. Kingman, we're good?

16 A JUROR: Great.

17 THE COURT: All right. Very good.

18 Mr. Doerr, go ahead and have a seat, make
19 yourself comfortable.

20 THE WITNESS: Thank you.

21 **DIRECT EXAMINATION**

22 BY MS. MAZZA:

23 Q. Good morning, sir. Can you please state your
24 full name and spell your last name?

1 A. My name is Scott Doerr. D-O-E-R-R.

2 Q. And Mr. Doerr, how are you employed?

3 A. I'm employed with Douglas County as a recreation
4 coordinator.

5 THE COURT: Mr. Doerr --

6 Sorry, Ms. Mazza.

7 Would you remove your mask, please?

8 THE WITNESS: Yes.

9 THE COURT: Okay.

10 MS. MAZZA: And, Your Honor, I was going to ask:

11 Is it better for persons to hear, if I'm closer to the
12 microphone, if I sat down?

13 THE COURT: If what?

14 MS. MAZZA: If I sit down? Is that helpful to
15 people who can't hear?

16 THE COURT: Let me just ask. This is a good
17 opportunity to make sure everybody has been hearing things so
18 far. If you would, raise your hand if you've been having
19 difficulty hearing?

20 MS. MAZZA: Okay.

21 THE COURT: All right. No hands.

22 So Ms. Mazza, however you're comfortable.

23 MS. MAZZA: Thank you, Your Honor.

24 THE COURT: You're welcome.

1 BY MS. MAZZA:

2 Q. So Mr. Doerr, I'll go back. You said how you are
3 employed?

4 A. I'm a recreational coordinator for the County of
5 Douglas.

6 Q. And how long have you been so employed?

7 A. 2014 for the County, and I've been a recreational
8 coordinator for five years, six years.

9 Q. And can you give the jury kind of an idea of your
10 job duties?

11 A. Yeah, I'm in charge of all the sports, all the
12 youth and adult sports, at the Community Center.

13 Q. And is your office located at the Community
14 Center?

15 A. It is. It's on the recreational side, which is
16 the gymnasium side, and my office is behind the front counter.

17 Q. And through your duties and your job, do you take
18 reports for any kind of incidents?

19 A. Not on a regular basis, but this situation was a
20 little bit different.

21 Q. When you say "this situation," are you referring
22 to September of 2018?

23 A. I am.

24 Q. What happened then?

1 A. Well, I just so happened to be working late that
2 day, and there was a report filed. And I was likely the most
3 senior employee on staff, so the report was given to me.

4 Q. When you say "that day," are you aware of what
5 day?

6 A. September 19th, 2018, to my recollection.

7 Q. And what sort of report did you receive?

8 A. It was a report that outlined a situation that we
9 felt was volatile and needed immediate attention.

10 Q. So upon receiving that report, were you able to
11 distinguish who was being reported?

12 A. Yes.

13 Q. Who was that?

14 A. Rick Jenkins.

15 Q. Do you see him here in the courtroom today?

16 A. I do.

17 Q. What color shirt is he wearing?

18 A. He's wearing a blue shirt.

19 MS. MAZZA: Your Honor, the State would request
20 that the record reflect identification of the Defendant.

21 THE COURT: The record will so reflect.

22 BY MS. MAZZA:

23 Q. And that report involving Mr. Jenkins, what was
24 it regarding?

1 A. It was regarding inappropriate behavior with a
2 minor.

3 Q. Were you able to identify who that minor was?

4 A. I did not know her name at the time. Certainly I
5 do now. But yes, I knew which one they were talking about.

6 Q. What are her initials?

7 A. GW.

8 Q. Based upon this report you received, what did you
9 do?

10 A. I immediately started viewing video. The
11 gentleman was in the gymnasium at the time, so I turned on the
12 surveillance system and I started monitoring him.

13 Q. Were you monitoring him in real time, or looking
14 back?

15 A. In real time, prior to receiving the report. And
16 then once I received the report, I was able to pinpoint
17 certain incidents that required attention.

18 Q. So let me -- it sounds like two separate times
19 that you looked at the surveillance?

20 A. (Nodded head.)

21 Q. You said originally you watched him in real time,
22 when you hadn't received a report yet?

23 A. That's correct.

24 Q. Why did you go look at the surveillance then?

1 A. I was informed by the front counter. Where my
2 desk sits, I can't see the gymnasium. I was informed by the
3 front counter --

4 MS. RISTENPART: Objection, hearsay.

5 A. -- that there had been a situation --

6 THE COURT: Hold on. There's been an objection.

7 Ms. Mazza?

8 MS. MAZZA: Your Honor, this would be the effect
9 on the listener; why he looked at surveillance the first time.

10 THE COURT: All right. The objection is
11 sustained.

12 BY MS. MAZZA:

13 Q. So you received this initial -- or you initially
14 looked at the surveillance footage; is that correct?

15 A. Um-hum.

16 Q. And now, without telling us what someone said to
17 you, why did you look at it? Was there a written report filed
18 yet?

19 A. Not at that time, it was verbal.

20 Q. Did someone come and talk to you in person?

21 A. Yes.

22 Q. Who was that?

23 A. Her name was Jennifer Calabrese.

24 Q. And that alerted your attention to Mr. Jenkins?

1 A. Yes.

2 Q. And you started watching in real time?

3 A. Yes.

4 Q. What did you do after that?

5 A. After that, I continued the work that I was
6 doing, while I had the monitor up. I have dual screens, so I
7 was continuing my work while I had the monitor up, paying
8 close attention to the -- to his whereabouts throughout the
9 building.

10 Q. Did anything else happen that caused you to do
11 more than just watch him in real time?

12 A. Someone came to the counter and reported -- I'm
13 sorry, I'm trying not to do hearsay.

14 So someone came to the counter, reported an
15 incident. I then in turn said, "Please have them fill out an
16 incident report." Because we have miles of video, and in
17 order to pinpoint specific times, I need to know when and
18 where that happened.

19 Q. And did that report you asked to get in writing
20 have more detail?

21 A. Yes. Definitely.

22 Q. Did that enable you to actually find what was
23 concerning?

24 A. Absolutely.

1 Q. Did you, in fact, find footage that was
2 concerning?

3 A. I found footage immediately.

4 Q. Did you record that in any way?

5 A. I didn't -- I noted it. I'm familiar with the
6 surveillance system, and I'm sure I could figure out how to
7 download and record that information.

8 But that -- I hadn't done it before, so I just
9 noted dates and times, and eventually forwarded that
10 information to our director.

11 Q. And who is your director?

12 A. His name is Scott Morgan.

13 Q. And after looking at that additional footage,
14 sending the information on to Scott Morgan, what else did you
15 do?

16 A. It came to my attention that the situation was
17 escalating, and it was time to do something.

18 Q. And by "escalating," how are -- what do you mean
19 by that?

20 A. I was informed that the Defendant was
21 inappropriately --

22 MS. RISTENPART: Objection to hearsay.

23 THE COURT: Sustained.

24

1 BY MS. MAZZA:

2 Q. Who did you talk to about this?

3 A. I talked to Jennifer Calabrese.

4 Q. Did you speak with Kurt Ahart?

5 A. I did.

6 Q. What did -- did you guys decide to do anything,
7 after all of your conversations?

8 A. I did. I knew it was time to have a conversation
9 with Rick Jenkins. So, not wanting to do it by myself, I
10 grabbed Kurt Ahart, who was the supervisor on duty, and I
11 said, "Come with me. We're going to take care of this."

12 Q. And by "take care of this," what did you mean?
13 What did you do?

14 A. Well, Rick Jenkins was in a location that was not
15 visible on our surveillance system. So we walked over there
16 together, and I said, "Rick, we need to talk to you."

17 Q. What did he say in response?

18 A. He said "Okay."

19 Q. What did you observe when you approached him?

20 A. I observed Rick's arm around GW.

21 Q. Where?

22 A. They were in a location inside our gymnasium
23 which is now a rock wall area, but it was called the Squishy
24 Room prior to the rock wall being built.

1 And basically what it was is a giant mattress
2 with 16, 18-inch foam that we put down temporarily for the
3 kids so they wouldn't get hurt in that -- in that area.

4 Q. Mr. Doerr, I'm going to approach you with what's
5 been marked as Exhibit 42. Do you recognize Exhibit 42?

6 A. Yeah.

7 Q. What is that?

8 A. That's our gymnasium side of the Community
9 Center.

10 Q. Is that a fair and accurate representation of the
11 gymnasium side of the Community Center?

12 A. It is.

13 MS. MAZZA: Your Honor, the State would move to
14 admit Exhibit 47 -- 42.

15 THE COURT: Any objection?

16 MS. RISTENPART: No objection.

17 THE COURT: 42 is admitted.

18 (Exhibit 42 admitted into evidence.)

19 BY MS. MAZZA:

20 Q. And Mr. Doerr, I've handed you a pen. On that
21 pen [sic], can you mark where it was that you approached --

22 A. Can I pull this down here?

23 Q. Sorry?

24 A. Can I bring this down here?

1 Q. Yes?

2 A. So just mark where --

3 Q. Where you located Mr. Jenkins?

4 A. -- where I saw him?

5 Q. -- and GW?

6 A. Just with an X or something?

7 Q. Yes. If you could put an X or a circle, and then

8 we can put your initials and the date?

9 A. (Complies.)

10 23?

11 Q. Yes.

12 And Mr. Doerr, you've indicated you observed them

13 in this area. You put an X in the corner of the area you

14 described as the Squishy Room?

15 A. Um-hum.

16 Q. And now explain to us why that's not on

17 surveillance?

18 A. The camera is located in a location that shows

19 the entire squishy area; but that particular spot has a little

20 notch in it, and for whatever reason, the camera does not

21 expand into that location.

22 Q. Does it catch the two corners of that kind of

23 half circle shape?

24 A. No, it doesn't catch either corner.

1 Q. Okay. And that's where you located Mr. Jenkins
2 with GW?

3 A. Yes.

4 Q. And how were they situated?

5 A. They were sitting down on the -- for lack of a
6 better word, mattress floor, arm in arm.

7 Q. Was Mr. Jenkins' arm over GW?

8 A. Yes, around her shoulder.

9 Q. How was -- how was she situated to him?

10 A. He had his right arm around her.

11 Q. And were they sitting, backs against the wall,
12 hip to hip?

13 A. Correct.

14 Q. Can you tell us a little bit more about the
15 Squishy Room? So at that time, it was kind of an in-between
16 room; is that correct?

17 A. Yeah.

18 Q. And who would hang out in there?

19 A. The kids liked it because they -- they could go
20 back there and wrestle and play dodgeball. And it was like a
21 bouncy house, I guess.

22 Q. Mostly children?

23 A. Yeah.

24 Q. So when you approached Rick, what did you say?

1 A. I said, "May I speak with you?"

2 Q. And did he speak with you?

3 A. He then stood up and I walked, with Kurt,
4 probably 30, 40 feet away, out of earshot of GW, and I had a
5 conversation with him at that time.

6 Q. What did he say about the contact that was
7 happening?

8 A. Well, I said, "Whatever this is, this
9 relationship is making many people in this facility extremely
10 uncomfortable."

11 Q. Did Mr. Jenkins respond to that?

12 A. He did.

13 Q. What did he say?

14 A. He said, "Oh well, GW is just my daughter's best
15 friend. And it's just, it's just fun, and we've always been
16 like this; and you know, sometimes she spends the night at our
17 house," and he just kept talking fast. And -- and he just --
18 he seemed a little nervous, a little uncomfortable.

19 Q. Did he talk to you about his relationship in
20 relation to GW; so what kind of a person he was in her life?

21 A. Yeah. He mentioned that GW's father had recently
22 passed, and he had taken on the responsibility of a father
23 figure.

24 Q. Did he admit their relationship was touchy at

1 all?

2 A. Well, I didn't necessarily ask him if he was
3 touching her; I saw with my eyes. And knowing what's
4 appropriate and what's not in the world of sports, I felt like
5 it was time to do something.

6 Q. So, in the world of sports, did you know
7 Mr. Jenkins prior to this?

8 A. Yeah.

9 Q. How did you know him?

10 A. He has been a volleyball coach in the valley for
11 a long time.

12 Q. A coach for what types of teams?

13 A. For primarily youth girls' volleyball.

14 Q. When you were speaking with him after leaving the
15 area better known as the Squishy Room, did he talk about
16 Douglas High School at all?

17 A. He did. I walked over there with Kurt; Kurt also
18 interjected. Following that, he said, "Oh, you know what,
19 this happened at the high school too. It's nothing."

20 Q. And do you recall what day this was?

21 A. September 19th, 2018.

22 Q. And so at this point when you approached
23 Mr. Jenkins, had you already viewed footage? Had you already
24 observed surveillance footage of Mr. Jenkins and GW?

1 A. Before I approached him?

2 Q. Yes?

3 A. I believe so, I can't say definitely.

4 Q. And do you recall which clips you saw when you
5 were observing the surveillance footage?

6 A. Well, the first clip I saw was the embrace that
7 Ashley Gosney saw, witnessed, and then wrote in a report.

8 Q. And after seeing that, did you look for anything
9 more?

10 A. Yeah, yeah, definitely.

11 Q. What did you find?

12 A. I found multiple situations that could be viewed
13 as inappropriate behavior between a coach and a player.

14 Q. And what date were these from?

15 A. Several. Rick had a camp going on at our
16 facility, and I don't remember if it was Tuesday/Wednesday,
17 Tuesday/Thursday, Monday/Wednesday or what.

18 But -- but I went back throughout each one of
19 those cams with my co-worker, Georgianna Drees-Wasmer, and
20 pulled what we thought was potential evidence, yes.

21 Q. And you indicated that you looked at certain
22 days. Were those based upon the reports you received?

23 A. The days were based on when I knew this camp was
24 happening.

1 Q. And you also said you have "miles of surveillance
2 footage." What does that mean?

3 A. That means we have multiple cameras throughout
4 the facility. There are 40 to 50 cameras, and it films every
5 minute of every day.

6 Q. Did you look back through the entire summer at
7 Mr. Jenkins and GW? Of 2018?

8 A. No, I didn't have a reason to.

9 Q. And you looked at the ones that were reported; is
10 that correct?

11 A. Definitely.

12 Q. And so Mr. Doerr, I'm going to show you what's
13 been marked as Exhibit 20. Previously marked and admitted.

14 MS. MAZZA: Your Honor, if I could display
15 through my laptop, please? Okay.

16 For the record, I've placed what's been
17 previously admitted as Exhibit 20.

18 (Exhibit 20 published to the jury.)

19 BY MS. MAZZA:

20 Q. So you mentioned Georgianna Drees-Wasmer. What
21 kind of connection did the two of you have between looking
22 through this surveillance footage?

23 A. Well, we have the same job at the Community
24 Center. She is a recreational coordinator as well, for senior

1 recreation, and I am for sports.

2 Q. And did you both go through the surveillance
3 footage?

4 A. Yeah.

5 Q. Was that together, or how did that work?

6 A. Well, we knew that there was a lot of it, and
7 there was a lot of information to cover, so I believe we split
8 it up every other day: You take these days, I'll take those
9 days.

10 MS. MAZZA: And now for the record, I'm opening
11 the player in Exhibit 20.

12 BY MS. MAZZA:

13 Q. You mentioned an embrace that you pulled up that
14 Ashley Gosney had seen. Where was that located?

15 A. That's located in an area directly behind our
16 elevator. And on the other side is a brick wall where the
17 restrooms are. It's kind of a little cut-out. And in there,
18 we have two TV monitors where the kids play video games.

19 MS. MAZZA: So I'm playing Video 6, Rick
20 Jenkins-6 A CC Export.

21 (Video played.)

22 BY MS. MAZZA:

23 Q. Is this what were you referring to?

24 A. Yeah, that's the -- what we call the arcade.

1 It's kind of where the kids hang out during non-COVID times
2 and recreate.

3 Q. So are the lights on in the arcade?

4 A. No.

5 Q. When are they on or off?

6 A. They're typically on during business hours. I
7 don't know what time this was. I mean, I could look at the --

8 Q. Is the time stamp correct on these?

9 A. Yeah. As far as I know. I mean, we close at
10 9 o'clock, so the front counter was likely getting ready to
11 close and they had begun their closing duties.

12 Q. So if the lights are off, are people in there?

13 A. No, there's no one in there.

14 MS. RISTENPART: Objection, speculation.

15 MS. MAZZA: Your Honor --

16 THE COURT: Sustained.

17 You can follow up.

18 BY MS. MAZZA:

19 Q. Based upon your experience, how long have you
20 worked at the Rec Center?

21 A. How long have what?

22 Q. How long have you worked at that building?

23 A. Since it opened, in 2014.

24 Q. Is your office near to that arcade?

1 A. I would say it's maybe 75 feet away.

2 Q. Do you pass by that on a daily basis, the arcade?

3 A. Many times.

4 Q. From your experience, have you seen people in
5 there when it's dark?

6 A. Not that I can recall.

7 Q. And so playing Rick Jenkins-6, is there a
8 specific area to look at in this exhibit?

9 A. Yeah, we don't have a camera that shoots into the
10 previously-discussed area behind the elevator from the other
11 side. But I knew that this one has a zoom lens and has the
12 ability to be maneuvered into that area.

13 So I started here (indicating). And where it's
14 most light, you can see a square. That's the area where I
15 zoomed down and in.

16 Q. And now, I'm just going to pause it for a moment.

17 You said there is not a camera that captures the
18 area they were in?

19 A. From the other side.

20 Q. From the other side.

21 Is there another camera in that area?

22 A. In that -- in the area where Rick is?

23 Q. Yes?

24 A. No.

1 Q. From a --

2 A. They shoot up and down the hallway.

3 Q. What about a camera right here?

4 A. That's correct. It shoots -- it shoots into the
5 arcade, though. It doesn't shoot into that area.

6 Q. Does it capture -- or did you review that one, or
7 you found this image to capture the moment the best?

8 A. This was the best view, so I went with that.

9 Q. And are you an expert on the surveillance system
10 at the Rec Center?

11 A. I wouldn't consider myself an expert.

12 Q. Is there people that -- maybe your director, know
13 more about the areas?

14 A. He helped lay out and design the building; so
15 yeah, he knows about the building and the camera -- camera
16 angles and their locations.

17 I mean, I have a pretty good understanding,
18 having been there so long; but he can, he can certainly tell
19 you much more about it.

20 Q. Now, from the video you observed, did you observe
21 any that were in another location? So we've discussed the
22 Squishy Room; we've discussed this area outside the arcade.
23 Any other video you pulled from other areas?

24 A. Primarily where he was working from was Court 2B,

1 so I took several looks at that. I also took a look at the
2 entrance to the building, and up and down the hallways, just.

3 Q. So, let's talk about 2B. Was there any footage
4 that you ended up pulling from that area?

5 A. Well, like I said, I didn't pull any, but I wrote
6 down some dates and times that were concerning.

7 Q. Okay. Wrote down some from that area?

8 A. Um-hum.

9 Q. What about that area was concerning?

10 A. Well, we have, where I keep all my sporting
11 equipment, a giant closet. It's probably 30, 40 feet long.
12 It has two entrances. And I had noticed multiple times that
13 Rick and GW went into that room alone.

14 MS. MAZZA: Your Honor, I'm going to approach
15 with what's been marked as Exhibits 40 and 41.

16 BY MS. MAZZA:

17 Q. Mr. Morgan, do you recognize Exhibit 40?

18 A. I'm Mr. Doerr.

19 Q. Too many Scotts.

20 Mr. Doerr, do you recognize Exhibit 40?

21 A. Yeah.

22 Q. What is that?

23 A. Well, this is during construction of the rock
24 wall, so all of that material is not typically there. But

1 those two doors that you see are the sports closet.

2 Q. And now with that in mind, that the construction
3 equipment is there, is that a fair and accurate representation
4 of the doors to the equipment closet?

5 A. Yeah.

6 MS. MAZZA: Your Honor, the State would move to
7 admit Exhibit 40.

8 THE COURT: Any objection?

9 MS. RISTENPART: No, we have no objection.

10 THE COURT: 40 is admitted.

11 (Exhibit 40 admitted into evidence.)

12 BY MS. MAZZA:

13 Q. Now Mr. Doerr, I'm going to hand you what's been
14 marked as Exhibit 41. Again, do you recognize that?

15 A. Yeah, that's the room from another angle.

16 Q. Is that also during the construction?

17 A. Yeah. I was -- I was working at the facility
18 during the COVID lockdown, and that's when they constructed
19 the wall.

20 Q. Okay.

21 A. And yes, I recognize their staging area, so to
22 speak. That's where they put all their stuff.

23 Q. So going back to 2018, aside from that equipment,
24 is that a fair and accurate representation of that area?

1 A. Yes.

2 MS. MAZZA: Your Honor, the State would move to
3 admit Exhibit 41.

4 THE COURT: Any objection?

5 MS. RISTENPART: No objection.

6 THE COURT: 41 is admitted.

7 (Exhibit 41 admitted into evidence.)

8 BY MS. MAZZA:

9 Q. Now, with --

10 MS. MAZZA: Your Honor, could we switch to the
11 projector?

12 THE COURT: I think you might need to do that on
13 your end, Ms. Mazza, thank you.

14 BY MS. MAZZA:

15 Q. And now, looking at Exhibit 41, so is this some
16 of the area that you pulled footage from?

17 A. Yes.

18 Q. Why?

19 A. I used a different camera, because the center
20 partitions were down. And that's a regular practice during
21 volleyball, so you don't have to shag the balls. It's a huge
22 gymnasium, so you don't want to be shagging balls all the way
23 over on the other side. So we put down center partitions.
24 And at this angle, we could not see during the time that I

1 pulled video.

2 Q. And so, the angle that you observed best was from
3 where?

4 A. If you look at the door on the right-hand side.
5 Yeah, there.

6 Q. And you can mark on the screen above you.

7 THE COURT: You just touch it.

8 BY MS. MAZZA:

9 Q. By touching the screen.

10 A. Oh, I'm sorry.

11 So right here is a maintenance closet. There's
12 all sorts of tools and supplies in there for our maintenance
13 man. And right above that, there's a camera in the corner
14 there.

15 BY MS. MAZZA:

16 Q. And the two sets of doors that we see, where do
17 those go?

18 A. Into the sports closet.

19 Q. Are you in charge of that sports closet?

20 A. I don't know that I'm in charge of it, but all of
21 my materials are in there. And so I'm -- I use it more than
22 most, I want to say.

23 Q. How do you keep your materials in that closet?

24 A. Well, I put the -- there are big bins that sort

1 the balls, the basketballs from the volleyballs, the
2 volleyballs from the soccer balls. I have all the equipment
3 that is used in volleyball primarily on the right-hand side.
4 All the equipment that I use for flag football, for
5 basketball, on the left-hand side.

6 I do -- we all do our very best to keep that
7 organized. It's in our best interests.

8 Q. Now, looking at Exhibit 40, is this another view
9 of those doors?

10 A. Yeah. This -- this doesn't appear to come from a
11 security camera, however.

12 BY MS. MAZZA:

13 Q. There's no security camera that captures that
14 angle; is that correct?

15 A. Correct.

16 Q. And in discussing -- so you pulled footage from
17 the area of near the arcade. Or not pulled; you found and
18 noted footage from the area near the arcade, as well as
19 footage above these equipment closet doors; is that correct?

20 A. That's correct.

21 Q. And then you indicated you found some in the
22 entryway; is that correct?

23 A. Yes.

24 MS. MAZZA: And again, I have Exhibit 20

1 displayed. Rick Jenkins-3.

2 BY MS. MAZZA:

3 Q. Is this some of the footage you found?

4 A. It is.

5 Q. Is there an appropriate area to zoom in on this
6 video?

7 A. On the hands.

8 Q. Did you ever look to pull footage from outside of
9 the Rec Center?

10 A. Yeah, I was just interested in seeing where they
11 were going and why.

12 Q. Did you find it? Were you able to pull any
13 footage of them outside?

14 A. I didn't pull footage, I looked at it, but I
15 didn't see anything relevant.

16 Q. Was there an angle outside that was able to
17 capture them well?

18 A. Yeah, we have cameras everywhere.

19 Q. Looking at Exhibit 4 -- I apologize, Exhibit 20,
20 Video 4, is this also footage that you found?

21 A. Yeah. Not long after they went outside, they
22 came back in. I didn't -- I didn't look at the times when
23 they walked out. It wasn't too long.

24 Q. So when discussing Mr. Jenkins, you indicated

1 you'd known him before this occurred, this incident occurred
2 or was reported; is that correct?

3 A. I guess you could define "know." Yeah, I know
4 him. I know who he is. I've -- yeah, I've had discussions
5 with him. And, yeah, I know him.

6 Q. How often would you describe he would come to the
7 Rec Center?

8 A. Regularly. He's an avid pickleball player, so he
9 came frequently.

10 Q. "Frequently," like multiple times a week?

11 A. I would say so, yeah.

12 Q. Now, going back to the equipment closet, if there
13 are flat balls in that closet, where do you pump them up?

14 A. We have a compressor in the front of the
15 building, behind the front counter.

16 MS. MAZZA: Your Honor, I have no further
17 questions.

18 THE COURT: Cross-examination?

19 MS. RISTENPART: Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 BY MS. RISTENPART:

22 Q. Mr. Doerr, you just testified that you looked at
23 a lot of the video surveillance; right?

24 A. Correct.

1 Q. It sounds like hours and hours of video
2 surveillance?

3 A. I spent too many hours on it, I can tell you that
4 much.

5 Q. And you say that the Rec Center has an extensive
6 camera system; right?

7 A. It does.

8 Q. Your estimation, there's 40 to 50 cameras there?

9 A. Yes. And I just found out that there's --
10 there's three or four cameras within each pod, so there's over
11 a hundred different views and angles.

12 Q. Over a hundred different views and angles.

13 Now, going back to September of 2018, you stated
14 that you were made aware of a report by Ashley Gosney and Nick
15 Lonnegren on September 17th, 2018; correct?

16 A. I believe that report came in on September 19th,
17 2018.

18 Q. For some allegation from September 17th of 2018;
19 correct?

20 A. That's correct.

21 Q. And when you received the report, it was brought
22 to you by Jennifer Calabrese?

23 A. Yes.

24 Q. And you've just told us that you immediately

1 turned on your monitor to start observing, because by
2 happenchance [sic], Mr. Jenkins was already still at the Rec
3 Center that day; right?

4 A. When I received the verbal report, I turned on
5 the surveillance system.

6 Q. And you were working, but you were also
7 looking --

8 A. Um-hum.

9 Q. -- at interactions?

10 A. True.

11 Q. And during that time, you didn't see anything
12 inappropriate; right?

13 A. Who didn't see anything inappropriate?

14 Q. At the time, while you were viewing it --

15 A. Uh-huh.

16 Q. -- you didn't see anything inappropriate; right?

17 A. No, nothing that got me out of my seat
18 immediately.

19 Q. Because if you had, you're a mandatory reporter;
20 right?

21 A. Yeah.

22 Q. Yeah. And if you'd seen something inappropriate,
23 you would have immediately jumped up --

24 A. Yeah.

1 Q. -- to go do something; right?

2 A. Yeah.

3 Q. And then another colleague, Kurt Ahart -- am I
4 saying that name right?

5 A. "Ahart."

6 Q. Ahart, thank you.

7 A. You're welcome.

8 Q. You, he and Jennifer were talking about the
9 report, Ashley and Nick's report; right?

10 A. I don't know if they were talking with each other
11 or not.

12 Q. But you then decided to go tell Mr. Jenkins with
13 Kurt that there was some people who were feeling uncomfortable
14 with his behavior or interactions with GW; right?

15 A. Correct. Later, later. I don't know how much
16 later, but it was a while later.

17 Q. And we're talking all in the same day,
18 September 19th?

19 A. Yes.

20 Q. And when you approached Mr. Jenkins and GW, you
21 said they were in the Squishy Room. And the Squishy Room, I
22 know the State asked you, you said mainly kids who hang out
23 there?

24 A. Yeah.

1 Q. Parents also hang out there too?

2 A. I've never seen parents jumping around in the
3 Squishy Room, no.

4 Q. I'm not saying jumping around in the Squishy
5 Room. But they hang out there also?

6 A. I've never seen it.

7 Q. You're claiming you've never seen a parent in the
8 Squishy Room?

9 A. Maybe to grab their kid and -- and go. I'm just
10 being honest.

11 Q. And so when you went over there, you saw GW,
12 Mr. Jenkins were sitting there. Their backs were up against
13 the wall; right? Leaning against the wall?

14 A. Um-hum.

15 Q. And you saw Mr. Jenkins had his arm around GW's
16 shoulders?

17 A. Yes.

18 Q. You never saw Mr. Jenkins touch GW on the butt;
19 right?

20 A. On surveillance, yes.

21 Q. Okay. You're claiming what you think you saw,
22 but you never personally saw anything?

23 A. On surveillance.

24 Q. When you walked over to the Squishy Room to

1 Mr. Jenkins and GW, did you see his hand anywhere but other
2 than on her shoulder?

3 A. No.

4 Q. Now, when you talked to Mr. Jenkins, you said
5 that you told him that some people had commented on how his
6 interactions with GW made them feel uncomfortable; right?

7 A. (Nodded head.)

8 Q. And you just testified that Mr. Jenkins was like,
9 "Oh, well no, she's my daughter's best friend;" right?
10 Explaining to you?

11 A. Um-hum.

12 Q. Now, you don't know GW at all; right?

13 A. No.

14 Q. In fact, you didn't even know her name?

15 A. I didn't know her name.

16 Q. And you don't know or have any idea about GW's
17 relationship with the Jenkins family, do you?

18 A. I don't, no.

19 Q. You have no idea how close she was to the Jenkins
20 family?

21 A. I have no idea.

22 Q. Do you have any idea how often GW was over at the
23 Jenkins household?

24 A. No.

1 Q. You have no idea what the relationship between GW
2 and the Jenkins family is?

3 A. Nope.

4 Q. And you kept stating that, in your opinion, it
5 was inappropriate for a player and coach; right?

6 A. In my opinion.

7 Q. That was what you were basing your opinion on;
8 right? A player/coach relationship?

9 A. Yeah, that's what I do for a living.

10 Q. Not based upon a family friend relationship?

11 A. No.

12 Q. And you also stated that Mr. Jenkins seemed
13 uncomfortable, or I think you said the word like "nervous" and
14 "uncomfortable" when you guys were talking to him?

15 A. That's how I would describe his demeanor.

16 Q. As he was trying to explain to you the nature of
17 the relationship with GW?

18 A. Correct.

19 Q. And frankly, you were kind of like, "I don't --
20 we're not talking about it;" right? You didn't give him much
21 time to explain?

22 A. Yeah, we're basically: Whatever this is, is
23 going to end now.

24 Q. And what time did you have that conversation with

1 Mr. Jenkins --

2 A. What time?

3 Q. -- on September 19th? Um-hum?

4 A. It's two and a half years ago. I don't know.

5 Q. Was it before practice?

6 A. It was during practice, perhaps? They were on
7 break, maybe.

8 Q. But you didn't bother to clip any video of your
9 interactions with Mr. Jenkins from that day, did you?

10 A. It may have been in the -- or the email that I
11 sent Scott Morgan, but I haven't seen it since.

12 Q. Now, the State just talked to you about that
13 little area right by -- and we watched the video, by the
14 arcade room; correct?

15 A. Yes.

16 Q. And you stated that that is -- it was pointed out
17 to you that there was a video camera right above that area;
18 right?

19 A. What was pointed out to me?

20 Q. The State just pointed out to you on the video
21 that there is a video surveillance camera right over that
22 area?

23 A. In the arcade room? The one I had forgotten
24 about, yes.

1 Q. And you said, "Well, it really doesn't show that
2 area;" right?

3 A. I may have looked at it, but it wasn't the best
4 view of the incident.

5 Q. And you did nothing to preserve that video, did
6 you?

7 A. It was of no use to us, no.

8 Q. In your opinion; correct?

9 A. In my opinion, sure.

10 Q. I'm showing you what's already been admitted as
11 Exhibit E.

12 And this is from the bank of monitors, Mr.
13 Doerr --

14 A. Um-hum.

15 Q. -- as you walk into the security -- or excuse me,
16 into the Rec Center?

17 A. It is.

18 Q. Correct?

19 And do you see right here?

20 A. I do see there, yeah.

21 Q. And that is the video that captures that area;
22 correct?

23 A. Yeah, that must be from that camera.

24 THE COURT: Ms. Ristenpart, which exhibit is

1 this?

2 MS. RISTENPART: B, Your Honor.

3 THE COURT: B. Okay. Thank you.

4 MS. RISTENPART: Uh-huh, thank you.

5 BY MS. RISTENPART:

6 Q. Now, Mr. Doerr, the videos that you went back and
7 looked at, you looked at you said too many hours; right? That
8 was your testimony?

9 A. Too many hours to review all the tape, all the
10 video.

11 Q. Sure.

12 A. Yes.

13 Q. But you looked at a lot?

14 A. I looked at a lot.

15 Q. And you actually didn't sit down and clip
16 anything until later, November of 2018; right?

17 A. I didn't -- I didn't clip anything.

18 Q. That's right, because Georgianna --

19 A. I just gave dates and times.

20 Q. -- clipped -- I'm sorry go ahead?

21 A. I just gave dates, times, and cameras.

22 Q. And who did you give that to?

23 A. Scott Morgan.

24 Q. And who did Scott Morgan give that to?

1 A. His office is right next to Georgianna
2 Drees-Wasmer's, so --

3 MS. MAZZA: Objection, speculation.

4 THE COURT: Sustained.

5 BY MS. RISTENPART:

6 Q. Did you and Georgianna Drees-Wasmer ever, in late
7 November 2018, just decide to go back through the video to
8 tried to find some more evidence?

9 A. Well, I went home that day and I just -- I was
10 commiserating about it, I wasn't sleeping well. And -- yeah.
11 So when I showed up the next day, I went over as much video as
12 I could, and continually relayed that information with my
13 supervisors.

14 Q. And of all the video that you reviewed and you
15 looked at, you never saw Mr. Jenkins touch GW's private area,
16 did you?

17 A. Do you consider the rear end a private area?

18 Q. The vaginal area?

19 A. I saw that on surveillance. And if that's a
20 private area, yes, I saw him touch that on surveillance.

21 Q. Are we talking about a video that you clipped or
22 you pointed to, where it's on the volleyball court, and it
23 appears that Mr. Jenkins's hand may go down towards near GW's
24 butt?

1 A. I wasn't talking about that. I was talking about
2 that video that we just saw of him walking in. And in his
3 hand, he had some sort of teaching mechanism, and he tapped
4 her on the rear end more than once.

5 Q. And the teaching mechanism; it's for volleyball
6 practice; right? They're --

7 A. Yep.

8 Q. -- called dots?

9 A. Huh?

10 Q. They're called dots?

11 A. I don't know what they're called, but yeah.

12 Q. But they're used to like lay on the volleyball
13 court to position players; right?

14 A. Yes. I've never used those personally, so I
15 don't know what they're called.

16 Q. But to run exercises and drills; right?

17 MS. MAZZA: Objection, speculation.

18 THE COURT: Sustained.

19 BY MS. RISTENPART:

20 Q. And so that is what you consider touching on the
21 private area, is him with using the dots, towards her rear
22 area?

23 A. That's what I saw.

24 MS. RISTENPART: No further questions. Thank

1 you.

2 THE COURT: Redirect?

3 MS. MAZZA: Thank you, Your Honor.

4 THE COURT: Ms. Ristenpart, can you return B to
5 the Clerk, please.

6 MS. RISTENPART: Yes.

7 THE COURT: Thank you.

8 **REDIRECT EXAMINATION**

9 BY MS. MAZZA:

10 Q. Mr. Doerr, when were you speaking with
11 Ms. Ristenpart, she was asking you about November of 2018.

12 Did you clip or save any footage involving
13 Mr. Jenkins from November, in November of 2018?

14 A. No, I just noted.

15 Q. When did you note?

16 A. I noted once I received the report from Ashley
17 Gosney.

18 Q. Would that be --

19 A. I may have noted a couple that night, and then
20 the following day is when I noted likely the majority of the
21 video.

22 Q. Would that be September 20th, 2018?

23 A. Yes.

24 Q. Do you recall exactly which surveillance hours,

1 times you noted?

2 A. I just reviewed his cam footage.

3 Q. So the ones that you sent to Mr. Morgan, do you
4 remember exactly which ones or dates those were from?

5 A. No.

6 Q. Would --

7 A. Probably the 17th, 19th. And then I don't know
8 if I noted any from the previous weeks or not.

9 Q. Would it refresh your recollection to see the
10 email to Mr. Morgan?

11 A. Definitely.

12 Q. Mr. Doerr, I'm handing you what's been marked as
13 Exhibit 43.

14 Does that refresh your recollection as to the
15 clips or dates that you noted to Mr. Morgan?

16 A. Yes.

17 Q. If you could turn that face down when you're done
18 reviewing?

19 A. (Complies.)

20 Q. What dates did you notify Mr. Morgan of?

21 A. September 19th.

22 Q. Ms. Ristenpart was asking you about you being a
23 mandatory reporter. Does that have anything to do with why
24 this all got reported to the Sheriff's Office?

1 A. Well, I believe it's my responsibility as a
2 manager/coordinator within that building to report suspicious
3 behavior to my supervisor, definitely.

4 Q. And is that why -- is that what you reported?

5 A. Can you be clear?

6 Q. Did this rise to that level of suspicious
7 behavior that you reported to your supervisor?

8 A. Definitely.

9 Q. Now Ms. Ristenpart was asking about Kurt. When
10 he approached Mr. Jenkins with you, why did he join you?

11 A. He was a supervisor on duty and I asked him to
12 join me as a -- well, we do everything in twos. So that it's
13 just not my word against someone else's word, we work together
14 as a team.

15 Q. Was he aware of the concerns about Mr. Jenkins?

16 A. You know, I don't know. I don't know if he was
17 or not, but I just wanted -- he was a supervisor on duty, and
18 I wanted him with me.

19 Q. Mr. Doerr, have you ever coached a team before?

20 A. I have coached more than 30 teams.

21 Q. Was the footage you observed uncomfortable, with
22 that in mind?

23 A. Yes. I've been -- I've been involved with youth
24 sports for 45 years.

1 MS. MAZZA: Your Honor, I have no further
2 questions.

3 THE COURT: Recross.

4 **RECROSS-EXAMINATION**

5 BY MS. RISTENPART:

6 Q. Mr. Doerr, you only notified Scott Morgan of six
7 clips; right? Or six times that you were like, "I'm going to
8 bring this to Mr. Morgan's attention"?

9 A. I didn't count.

10 Q. You just looked at the email. Would it refresh
11 your memory?

12 A. Yeah, I didn't count when I looked at the email.

13 Q. Would looking at your email refresh your memory?

14 A. Oh, sure.

15 Yep, it looks like there's six.

16 MS. RISTENPART: No further questions.

17 THE COURT: Ms. Ristenpart, may this witness be
18 excused?

19 MS. RISTENPART: Yes.

20 THE COURT: Ms. Mazza, may this witness be
21 excused?

22 MS. MAZZA: Yes, Your Honor.

23 THE COURT: Mr. Doerr, thank you. You are
24 excused. Please do not discuss your testimony with anyone,

1 except for the attorneys in this case or their investigators,
2 until such time as the jury has reached a verdict.

3 THE WITNESS: Okay.

4 THE COURT: Thank you. You are excused.

5 THE WITNESS: Thank you.

6 THE COURT: Ms. Mazza, you may call your next
7 witness.

8 MS. MAZZA: Your Honor, the State calls Sergeant
9 Justin Williams.

10 THE COURT: Sergeant, I'll have you stop there
11 for a moment. Go ahead and raise your right hand, face the
12 Court Clerk to be sworn.

13 SERGEANT JUSTIN WILLIAMS,
14 called as a witness on behalf of the
15 STATE, was duly sworn and
16 testified as follows:

17 THE COURT: Thank you. Please come on up to the
18 witness stand.

19 MS. RISTENPART: Your Honor, may the witness
20 remove his mask?

21 THE COURT: Yes, please.

22 Sir, remove your mask.

23 THE WITNESS: Thank you, Your Honor.

24

1 **DIRECT EXAMINATION**

2 BY MS. MAZZA:

3 Q. Sir, can you please state your full name and
4 spell your last name?

5 A. Justin Williams. W-I-L-L-I-A-M-S.

6 Q. Mr. Williams, how are you employed?

7 A. As a sergeant with the Douglas County Sheriff's
8 Office.

9 Q. How long have you been with the Douglas County
10 Sheriff's Office?

11 A. For -- since April 2010. 11 years.

12 Q. And your current duties as a sergeant, what do
13 those include?

14 A. I'm currently assigned to the Tri-County Regional
15 Gang Task Force.

16 Q. And I'd like to take you back to 2018. What sort
17 of duties did you hold at that time?

18 A. At that time, I was assigned as a patrol deputy.
19 It was prior to my promotion.

20 Q. Okay. And as a patrol deputy, what sort of
21 duties or tasks do you complete?

22 A. My primary function is to respond to calls for
23 service from the community where one would arise. Traffic
24 violations, look for offenders of criminal activity.

1 Q. Did you have any training prior to becoming a
2 patrol deputy?

3 A. Yes.

4 Q. Can you explain that to the jury?

5 A. In order to function as a Category 1 peace
6 officer, which is what a patrol deputy in the State of Nevada,
7 you have to attend an academy, police officer standards and
8 training.

9 In that, you're looking at several months of
10 training involving various crimes. And once you successfully
11 complete that through academic tests and evaluations, you are
12 graduated as a Category 1 peace officer and eligible to take
13 enforcement action as a law enforcement officer in patrol.

14 Now, once that is completed with our agency, you
15 still have to complete an additional training program called a
16 field training program, where a more-seasoned patrol deputy
17 takes you -- in our agency, you have at least three to four
18 training officers that take you for a period of time, and
19 instill kind of their wisdom and our training program upon
20 you, and make sure that they can operate within the confines
21 of the law, and with the policies and procedures set forth
22 with our department.

23 Q. Have you actually been a field training officer?

24 A. I have.

1 Q. So you train other deputies; is that correct?

2 A. Yes.

3 Q. And so, like I said, taking you back to September
4 of 2018, specifically September 20th, 2018, were you contacted
5 to respond somewhere involving this case?

6 A. Yes. I was given a phone call from one of our
7 sergeants at the time, and asked to respond to the Douglas
8 County Community Center, based on information that he received
9 involving possible inappropriate conduct between an adult male
10 volleyball coach and a juvenile female.

11 Q. And who was that sergeant at the time?

12 A. Ron Elges.

13 Q. And did you end up responding to where he was
14 asking you to go?

15 A. I did.

16 Q. Where did you go?

17 A. I went to the Douglas County Community Center. I
18 responded in to their main office area, by the Recs area.

19 Q. Is that within Douglas County?

20 A. It is.

21 Q. Once you arrived there, did you meet with anyone?

22 A. Yes. I met with several employees and asked them
23 if they were aware of why I was there. They brought me back
24 to a private office, where I met with an employee, Scott

1 Doerr, and several others, Scott Morgan; and basically
2 initiated why I was there to speak with them, what concerns
3 were brought to their attention.

4 Q. Did you review anything with them?

5 A. I did. While I was sitting there with them in
6 the office, they showed a clip of video surveillance.

7 Initially they had received complaints from both
8 an attendee, a non employee of the Community Center, and an
9 employee of the Community Center, regarding conduct of a
10 volleyball coach, who they identified as Rick Jenkins; and
11 a -- what was initially reported to me to be a 17-year-old
12 female by Sergeant Ron Elges was, in fact, a 14-year-old
13 female.

14 They received those complaints and reviewed video
15 surveillance and located a -- initially, a solo -- a single
16 video clip of the two of them together. They walk behind a
17 stairwell. Mr. Jenkins was then seen looking over each of his
18 shoulders in a manner which I believe is checking for
19 people --

20 MS. RISTENPART: Objection, speculation.

21 THE COURT: Sustained.

22 BY MS. MAZZA:

23 Q. So without telling us what someone is thinking,
24 just what you observed?

1 A. I can tell you my experience of investigating
2 criminal activity, the actions were indicative --

3 MS. RISTENPART: Objection, speculation again.

4 THE COURT: Sustained.

5 THE WITNESS: Okay.

6 BY MS. MAZZA:

7 Q. So you observed this video?

8 A. Yes.

9 Q. You observed what you believe was Mr. Jenkins
10 looking over his shoulders?

11 A. Yes.

12 Q. What did he do next?

13 A. The two of them embrace each other. The juvenile
14 female nuzzles her face into Mr. Jenkins's neck. It appears a
15 kiss is exchanged onto the neck or cheek. The embrace lasts
16 several seconds, and the two walk away.

17 Q. And so that's what you saw when you initially
18 arrived?

19 A. Yes.

20 Q. So at that time you had how many years with the
21 Douglas County Sheriff's Office?

22 A. Approximately eight years, eight and a half
23 years.

24 Q. Based upon your experience and your training,

1 what did you think of seeing that video?

2 A. It was automatically concerning to me. Again,
3 it's indicative of a behavior that is not common between a
4 coach and a juvenile female. It was more in line with what
5 I've seen in romantic relationships.

6 Q. And at that time when you arrived, did you or
7 Sergeant Elges have all of the information on the case?

8 A. No.

9 Q. Did you even know Mr. Jenkins?

10 A. No.

11 Q. And so you viewed that. And what did -- what
12 did -- based upon your experience and training, did you arrest
13 Mr. Jenkins?

14 A. No.

15 Q. What did you do after that?

16 A. Again, on face value -- and I think it's
17 important to note that there was several employees, I believe
18 there was four employees in the room, that I spoke with. Each
19 one of them were concerned on their own level about the
20 behavior that was described to them and that they witnessed on
21 the surveillance.

22 Upon me seeing this, I felt the same concerns;
23 but I expressed to them, under the actual written law of the
24 Nevada Revised Statutes, that action, in and of itself, is not

1 illegal.

2 And so I informed them that we would have to
3 conduct an additional investigation into this, in order to
4 identify either more incriminating video, or lack thereof; or
5 to sit down with and interview the people involved, to
6 determine whether or not they claimed any violation of a
7 written law.

8 Q. Did you end up doing that further investigation?

9 A. I did, to an extent. I met with them beyond that
10 initial office. Additional videos was provided to me, beyond
11 that additional clip that was described.

12 And at that point, I compiled a report and asked
13 that it be sent to Investigator Chrzanowski, with our
14 Investigations Division.

15 Q. And what does the Investigations Division do, in
16 general?

17 A. They're able to, just through time and resources,
18 to delve deeper into a case that we provide to them. Take the
19 initial information that I'd provide, expand upon that, and
20 look for additional avenues of evidence.

21 Q. So while were you there at the Rec Center, did
22 you instruct them to do anything?

23 A. I did. I asked that they continue to look for
24 more video footage that may be incriminating.

1 Q. Were you concerned? Is that why you made that
2 request?

3 A. Yes. And I believe I even made the comment to
4 them at that time, one, I -- again, I told them that nothing
5 we've seen so far is a violation of the law. However, it's
6 obvious to everyone that was there that the behavior is
7 consistent with that that leads to a violation of the law; or
8 in more private settings, maybe something else is going on.

9 Q. And so in your experience as a deputy, when you
10 respond to dispatch calls or your Sergeant calls, do you have
11 all of the information at that time?

12 A. No.

13 Q. Was this case different?

14 A. Very. Yeah, initially what was reported to me
15 was not what I found to have happened.

16 Q. And is that similar to your experience, where you
17 don't have all the information at the beginning?

18 A. Yes, very similar.

19 MS. MAZZA: Your Honor, may I approach the Clerk?

20 THE COURT: You may.

21 BY MS. MAZZA:

22 Q. So Sergeant Williams, I am going to play what has
23 been marked and admitted as Exhibit 20, and Video 6.

24 So I'll open the player first. Is this similar

1 to the player that you had observed at the Rec Center?

2 A. Yes.

3 Q. Now looking at Exhibit -- or Video 6 of
4 Exhibit 20, is this the video you were talking about that you
5 were shown when you arrived?

6 A. This looks to be of the same area that the
7 initial clip I described was played from, yes.

8 Q. Is there a specific area that was zoomed in on
9 when you observed this?

10 A. It's a circle, so I'd identify it as probably the
11 11 o'clock position.

12 Q. All right. And you can actually draw on it in
13 front of you, on the screen in front of you.

14 A. Just use my finger?

15 Q. Um-hum?

16 A. So right in here. (Indicating.)

17 (Video played.)

18 BY MS. MAZZA:

19 Q. Is this the area you were shown by the Rec
20 Center?

21 A. Yes. So the specific action actually takes place
22 in this area here. (Indicating.)

23 Q. And again, is that what you observed when were
24 you there?

1 A. Yes.

2 Q. Sergeant Williams, did you end up having any
3 other involvement with the Rec Center in this case?

4 A. Yes.

5 Q. What was that?

6 A. After that initial clip was shown in the one
7 office, I followed Scott Morgan to his office, where we had
8 the conversation about possibly looking for more video. He
9 did end up providing me later with a flash drive that had
10 video on it. In addition to that clip, I believe there's
11 another three clips or so.

12 Q. And was that when were you there at that time?

13 A. I believe I had to come back for that additional
14 video.

15 Q. Okay. Did you go back and get that additional
16 video?

17 A. I collected the additional video, yes.

18 MS. MAZZA: Your Honor, I have no further
19 questions.

20 THE COURT: Cross-examination.

21 **CROSS-EXAMINATION**

22 BY MS. RISTENPART:

23 Q. Sergeant Williams, you stated that you responded
24 to the Rec Center because Sergeant Elges had contacted you;

1 right?

2 A. Correct.

3 Q. And had asked you to respond because there had
4 been a report made to Sergeant Elges; right?

5 A. Assumedly. It's been a while, so I don't know if
6 he directly got it or somebody else told him.

7 Q. And what was notified to you, and why you
8 responded, is because Sergeant Elges had told you that someone
9 at the Community Center said there was a volleyball coach just
10 making out with a 17-year-old in the corner?

11 MS. MAZZA: Objection, hearsay.

12 THE COURT: Sustained.

13 BY MS. RISTENPART:

14 Q. Based upon the information Sergeant Elges told
15 you, your understanding was that this dealt with a
16 17-year-old; right?

17 A. Initially, yes.

18 Q. And you also relayed what Sergeant Elges had told
19 you to another officer who responded with you, Deputy Duffy?

20 A. Sergeant Duffy, yes.

21 Q. Sergeant Duffy now; but at the time, deputy?

22 A. He was a sergeant at the time.

23 Q. Sergeant Duffy.

24 And you told Sergeant Duffy what Sergeant Elges

1 had told you; right?

2 A. Correct.

3 MS. MAZZA: Objection, hearsay.

4 THE COURT: Overruled.

5 BY MS. RISTENPART:

6 Q. And Sergeant, at that time, you were wearing your
7 body camera; weren't you?

8 A. Yes.

9 Q. And what is a body camera?

10 A. What is a body camera? A body camera is an
11 audio-video recording device that affixes to either equipment
12 or directly to a person's uniform, to record your
13 interactions, once activated.

14 Q. And pursuant to Douglas County Sheriff's Office
15 rules and regulations, when you respond to a call, you turn on
16 your body camera; correct?

17 A. Not always, no.

18 Q. In this case, did you turn on your body camera?

19 A. Yes.

20 Q. And so there is a video from your body camera
21 that also collects video and sound; right?

22 A. Correct.

23 Q. And you stated that you responded there with
24 Sergeant Duffy, had your body camera on. You went into one of

1 the Rec Center employee's offices; correct?

2 A. Yes.

3 Q. And they showed you the one video that the State
4 just showed you again; right?

5 A. Yes.

6 Q. But when you first saw it and they showed it to
7 you, it was in slow motion, wasn't it?

8 A. Yes, I believe it was playing at half-speed.

9 Q. And you actually asked them, is that the right
10 speed, or?

11 A. In similar terms, yeah.

12 Q. And then they actually showed it to you in real
13 time?

14 A. Correct.

15 Q. And as you just testified, you told them nothing
16 that you saw so far is a crime?

17 A. At that time, yes.

18 Q. And you instructed the employees to go back and
19 maybe get some more video?

20 A. I instructed them to look for more video.

21 Q. Now when they showed you this one video -- well,
22 let me ask: Are you familiar with the Rec Center?

23 A. Fairly.

24 Q. Do you go to it personally, or?

1 A. I have.

2 Q. Okay.

3 A. Not routinely.

4 Q. Have you responded to other calls there?

5 A. I don't recall.

6 Q. Are you aware it has a video surveillance system?

7 A. Yes.

8 Q. Obviously, we just saw; right?

9 A. Correct.

10 Q. Did you ask to look at any other camera angles of
11 what they showed you?

12 A. I remember that we talked about the fact that
13 they have numerous cameras, and that this particular incident
14 could last over a period of time. And it would be in-depth
15 for them to go back and look at every camera, every time, in
16 addition -- or I'm sorry, in an effort to try and find more.
17 I remember we had that conversation.

18 Q. Sergeant, in regards to the video that we just
19 watched, that you watched in the Rec Center Community's
20 employees' office, did you ask if there were any other angles
21 of that area to review?

22 A. I don't recall.

23 Q. Did you ever go back to ask if there were any
24 other angles capturing that, quote, "incident" from a

1 different angle?

2 A. I don't recall.

3 Q. Did you actually ever look at all the different
4 angles the Community Center video surveillance captured?

5 A. Are you asking if I looked at every camera?

6 Q. Um-hum?

7 A. No, only what they provided me.

8 Q. And that was, in fact, later in the day you
9 responded -- let me clear up: What time did you respond? To
10 verify?

11 A. I remember it was morning time. A specific time,
12 I couldn't tell you.

13 Q. Would looking at your report refresh your memory?

14 A. Yes.

15 MS. RISTENPART: Thank you.

16 BY MS. RISTENPART:

17 Q. I'm showing you Exhibit 44.

18 A. I believe it was 9:45. Approximately 9:40 is
19 when the call was opened. I was there within a few minutes.

20 Q. And Sergeant, you stated that you then later went
21 back to the Rec Center and picked up some video clips;
22 correct?

23 A. To my recollection.

24 Q. And when you went back, did you look at the video

1 surveillance system for the Rec Center?

2 A. Can you clarify what you're asking?

3 Q. Did you just go back to pick up what had already
4 been clipped?

5 A. Correct.

6 Q. Did you look at any other video surveillance --

7 A. Again, I've only looked at what they provided me.

8 MS. RISTENPART: No further questions. Thank
9 you.

10 THE COURT: Redirect?

11 **REDIRECT EXAMINATION**

12 BY MS. MAZZA:

13 Q. Sergeant Williams, do you have training in
14 working the Rec Center's surveillance system?

15 A. I don't.

16 Q. Have you ever worked on their surveillance
17 system?

18 A. Outside of this case, no.

19 MS. MAZZA: I have no further questions, Your
20 Honor.

21 THE COURT: Recross?

22 MS. RISTENPART: Nothing on that.

23 THE COURT: Ms. Ristenpart, may this witness be
24 excused?

1 MS. RISTENPART: Your Honor, we'll actually keep
2 him under subpoena.

3 THE COURT: Okay.

4 Sergeant Williams, you are held subject to being
5 called. Please do not discuss your testimony with anyone,
6 except for the attorneys in this case or their investigators,
7 until such time as the jury's reached its verdict.

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: Thank you.

10 THE WITNESS: Thank you.

11 THE COURT: We are going to take our morning
12 recess. During the recess, ladies and gentlemen, you are
13 admonished that it is your duty not to converse, amongst your
14 selves or with anyone else, on any subject connected with the
15 trial, either by phone, e-mail, text, internet, or any other
16 means.

17 Do not read, watch, or listen to any report of or
18 commentary on the trial or any person connected with the trial
19 by any medium of information; including, without limitation,
20 newspapers, television, and radio.

21 Do not form or express any opinion on any subject
22 connected with the trial until the cause is finally submitted
23 to you. Do not do any research, such as consulting
24 dictionaries, using the internet, or using other reference

1 materials; and do not make any investigation, test the theory
2 of the case, recreate any aspect of the case, or in any other
3 way investigate or learn about the case on your own.

4 We will be in recess until 10:45. Thank you.

5 (Recess.)

6 THE COURT: We are back in session on Case Number
7 19-CR-188. I show the appearance of counsel for both parties,
8 as well as the Defendant.

9 Ms. Mazza, are you ready to have the jurors
10 brought back in?

11 MS. MAZZA: Yes, Your Honor. Before we bring
12 them back in, I would like to kind of address the schedule
13 with the Court.

14 THE COURT: Yes.

15 MS. MAZZA: I anticipate my next two witnesses
16 may take us to a little bit before noon, not quite noon. And
17 so I wanted to see if the Court would want me to call my next
18 witness, who I believe may take a significant amount of time,
19 or if we would take an earlier lunch?

20 THE COURT: We can take an earlier lunch. Why
21 don't we plan on, whatever time it is when you get through
22 with the two witnesses. It might past noon, or it might be
23 prior to noon, and then we'll gauge the lunch break on that.

24 MS. MAZZA: Thank you, Your Honor.

1 THE COURT: All right.
2 Ms. Ristenpart, are you ready for the jurors?
3 MS. RISTENPART: Yes.
4 THE COURT: Okay. Let's bring them in.
5 Ms. Mazza, do you stipulate to the presence of
6 the jury?
7 MS. MAZZA: I do, Your Honor.
8 THE COURT: Ms. Ristenpart?
9 MS. RISTENPART: I do, Your Honor.
10 (Jurors present.)
11 THE COURT: All right.
12 Thank you, folks. Please be seated.
13 Ms. Mazza, you may call your next witness.
14 MS. MAZZA: Your Honor, the State calls Joe
15 Girdner.
16 THE COURT: Mr. Girdner, please raise your right
17 hand, face the clerk to be sworn.
18 JOE GIRDNER,
19 called as a witness on behalf of the
20 STATE, was duly sworn and
21 testified as follows:
22 THE COURT: Thank you. Please come on up to the
23 witness stand. Please remove your mask. Thank you, sir.
24

1 **DIRECT EXAMINATION**

2 BY MS. MAZZA:

3 Q. Sir, can you please state your full name and
4 spell your last name?

5 A. My name is Joe Girdner, spelled G-I-R-D-N-E-R.

6 Q. Sir, how are you employed?

7 A. I work for Douglas County School District. I'm
8 currently the Human Resources director. Prior to that, I was
9 the principal of Douglas County High School.

10 Q. When did you become the Human Resources director?

11 A. June or July of 2020.

12 Q. And before that, how long were you the principal
13 for Douglas High School?

14 A. I was the principal at Douglas High School for
15 three years.

16 Q. And during that three years, did you know a man
17 by the name of Richard Jenkins?

18 A. I do know Rick Jenkins, yes.

19 Q. How do you know him?

20 A. He worked for us in the capacity of coach and
21 volunteer coach.

22 Q. Do you see him here in the courtroom today?

23 A. I do, yes.

24 Q. What color shirt is he wearing?

1 A. Blue.

2 MS. MAZZA: Your Honor --

3 BY MS. MAZZA:

4 Q. Where is he seated, in relation to you?

5 A. Directly in front of me.

6 MS. MAZZA: Your Honor, the State would request
7 the record reflect identification of the Defendant.

8 THE COURT: The record so reflects.

9 BY MS. MAZZA:

10 Q. And how long was Mr. Jenkins a coach for the
11 Douglas County School District?

12 A. I can't speak specifically to that. He was there
13 for a number of years. I don't know exactly when he started.
14 I worked at the high school for six years. I believe he was
15 there for the majority of that, in several different coaching
16 capacities.

17 He served as an assistant volleyball coach. He
18 was a -- our head boys' tennis coach for a year, and then his
19 last role was volunteer coach for our girls' tennis team.

20 Q. And so that was throughout your time as the
21 principal; is that correct?

22 A. Correct.

23 Q. And did you ever have the occasion to have an
24 interaction with Mr. Jenkins that was inappropriate?

1 A. So, I did have a situation that I was concerned
2 about. It was his last role with us. He was our volunteer
3 coach for our girls's tennis team.

4 I was out supervising tennis, Mr. Jenkins was
5 coaching; and I observed one of our female students walk up
6 behind Rick and lean against his back, and put her chin on his
7 shoulder in kind of a -- it seemed an affectionate manner.
8 And because of that, we put him on a suspension to investigate
9 the observation that I'd made.

10 Q. And based upon your observation, did you know who
11 the female was involved?

12 A. I knew who she was. She was a younger student.
13 At the time, I believe she was either a freshmen or a
14 sophomore. She was a volleyball player. She was not on the
15 tennis team; she was out watching the tennis team. But yes, I
16 did know who it was.

17 Q. Do you her first and last initial?

18 A. GW.

19 Q. Did you have a conversation with Mr. Jenkins
20 about that conduct?

21 A. So I did. We placed him on a short suspension.
22 It was -- it was about a one-day, half-a-day investigation.
23 We met with Rick. The next morning, he shared with me that
24 the girl's father had recently passed away, and that he had

1 stepped in as a father figure to try and support her through
2 that difficult time, and support her family.

3 Immediately following the interview with
4 Mr. Jenkins, I called the girl's mother and she verified that.
5 She said that Rick had been a great support for the family,
6 and that he had served in a father role, following the death
7 of her father. And she felt that it was a safe relationship,
8 and we allowed him to return to coaching.

9 Q. Only based upon talking to GW's mother?

10 A. Correct.

11 Q. Had her mother had other concerns, what would you
12 have done?

13 A. We would have investigated at a much greater
14 extent, to see if there was anything to the situation that we
15 needed to be concerned about.

16 Q. Do you recall when this was?

17 A. It was early in the fall of 2018, maybe August or
18 September.

19 Q. And so can you describe this kind of, I guess,
20 hug or embrace that the two engaged in?

21 A. Yeah. So I was -- I was at our tennis complex.
22 Probably -- if you're familiar with the complex, I was at the
23 north end of the complex, just watching our tennis team play.

24 Rick was standing in front of me, to my right;

1 probably to the far side of the jury box, approximately where
2 the picture of the river is, in front of me.

3 And the girl kind of walked up behind him and
4 leaned into him. It seemed that it was -- it was comfortable
5 for both of them. It seemed affectionate, and just not normal
6 behavior for a female student leaning on a male coach.

7 Q. And do you know Mr. Jenkins' daughter?

8 A. I do know who she is. I don't not -- do not know
9 her well, but I know who she is.

10 Q. Had you ever observed any inappropriate conduct
11 between those two?

12 A. No.

13 Q. So, when you described this hug --

14 A. Well, I'm sorry. I didn't mean to cut you off.
15 I want to clarify: It wasn't a hug. She just kind of leaned
16 against him.

17 Q. Okay. Leaned against him, and what did he do?

18 A. He didn't have a ton of reaction. They carried
19 on a short conversation. I don't -- I don't, you know,
20 obviously, I didn't hear what the conversation was, but it was
21 a short conversation. He kind of turned and talked to her,
22 and --

23 Q. Talked to her while her head was on his shoulder?

24 A. Yes.

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ALEXANDER JENKINS,

Appellant.

v.

STATE OF NEVADA,

Respondent.

Case No. 83465

APPELLANT'S APPENDIX
VOLUME VI

**APPEAL FROM JUDGMENT OF CONVICTION AND
SENTENCING**

NINTH JUDICIAL DISTRICT
STATE OF NEVADA

THE HONORABLE THOMAS W. GREGORY, PRESIDING

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1 Q. Did he push her away?

2 A. No.

3 Q. So, would you describe this -- I guess I don't
4 even know how to describe it -- going up behind him, as sexual
5 in nature?

6 A. I would not describe it as sexual. It's just
7 abnormal. As a principal at the high school, I had a daughter
8 there, and she would not lean against me like that. You know,
9 we teach our staff not to touch students. And, you know,
10 aside from maybe a knuckle or a high-five, staff really
11 shouldn't touch students.

12 To have physical contact that close just is
13 abnormal, and not something we want our staff to participate
14 in.

15 Q. And to confirm, GW was not playing on the tennis
16 team?

17 A. Correct.

18 MS. MAZZA: Your Honor, I have no further
19 questions.

20 THE COURT: Cross-examination?

21 MS. RISTENPART: Thank you.

22 **CROSS-EXAMINATION**

23 BY MS. RISTENPART:

24 Q. Mr. Girdner, when you were describing GW leaning

1 onto Mr. Jenkins, you kind of made a hand movement like this
2 (indicating).

3 So her hands were up as she leaned over on him?

4 A. That's my recollection.

5 Q. And for the record, the hand movement is, you
6 were kind of crossing your arms over the chest area?

7 A. Correct.

8 Q. And you say they kind of had a short
9 conversation, or they talked?

10 A. Yes.

11 Q. And then Mr. Jenkins was the one who walked away;
12 correct?

13 A. I don't remember who walked away. I don't know.
14 I don't know that I remember that specific, I'm sorry.

15 Q. But they disengaged?

16 A. They parted, yes.

17 Q. And you stated that you put Mr. Jenkins on a
18 brief suspension while you investigated?

19 A. Correct.

20 Q. A very quick investigation, about half a day?

21 A. Yeah. It was resolved by the end of the
22 following day.

23 Q. And that was you spoke with Mr. Jenkins himself;
24 right?

1 A. Correct.

2 Q. And you also spoke with GW's mother, Tamara?

3 A. Correct.

4 Q. And you also spoke with GW herself; right?

5 A. Not in the investigation phase, no.

6 Q. But based upon your investigation, when you
7 learned about the relationship between GW and the Jenkins
8 family, and specifically Mr. Jenkins, you concluded your
9 investigation?

10 A. Correct.

11 Q. In fact, you lifted the suspension immediately?

12 A. Correct.

13 Q. And he came back to work?

14 A. (Nodded head.)

15 Q. The next day?

16 A. Correct.

17 Q. So when you learned of the context of GW and
18 Mr. Jenkins, that's what changed your opinion from this being
19 inappropriate behavior to --

20 A. It didn't change my opinion of it being
21 inappropriate. I did counsel Rick at that time that he should
22 not have physical contact with kids like that. It seemed too
23 comfortable. It put him and the student in a bad situation.

24 And the conduct was not appropriate, regardless

1 of the relationship, in the situation where he was a coach and
2 she was a player and student at the school.

3 Q. In the coach/player environment; right?

4 A. Or teacher or staff or adult, in a school
5 setting.

6 Q. And you told Mr. Jenkins to be more conscious of
7 his interactions?

8 A. Yes. And that, you know, physical contact of
9 that nature was not appropriate.

10 Q. And when GW was leaning on Mr. Jenkins,
11 Mr. Jenkins' hands did not do anything?

12 A. Nope.

13 Q. Right? He didn't try to touch her or grab her?

14 A. No.

15 Q. And Mr. Girdner, you also were a part of an
16 investigation involving Coach Marie Foster?

17 MS. MAZZA: Objection, relevance.

18 MS. RISTENPART: Your Honor, this is relevant. I
19 could call Mr. Girdner back as our witness later on, or we
20 could try to do this through cross-examination, with a little
21 leeway from the Court.

22 THE COURT: All right. I'm not going to allow it
23 at this time. You may recall him, if need be.

24 MS. RISTENPART: No further questions. Thank

1 you.

2 THE WITNESS: Thank you.

3 THE COURT: Redirect?

4 MS. MAZZA: Your Honor, I have no further
5 questions.

6 THE COURT: Ms. Ristenpart, it sounded like you
7 would ask that this witness be re-held. Is that correct?

8 MS. RISTENPART: Unfortunately, yes.

9 THE COURT: Okay.

10 So Mr. Girdner, you might get recalled to the
11 witness stand. Please do not discuss your testimony with
12 anyone, except for the attorneys in this case or their
13 investigators, until such time as the jury's reached a
14 verdict.

15 THE WITNESS: Yes, sir.

16 THE COURT: Thank you.

17 THE WITNESS: Yes, Your Honor. Thank you. I
18 used the water glass. Should I take it out --

19 THE COURT: You may take it out.

20 THE WITNESS: -- and get rid of it?

21 THE COURT: Thank you, sir.

22 THE WITNESS: Thank you.

23 MS. MAZZA: Your Honor, the State's next witness,
24 if I could just have one moment to get him here. And, Your

1 Honor, the State's next witness is Sergeant Hubkey.

2 I apologize for the delay, Your Honor, that
3 witness went a little faster than anticipated. Your Honor, if
4 I could just have one moment to walk out to our office?

5 THE COURT: You may.

6 (Brief pause in proceedings.)

7 THE COURT: Sergeant Hubkey, I'm going to have
8 you stop there a moment. Raise your right hand, face the
9 clerk to be sworn.

10 SERGEANT BRIAN SCOTT HUBKEY,
11 called as a witness on behalf of the
12 STATE, was duly sworn and
13 testified as follows:

14 THE COURT: Thank you, sir. Please come on up to
15 the witness stand. And please remove your mask.

16 THE WITNESS: Thank you.

17 **DIRECT EXAMINATION**

18 BY MS. MAZZA:

19 Q. Sir, can you please state your full name?

20 A. Brian Scott Hubkey.

21 Q. Can you spell your last name for the court
22 reporter?

23 A. H-U-B-K-E-Y.

24 Q. Mr. Hubkey, how are you employed?

1 A. I'm a sergeant with the Douglas County Sheriff's
2 Office.

3 Q. And in that capacity, were you so employed in
4 September of 2018?

5 A. Yes.

6 Q. On that date in September of 2018, what kind of
7 sergeant were you, of what division?

8 A. Investigations.

9 Q. On that date, did you have any specific contact
10 with Rick Jenkins? Richard Jenkins?

11 A. Yes. Yes.

12 Q. Do you know a Richard Jenkins?

13 A. Yes.

14 Q. Do you see him here in the courtroom today?

15 A. Yes, that gentleman right there (indicating).

16 Q. Seated in front of you?

17 A. Yes.

18 Q. What color shirt is he wearing?

19 A. Blue.

20 MS. MAZZA: Your Honor, the State would request
21 that the record reflect identification of the Defendant.

22 THE COURT: The record so reflects.

23 BY MS. MAZZA:

24 Q. On that specific day, September 20th, 2018, you

1 indicate you had contact with Mr. Jenkins?

2 A. Yes.

3 Q. In person?

4 A. Yes.

5 Q. How did that contact come about?

6 A. He came to my office.

7 Q. And what happened?

8 A. We had a conversation.

9 Q. What was the conversation about?

10 A. That -- he came to my office to tell me that he
11 had been fired from the Community Center, the Rec Center.

12 Q. Did he express why?

13 A. Yes.

14 Q. What was that?

15 A. He said that he had -- he got fired for
16 inappropriate contact with a -- I don't know what you call
17 them; a volleyball player, I guess.

18 Q. Okay. Was it a child?

19 A. Yes.

20 Q. Did he mention that he had hugged her?

21 A. Yes.

22 Q. Did he explain the kind of relationship that the
23 two of them had?

24 A. Can I?

1 Q. Did he?

2 A. I don't recall specifically that, no.

3 Q. Did he seem emotional?

4 A. Yes, he was very upset.

5 MS. MAZZA: Your Honor, the State has no further
6 questions.

7 THE COURT: Cross-examination?

8 **CROSS-EXAMINATION**

9 BY MS. RISTENPART:

10 Q. Sergeant, prior to September 20th of 2018, you
11 knew Mr. Richard Jenkins; correct?

12 A. Yes.

13 Q. And that's because your daughter played
14 volleyball?

15 A. Yes.

16 Q. And you stated that Mr. Jenkins, when he came
17 into your office, he was very upset?

18 A. Yes. He was crying.

19 Q. And at that time, you just talked to him;
20 correct?

21 A. Yeah.

22 Q. You didn't do any follow-up on this?

23 A. No.

24 Q. And that all occurred on September 20th of 2018?

1 A. Yes, I believe so.

2 Q. And did you also discuss with Mr. Jenkins about
3 his being terminated? You know, he was asking if I can fight
4 this, can I return back to the Rec Center?

5 A. Yeah, we had a discussion about him going back to
6 the Rec Center. Because it was unclear. He said he wasn't
7 allowed to return in the capacity of a volleyball coach, but
8 there was a question of, can he return as a citizen, or just
9 a, you know, non employee.

10 MS. RISTENPART: No further questions. Thank
11 you.

12 THE WITNESS: Okay.

13 THE COURT: All right, hold on.

14 Any redirect?

15 **REDIRECT EXAMINATION**

16 BY MS. MAZZA:

17 Q. So based upon your conversation with Mr. Jenkins
18 and his emotional state, was it clear that he was wanting to
19 go back to the Rec Center?

20 A. I -- I was of the opinion that he was just upset,
21 and didn't know if he was allowed to go back or not. I can't
22 say that he wanted to go back.

23 Q. He was asking you questions about going back,
24 though?

1 A. Yes.

2 Q. And you didn't give him any advice, or talk about
3 the case at all with him; right?

4 A. Nope.

5 Q. Why is that?

6 A. I didn't feel, as my position, it was appropriate
7 for me to do that.

8 MS. MAZZA: Your Honor, I have no further
9 questions.

10 THE COURT: Recross?

11 MS. RISTENPART: Nothing based on that.

12 THE COURT: Ms. Ristenpart, may this witness be
13 excused?

14 MS. RISTENPART: Yes, Your Honor.

15 THE COURT: Ms. Mazza?

16 MS. MAZZA: Yes, Your Honor.

17 THE COURT: Sergeant Hubkey, thank you. You are
18 excused.

19 THE WITNESS: Thank you.

20 THE COURT: Please do not discuss your testimony
21 with anyone, except for the attorneys in this case or their
22 investigators, until the jury's reached its verdict.

23 THE WITNESS: Yes, sir.

24 THE COURT: So Ms. Mazza, do you have another

1 witness ready to go before lunch, or where are we at?

2 MS. MAZZA: Your Honor, I can have another
3 witness that I anticipate being shorter, probably here within
4 the next five to ten minutes.

5 THE COURT: Okay. Let's go ahead and do that, so
6 we use our time well.

7 Folks, during this recess, I'm just going to have
8 you remain in the jury deliberation room. It should be a
9 quick recess, while we get another witness.

10 During the recess, you are admonished it is your
11 duty not to converse, amongst yourselves or with anyone else,
12 on any subject connected with the trial; either by phone,
13 email, text, internet or any other means.

14 Do not read, watch, or listen to any report of or
15 commentary on the trial, or any person connected with the
16 trial, by any medium of information; including, without
17 limitation, newspapers, television, and radio.

18 Do not form or express any opinion on any subject
19 connected with the trial until the cause is finally submitted
20 to you.

21 Do not do any research, such as consulting
22 dictionaries, using the internet, or using other reference
23 materials; or make any investigation, test the theory of the
24 case, recreate any aspect of the case, or in any other way

1 investigate or learn about the case on your own.

2 We're going to shoot for five minutes. We might
3 wait a little bit longer so the witness can get here and be
4 available.

5 The court's in recess.

6 (Recess.)

7 THE COURT: Case Number 19-CR-188. I show the
8 appearance of counsel for both parties, as well as the
9 Defendant.

10 Ms. Mazza, is your witness available?

11 MS. MAZZA: Yes, Your Honor.

12 THE COURT: All right.

13 Ms. Ristenpart, are you ready to proceed?

14 MS. RISTENPART: We are, Your Honor.

15 THE COURT: All right. Let's bring in the
16 jurors.

17 (Jury enters the courtroom.)

18 THE COURT: Ms. Mazza, do you stipulate to the
19 presence of the jury?

20 MS. MAZZA: I do.

21 THE COURT: Ms. Ristenpart?

22 MS. RISTENPART: I do.

23 (Jury present.)

24 THE COURT: Thank you, folks. Please be seated.

1 Ms. Mazza, you may call your next witness.

2 MS. MAZZA: Thank you, Your Honor. The State
3 calls KK.

4 THE COURT: Please raise your right hand and face
5 the Court Clerk here to be sworn.

6 KAYLYN KEITH,
7 called as a witness on behalf of the
8 STATE, was duly sworn and
9 testified as follows:

10 THE COURT: Please come on up here to the witness
11 stand. And remove your mask.

12 Thank you.

13 **DIRECT EXAMINATION**

14 BY MS. MAZZA:

15 Q. Can you please state your first initial and last
16 initial?

17 A. I actually just turned 18, so if you want me --

18 Q. Perfect.

19 A. -- to use my full name, I can.

20 Q. Go ahead.

21 A. Do you want me to spell out my first and last
22 name?

23 Q. Yes, please.

24 A. My first name is Kaylyn, K-A-Y-L-Y-N. Last name

1 is Keith, KEITH.

2 Q. Perfect. Well, happy birthday.

3 A. Thank you.

4 Q. So, Ms. Keith, I'm going to ask you about someone
5 named Richard Jenkins. Do you know him?

6 A. I do.

7 Q. How do you know him?

8 A. He was my volleyball coach in 8th grade.

9 Q. In 8th grade? For what team?

10 A. The Pau-Wa-Lu Middle School team.

11 Q. And he coached you. Did anyone else coach you?

12 A. He was the only coach for 8th grade.

13 Q. Perfect. And then -- do you see him here in the
14 courtroom?

15 A. Yes, I do.

16 Q. Can you describe where he's seated in
17 relationship to you, and what color shirt he's wearing?

18 A. He's sitting right in front of me, and he's
19 wearing a light blue shirt.

20 MS. MAZZA: Your Honor, the State would request
21 that the record reflect identification of the Defendant.

22 THE COURT: The record will so reflect.

23 BY MS. MAZZA:

24 Q. And in playing for Mr. Jenkins or with

1 Mr. Jenkins, did you ever have a time where you felt
2 uncomfortable?

3 A. Yes, I did.

4 Q. And who was that involving?

5 A. That was -- do I use initials?

6 Q. Yes, please?

7 A. That was with the initials GW.

8 Q. Were you on a team together?

9 A. We were not on a team together. She was trying
10 out for the team underneath me.

11 Q. Okay. In the tryouts, everyone was together --

12 A. Yes.

13 Q. -- even regardless of age?

14 A. Yes.

15 Q. And what was happening during those tryouts?

16 A. I watched Richard Jenkins. He was sitting next
17 to her as we were serving, and he was saying how she needed to
18 rotate her hips more in her serve.

19 And he put his hands on her waist and kind of
20 rotated her hips, saying that that's how she needs to move her
21 hips when she serves.

22 And it just made me really uncomfortable, so I
23 went and told one of the other head coaches about it.

24 Q. Who did you tell about it?

1 A. I told Suzy -- I don't remember her last name.
2 But I told Coach Suzy.

3 Q. Okay. So just going back with what happened, you
4 said Mr. Jenkins put his hips on -- his hands on GW's hips?

5 A. Yes.

6 Q. When that happened, had he done that with anyone
7 else?

8 A. No.

9 Q. Do you recall about what time of year this was?

10 A. This would have been -- I think in August, I
11 believe.

12 Q. Of 2018?

13 A. Yes.

14 Q. So, it made you uncomfortable enough to report
15 it?

16 A. Yes.

17 Q. Had you ever seen Mr. Jenkins do -- having played
18 on his team since 8th grade, with anyone else?

19 A. No.

20 Q. And you then decided to report this. Were you
21 later interviewed about this?

22 A. I was.

23 Q. Did you tell the detective that "if that would
24 have been you, it would have been over"?

1 A. I did.

2 MS. RISTENPART: Objection as to leading.

3 THE COURT: Sustained.

4 BY MS. MAZZA:

5 Q. Did you talk to the investigator about how you
6 would have felt, if that was you?

7 A. I did.

8 Q. What did you say?

9 A. I said that if I would have been touched like
10 that, I would have -- I would have made a big deal out of it,
11 and I would have told him that that was not appropriate. I
12 would have told my parents, and we would have gotten the
13 police involved.

14 Q. It made you that uncomfortable?

15 A. Yes.

16 MS. MAZZA: Your Honor, I have no further
17 questions.

18 THE COURT: Cross-examination?

19 **CROSS-EXAMINATION**

20 BY MS. RISTENPART:

21 Q. Kaylyn, when you observed this interaction
22 between GW and Mr. Jenkins, he was clearly instructing her;
23 right?

24 A. He was.

Q. And telling her how to serve?

A. Um-hum.

Q. And, in fact, you do have to use your hips in a

certain way to serve; correct?

A. Yes.

Q. It's a critical part of serving in volleyball?

A. Yeah.

Q. And Kaylyn, you're not close with the Jenkins

family; right?

A. I was friends with Alyssa for a short while, but

then we kind of just drifted apart. So not super close, but I

do know them somewhat well.

Q. And do you know GW?

A. I do know GW.

Q. And you're friends with GW?

A. I wouldn't quite say friends, but we're pretty

close acquaintances.

Q. Going back to August of 2018, did you know how

close GW was with Mr. Jenkins' daughter, Alyssa?

A. I knew that they were best friends.

Q. Did you know how often GW went over to the

Jenkins family home?

A. I didn't know how often, but I knew that she hung

out with them a lot.

1 MS. RISTENPART: No further questions. Thank
2 you.

3 THE COURT: Redirect?

4 **REDIRECT EXAMINATION**

5 BY MS. MAZZA:

6 Q. Ms. Keith, you observed this, and you knew that
7 GW and Alyssa were friends?

8 A. Um-hum.

9 Q. And knew that they hung out a lot?

10 A. Um-hum.

11 Q. Including with Mr. Jenkins; is that correct?

12 A. Yes.

13 Q. And it still made you uncomfortable; is that
14 correct?

15 A. Yes.

16 Q. Now, in talking about serving, you have to use
17 your hips. Have you ever practiced serving yourself?

18 A. Yes, I have.

19 Q. With coaches?

20 A. Yeah.

21 Q. Have they ever touched your hips like that?

22 A. No.

23 Q. And have you had more than one coach?

24 A. Yes.

1 Q. How much coaches would you say you've had?

2 A. I've had about three or four volleyball coaches.

3 Q. And no one's ever touched your hips?

4 A. No.

5 Q. On that day that you observed GW and Mr. Jenkins,
6 was anyone else practicing serving?

7 A. Yeah, I believe that every girl that was there.
8 It was kind of just an open serving, everyone was practicing.

9 Q. And everyone needs to use their hips to serve?

10 A. Yes.

11 Q. Did anyone else's hips get touched by
12 Mr. Jenkins?

13 A. No.

14 MS. MAZZA: No further questions.

15 THE COURT: Recross?

16 **RECROSS-EXAMINATION**

17 BY MS. RISTENPART:

18 Q. You keep saying touching the hips. But we're
19 talking about the hip area; correct?

20 A. Yes.

21 Q. Lower waist, hip area?

22 A. Yes.

23 Q. Okay. And touched it just to maneuver or to
24 position her in the correct position?

1 A. Yeah, he put his hands on her hips and kind of
2 just rotated her side to side.

3 Q. And you say you didn't observe him do this with
4 anyone else. Did anyone else need that kind of instruction?

5 A. Absolutely.

6 Q. In your opinion?

7 A. Yeah.

8 Q. But none of them were close family friends with
9 the Jenkins family, like GW; right?

10 A. No.

11 MS. RISTENPART: No further questions.

12 THE COURT: Ms. Ristenpart, may this witness be
13 excused?

14 MS. RISTENPART: Yes, Your Honor.

15 THE COURT: Ms. Mazza?

16 MS. MAZZA: Yes, Your Honor.

17 THE COURT: All right.

18 Ms. Keith, thank you. You are excused. Please
19 do not discuss your testimony with anyone, except for the
20 attorneys in this case or their investigators, until such time
21 as the jury has returned a verdict.

22 Thank you. You are excused.

23 THE WITNESS: Thank you.

24 THE COURT: Ms. Mazza, would you like to go

1 forward with another witness, or do you request a lunch break?

2 MS. MAZZA: Your Honor, the next witnesses that I
3 have lined up I anticipate will take quite a while. So I
4 would, if the Court is inclined, we can take our lunch break
5 now.

6 THE COURT: Okay. It is a little bit early,
7 folks, but we're going to take our lunch break now. And it's
8 only going to be for one hour, so we're going to come back at
9 1230.

10 During the recess, I will continue to admonish
11 you as follows: It is your duty not to converse amongst
12 yourselves, or with anyone else, on any subject connected with
13 the trial either by phone, email, text, internet or any other
14 means.

15 Do not read, watch, or listen to any report of or
16 commentary on the trial, or any person connected with the
17 trial, by any medium of information; including, without
18 limitation, newspapers, television, and radio.

19 Do not form or express any opinion on any subject
20 connected with the trial until the cause is finally submitted
21 to you. Do not do any research, such as consulting
22 dictionaries, using the internet, or using other reference
23 materials; or make any investigation, test the theory of the
24 case, recreate any aspect of the case, or in any other way

1 investigate or learn about the case on your own.

2 We'll be in recess until 12:30.

3 (Lunch recess.)

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1 MINDEN, NEVADA, FRIDAY, APRIL 23, 2021, A.M. SESSION

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4 THE COURT: The Court is back in session on Case
5 Number 19-CR-188. I show the appearance of counsel for both
6 parties, as well as the Defendant.

7 Ms. Mazza, are you ready to bring in the jurors?

8 MS. MAZZA: Yes, Your Honor.

9 THE COURT: Ms. Ristenpart?

10 MS. RISTENPART: Yes, Your Honor.

11 THE COURT: All right. Let's bring in the
12 jurors.

13 (The jury enters the courtroom.)

14 THE COURT: Ms. Mazza, do you stipulate to the
15 presence of the jury?

16 MS. MAZZA: Yes, Your Honor.

17 THE COURT: Ms. Ristenpart?

18 MS. RISTENPART: Yes, Your Honor.

19 (The jury is present.)

20 THE COURT: Thank you. You may be seated.

21 Ms. Mazza, you may call your next witness.

22 Ms. Mazza: Thank you, Your Honor.

23 The State calls Tamara Woodbridge.

24 And, Your Honor, I am going to remain seated

1 because of hearing concerns. I'm going to remain closer to
2 the microphone.

3 THE COURT: All right. Very good.

4 Ms. Woodbridge, please come forward. Stop there
5 for a moment. I'll have you raise your right hand to be
6 sworn.

7 TAMARA MICHELLE WOODBRIDGE,
8 called as a witness on behalf of the
9 STATE, was duly sworn and
10 testified as follows:

11 THE COURT: Thank you. Please come on up to the
12 witness stand.

13 Ms. Mazza: Do you want to put the hearing aids
14 in?

15 THE COURT: You can remove your mask as well.
16 Thank you.

17 THE WITNESS: I should have done that first.

18 **DIRECT EXAMINATION**

19 BY MS. MAZZA:

20 Q. Can you hear me pretty well?

21 A. One more time yeah.

22 Q. Can you hear?

23 A. Now I can.

24 Q. Okay. Great. Can you please state your full

1 name, and spell your last name for the court reporter?

2 A. It's Tamara Michelle Woodbridge.

3 W-O-O-D-B-R-I-D-G-E.

4 Q. Ms. Woodbridge, do you have any children?

5 A. Yes.

6 Q. How many?

7 A. Three.

8 Q. Are any of them under 18?

9 A. [Name redacted] "G."

10 Q. All right. So from now on -- Your Honor, I ask
11 that the record be stricken to place with "G"?

12 THE COURT: That request is granted.

13 BY MS. MAZZA:

14 Q. So when referring to one of your children under
15 18, what are her initials?

16 A. GW.

17 Q. And how old is GW?

18 A. 16.

19 Q. When is her birthday?

20 A. September 16th, '04.

21 Q. '04?

22 A. (Nodded head.)

23 Q. So September 16th, 2004?

24 A. Yeah.

1 Q. And does GW enjoy any athletics, any sports?
2 A. Yes, she does. She plays volleyball.
3 Q. How long has she been playing volleyball?
4 A. Since 4th grade.
5 Q. And I'd like to draw your attention to the summer
6 of 2018. Was there anyone she became close with over that
7 summer?
8 A. Yes.
9 Q. And who would that be?
10 A. Alyssa.
11 Q. What's her last name?
12 A. Jenkins.
13 Q. How did they becomes close?
14 A. Through volleyball.
15 Q. And in their close relationship, did GW become
16 closer with anyone else too?
17 A. Yes, with Alyssa's father.
18 Q. And who is that?
19 A. Rick Jenkins.
20 Q. Do you see Rick Jenkins here in court today?
21 A. I do.
22 Q. Can you describe where he's seated in relation to
23 you, and what color shirt he's wearing?
24 A. He's in front of me with a blue shirt and a red

1 tie.

2 MS. MAZZA: Your Honor, the State would request
3 that the record reflect the identification of the Defendant.

4 THE COURT: The record will so reflect.

5 BY MS. MAZZA:

6 Q. So can you describe for me how GW became close
7 with Alyssa and Richard Jenkins?

8 A. Well, he was coaching clinics at -- Rick was
9 coaching clinics at the Rec Center. GW really wanted to make
10 the team in junior high school, so we signed her up for some
11 clinics. And so he was coaching her at the clinics, as well
12 as on our rec volleyball team also. I'm not sure on the
13 timeline between the two.

14 And, and they became close, close friends,
15 because GW would go to Alyssa's house, and Alyssa would come
16 to our house, and they were best friends.

17 Q. So would you say you kind of grew to have a trust
18 for their family?

19 A. I did.

20 Q. And specifically Mr. Jenkins?

21 A. Yes.

22 Q. And at some point, did it become -- did it become
23 aware to you that people were concerned about Mr. Jenkins and
24 GW's relationship?

1 A. Yes.

2 Q. When was that first report to you?

3 A. That was when Gage thought he saw a hug one
4 night, when they were bringing her back from a tournament,
5 that was just too long and too close.

6 Q. And can you tell me who Gage is?

7 A. Gage is my boyfriend.

8 Q. Is that Gage Marcyes?

9 A. Or was, yes.

10 Q. Was your boyfriend?

11 A. Yes. It's kind of undetermined at this point.

12 Q. Okay. So, at that point, then you and Gage had a
13 conversation about this, I assume; is that correct?

14 A. Yes.

15 Q. What did you do after he informed you of his
16 concern?

17 A. I -- I wasn't -- he wasn't sure what he saw
18 absolutely, a hundred percent, and I could feel that, from him
19 telling me, he was very upset by it. So I suggested that we
20 act like we're asleep and kind of watch out the window, and
21 see if we saw anything concerning the next time.

22 Q. Um-hum?

23 A. And we did that, but we couldn't see anything.

24 Q. Okay. And so based upon this, did you have a

1 conversation with GW and Mr. Jenkins?

2 A. I had a conversation with Mr. Jenkins first. And
3 told him that we didn't want to cause a rift between Alyssa
4 and GW at that point. GW had just lost a step dad that she
5 was very close to, due to cancer.

6 And that was kind of how we all became so close;
7 was because they stepped up and -- and they were there for
8 her. So I thought, you know, when she really needed somebody
9 to comfort her.

10 Q. And so when was it that her step dad passed away?

11 A. Gosh, it's been about three years now. I'm not
12 very good on timelines, I apologize.

13 Q. Would that be in the summer of 2018?

14 A. It was.

15 Q. And so what was his name?

16 A. Wayne Mazafaro.

17 Q. And after he passed away, how did GW react?

18 A. She was lost.

19 Q. At that time, did she have any close friends?

20 A. No. Only Alyssa.

21 Q. And Alyssa was kind of her person; is that right?

22 A. Um-hum, absolutely.

23 Q. Were you worried if she would lose that
24 friendship?

1 you think it's right that people are saying this? How can we
2 prevent this?"

3 And everyone denied it and said, "No, no. You
4 know, nothing's going on," and "That's ridiculous, ha ha ha."

5 Q. Did Mr. Jenkins react that way too?

6 A. Yes.

7 Q. He said, "Nothing's going on"?

8 A. Yes.

9 Q. Did there ever come a time that there were more
10 reports to you?

11 A. Yes.

12 Q. When was that?

13 A. That was when I got a call from -- from Douglas
14 Police Department.

15 Q. And so going back to the relationship between
16 Mr. Jenkins and GW, I believe you said that they would have
17 sleepovers at his house; is that correct?

18 A. Yes.

19 Q. Is his house in Douglas County?

20 A. Yes. It's in Gardnerville.

21 Q. Would those -- how often would those sleepovers
22 occur?

23 A. Gosh, they were at each other's house, one or the
24 other's, every weekend.

1 Q. So, once you had these reports, and once you had
2 two conversations with Mr. Jenkins, did you allow GW to go
3 around him any more?

4 A. I stopped the sleepovers. I stopped any rides
5 being shared that way, and said I would take her wherever she
6 needs to go.

7 I had, at the point of the principal reporting to
8 me, said, just, you know, from now on, it's going to be only
9 in public. You know, where you're at a public function or
10 something like that. And stay at arms-length away from each
11 other.

12 Q. And was this in August of 2018?

13 A. I am not sure of the timeline. I believe so.

14 Q. And so after, after you had this conversation
15 with Mr. Jenkins, had this conversation with GW, and then get
16 another report, how did you react?

17 A. I, I was just beyond myself. I was very, very
18 upset.

19 Q. At any point, had GW come forward to you and
20 indicated that Mr. Jenkins was doing anything inappropriate?

21 A. I would say it was a couple weeks, a week or two
22 after I had spent with -- with the investigator, that she
23 finally said, "Mom, yeah, he did. He did touch me."

24 Q. And was that after she was interviewed by the

1 Douglas County Sheriff's Office?

2 A. Yes.

3 Q. So, GW comes forward to you with this
4 information?

5 A. (Nodded head.)

6 Q. Has she come forward to you with information
7 before about someone?

8 A. Yes.

9 Q. And who was that?

10 A. That was Gage.

11 Q. And did you believe her back then?

12 A. Not really. Not really.

13 Q. Why was that?

14 A. I believe that something happened that made her
15 feel a little uncomfortable, but I don't think it was meant in
16 the way that...

17 Q. She believed it to be?

18 A. That she believed it was, yeah.

19 Q. Would -- who was that person again?

20 A. Gage Marcyes.

21 Q. Would Gage be around her ever?

22 A. Yes. Gage is around her a lot.

23 Q. At that time as well?

24 A. Yes.

1 Q. What about bedtime?

2 A. He went up to say good night to her.

3 Q. Would he ever tuck her in?

4 A. Yes.

5 Q. And when she made that report to you, did you
6 react differently than when she made the report to you about
7 Mr. Jenkins?

8 A. Yes.

9 Q. Why?

10 A. I -- I think because I had had all of the other
11 stuff leading up to Mr. Jenkins that made me feel that, you
12 know, it was definitely not a mistake at this point.

13 Q. Was there a difference in how GW came forward to
14 you?

15 A. Yeah, there was. She was very -- she was just
16 very open about it the first time with Gage. Versus the
17 second time with Rick, it seemed like she was afraid to tell
18 me --

19 MS. RISTENPART: Objection, speculation.

20 THE COURT: Sustained.

21 BY MS. MAZZA:

22 Q. So, there was a difference in her response to the
23 way she talked to you?

24 A. Yes. She was afraid to tell me the first time

1 and --

2 MS. RISTENPART: Objection.

3 THE WITNESS: -- and not afraid the second.

4 MS. RISTENPART: Speculation.

5 THE COURT: Hold on.

6 THE WITNESS: I don't know how else to say it.

7 THE COURT: When there's an objection, just stop
8 for a moment.

9 The objection is sustained.

10 So just wait for another question from Ms. Mazza.

11 THE WITNESS: Okay.

12 BY MS. MAZZA:

13 Q. How long have you known your daughter?

14 A. Her whole life.

15 Q. Have you observed her demeanor?

16 A. Yes.

17 Q. Was there a difference in her demeanor when it
18 came to Mr. Jenkins, versus Mr. Marcyes?

19 A. Yes, she was shameful from Mr. Jenkins.

20 MS. RISTENPART: Again, objection, speculation.

21 THE COURT: Overruled.

22 BY MS. MAZZA:

23 Q. And with regard to the allegations regarding
24 Gage, did she come forward with that on her own, or did

1 someone else come forward first?

2 A. She came forward on her own, although there was a
3 friend with her.

4 Q. So when we talk about GW, is she what you could
5 describe as a touchy person?

6 A. Yes.

7 Q. With everyone?

8 A. Yes.

9 Q. Even strangers?

10 A. No.

11 Q. Does she have to be comfortable with someone to
12 act like that?

13 A. Yes. Yes. And she doesn't hug. She doesn't
14 hug. Hugs are not -- she might laugh and put her hand on your
15 shoulder, you know, laughing about something funny, sharing it
16 with you, but she doesn't hug. She barely hugs me.

17 Q. And when we talk about Wayne passing away, you
18 said he was a father figure; is that right?

19 A. Yes.

20 Q. How close were they?

21 A. Extremely close. Very, very close. He was a
22 very good person, and a very good role model in her life that
23 she looked up to very much.

24 Q. Did you ever get any reports regarding her

1 relationship with Wayne?

2 A. No.

3 Q. Now, as this relationship with Mr. Jenkins
4 developed, did you ever allow GW to go on trips with them?

5 A. Yes. Yes, I did. They went -- she went with
6 them to an RC race track in Modesto.

7 Q. By "them," do you mean Mr. Jenkins and his
8 daughter?

9 A. Yes.

10 Q. Anything else that they did?

11 A. Rafting. And the movies in Reno.

12 Q. And that would be Mr. Jenkins --

13 A. And Alyssa.

14 Q. -- GW, and Alyssa?

15 A. Yes.

16 Q. So I want to talk to you about GW making the
17 volleyball team in the fall of 2018; do you recall that?

18 A. I don't think she made it her first year of high
19 school. I don't know if the timeline matches. She didn't,
20 she tried out, but didn't make it her freshman year.

21 Q. Did she then try out for a club team?

22 A. Yes.

23 Q. Did she have to physically try out for that?

24 A. I don't recall.

1 Q. Has she ever made a team, just because?

2 A. Not that I know of. I don't remember, for Jobs
3 Peak, if it was tryouts or not. It was a newly-formed club.

4 Q. What about NNJ?

5 A. NNJ always has tryouts.

6 Q. Can you relay to the jury how this experience has
7 been for you?

8 MS. RISTENPART: Objection, relevance.

9 THE COURT: Sustained.

10 BY MS. MAZZA:

11 Q. Has GW had a hard time with it?

12 A. Yes.

13 Ms. Mazza: And I apologize, if we could strike
14 the word and insert GW?

15 THE COURT: Yes.

16 MS. MAZZA: Your Honor, I have no further
17 questions.

18 THE COURT: Cross-examination.

19 **CROSS-EXAMINATION**

20 BY MS. RISTENPART:

21 Q. So, Ms. Woodbridge, you just told us that your
22 daughter, GW, and Alyssa became very close over the summer of
23 2018?

24 A. True.

1 Q. In fact, were best friends?

2 A. Yes.

3 Q. They started hanging out, they've known each
4 other on and off through volleyball before that, though;
5 right?

6 A. I don't recall. I don't know.

7 Q. And they, in fact, started hanging out earlier
8 than the summer of 2018; right?

9 A. I don't recall.

10 Q. And you said that Alyssa was GW's really only
11 friend?

12 A. Yes.

13 Q. And that GW just basically hangs out with Alyssa?

14 A. I'm sorry. Can you repeat that?

15 Q. The GW just basically just hangs out with Alyssa?

16 A. Yes.

17 Q. And your families became really close as Alyssa
18 and G hung out more; right?

19 A. Correct.

20 Q. Your family and the Jenkins family?

21 A. Correct.

22 Q. And you went to barbecues at the Jenkins home?

23 A. Yes.

24 Q. Went to dinner with them?

1 A. Yes.

2 Q. Went to restaurants with them?

3 A. Um-hum.

4 Q. You have to answer out loud, Ma'am?

5 A. I'm sorry?

6 Q. You have to answer out loud?

7 A. Yes. Yes.

8 Q. And we're always talking about Alyssa and Rick;

9 but there's many more people to the Jenkins family; right?

10 A. Correct.

11 Q. There's Mr. Jenkins' girlfriend, Kim Copeland?

12 A. Yes.

13 Q. Who was also there with you?

14 A. Yep.

15 Q. There's also -- they have a roommate named Chris

16 Fields?

17 A. Yes.

18 Q. Also there at the house?

19 A. Correct.

20 Q. And Kim and Chris live at the house?

21 A. Yes.

22 Q. And, in fact, you told -- well, let me back up.

23 You were interviewed by police; correct?

24 A. Yes.

1 Q. Back on September 26th of 2018?

2 A. I don't remember dates, I apologize.

3 Q. Was it the end of September?

4 A. I believe so. It -- in general. I can just say
5 in general. It's been three years ago, I'm sorry.

6 Q. And you informed police that, in fact, GW was
7 getting closer to the entire family; right?

8 A. Yes.

9 Q. Closer to Kim; right?

10 A. Correct.

11 Q. Even the roommate, Chris?

12 A. Yes.

13 Q. And we just talked about some of the trips that
14 you said that -- excuse me, G went on with the Jenkins family;
15 right?

16 A. Yes.

17 Q. And we talked about RC Willy, racing cars?

18 A. RC racing.

19 Q. Sorry, the RC cars. Thank you?

20 A. Yes.

21 Q. And, in fact, it wasn't just Alyssa, Rick and GW;
22 the rest of the Jenkins family was there also; right?

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

24 Q. You don't recall?

1 A. I was not there with them to know. They picked
2 GW up in Stockton. We met in Stockton, because we were
3 visiting my family. And they were already on their trip, and
4 so they met us, we met up in Stockton and they picked her up
5 there.

6 Q. And the rafting trip that we just talked about,
7 you, in fact, were on that rafting trip; right?

8 A. I was on one of them.

9 Q. There were several?

10 A. There were multiple, yes.

11 Q. And on the other rafting trips, there were other
12 people on the rafting trip; correct?

13 A. On the other one? Yes, yes, there were, I
14 believe.

15 Q. And once you asked Rick to take -- excuse me, G,
16 with them to a volleyball tournament in Carson; right?

17 A. Correct.

18 Q. And Mr. Jenkins told you, "Only if Alyssa was
19 coming with us would I take G"?

20 A. Yes.

21 Q. Now that summer of 2018, Alyssa was helping out
22 at the clinics at the Rec Center; right?

23 A. I believe so.

24 Q. Kind of as like a coach's assistant?

1 A. I'm thinking, yes. I'm not -- I don't know if
2 she was signed up, or if she was just assisting. I'm not
3 sure.

4 Q. Okay. And you allowed G to also help out at the
5 clinics?

6 A. Are you referring to a later clinic, possibly?
7 I'm confused.

8 Q. Did you allow G to also help out at the clinics,
9 like Alyssa was?

10 A. At clinics, I have in the past, yes. I'm not
11 sure about the one that you're talking about, yes.

12 Q. There were several --

13 A. Yes.

14 Q. -- clinics over the summer?

15 A. Yes, that's why I'm confused.

16 Q. And you would actually pop in to the clinics or
17 practices at the Rec Center; right?

18 A. Whenever I could, yes.

19 Q. To watch?

20 A. Um-hum.

21 Q. Now, volleyball is G's life?

22 A. Volleyball is some of her life. She's also very
23 academic. She has all A's and one B, she's very goal-driven.
24 She does -- she does work hard at anything that she sets her

1 mind to.

2 Q. And G does love to play volleyball, though?

3 A. Yes.

4 Q. And volleyball is an expensive sport; right?

5 A. I'm sorry?

6 Q. Volleyball is an expensive sport?

7 A. It can be.

8 Q. There's money to travel to the tournaments --

9 A. Yes, for club, yes.

10 Q. -- and games. The clinics cost money?

11 A. True.

12 Q. And as we talked about, that fall of 2018, G
13 tried out for the Douglas County High School team; right?

14 A. Yes.

15 Q. And she did not make it?

16 A. Right.

17 Q. Even the frosh team, she didn't --

18 A. For the freshman team, she did not make it, no.

19 Q. And then she tried out for of the NNJ club team?

20 A. Yes.

21 Q. And that NNJ club team is run by Coach Marie
22 Foster?

23 A. That team -- I believe that year was, yes. The
24 team that she made.

1 Q. Later on?

2 A. No, the first year she went to NNJ, I believe
3 Marie was the coach that year. But she was on NNJ other
4 years, too.

5 Q. But when she did make NNJ, Marie Foster was her
6 coach the first year?

7 A. Yes.

8 Q. And when G didn't make, in that fall of 2018, the
9 high school team and also the NNJ team, was it pretty
10 devastating for her?

11 A. I'm sorry, can you repeat that?

12 Q. When G did not make the high school team?

13 A. Yes, that was devastating.

14 Q. And when she didn't make the NNJ team, that was
15 really hard on her, too?

16 A. She did make the NNJ team.

17 Q. Later on; correct?

18 A. It was, I believe, the same year or the beginning
19 of the next year. The season after she didn't make it for
20 volleyball at the high school, she made the NNJ team.

21 Q. And the NNJ team, it's fairly expensive; correct?

22 A. Correct.

23 Q. It's \$5,000?

24 A. Yes.

1 Q. That first year or season as you remember it, G
2 did not have to pay for the NNJ; correct?

3 A. Correct. She received a scholarship.

4 Q. And then Marie Foster was her coach?

5 A. Yes.

6 Q. So you just described G as being touchy?

7 A. Yes.

8 Q. And you actually have also described G as being
9 clingy; correct?

10 A. She can be.

11 Q. And you've described G that she hangs on to
12 people?

13 A. She's a people person.

14 Q. Now, Ms. Woodbridge, you claimed today that G
15 told you that Mr. Jenkins touched her?

16 A. Yes.

17 Q. And you say that that happened shortly after you
18 got a call from law enforcement about the Rec Center?

19 A. Yes.

20 Q. Ms. Woodbridge, you were only interviewed ever
21 once in this entire case; right?

22 A. Yes.

23 Q. By law enforcement?

24 A. Yes.

1 Q. And that interview was right after they called
2 you to tell you, "We want to talk to you about Mr. Jenkins and
3 G at the Rec Center"; right?

4 A. It was after I received a phone call, yes. Yes.
5 I believe it was the same day, it might have been the next
6 day.

7 Q. And then you claim later, G told you that
8 Mr. Jenkins touched her?

9 A. Yes.

10 Q. After that interview?

11 A. It was actually after her first interview.

12 Q. And yet you never went back to law enforcement,
13 you never went back to the police to tell them that; did you?

14 A. Yes, I did.

15 Q. You're claiming now you did?

16 A. I did. I called the detective and told them that
17 she wanted to come back in and talk to them.

18 Q. And you claim you did that, but then G's second
19 interview with police wasn't until November 1st of 2018;
20 right?

21 A. I'm not good on timelines. I apologize.

22 Q. When you made that call, did they bring G right
23 back in to talk to her?

24 A. Yes.

1 Q. That's what your --

2 A. Yes.

3 Q. -- believed?

4 A. They did.

5 Q. Did G meet with Marie Foster?

6 A. I'm sorry?

7 Q. Did G meet with Marie Foster?

8 A. We had a lesson.

9 Q. And you testified for the State that you had had
10 conversations with Alyssa and Mr. Jenkins and GW about, "Hey,
11 some people are talking"; right?

12 A. About what -- yeah, that people are saying
13 things, and why are they saying this.

14 Q. And did you ever ask GW privately, "Hey, is
15 everything okay"?

16 A. Yeah, I did.

17 Q. And she said everything was fine; right?

18 A. Yes.

19 Q. And confirmed that Rick had never touched her
20 inappropriately?

21 A. Right.

22 Q. Said that Rick had never made her uncomfortable?

23 A. Right.

24 Q. And of all the times that you observed them, all

1 the practices you went to, all the times that you were over at
2 their house, all the trips that you went on with them; you
3 never observed anything that you felt was inappropriate?

4 A. The only thing I can think of is when they would
5 play with their hand game, they would play a hand game where
6 they would like hold their hands up and lean into each other.

7 And that was the only thing I didn't quite feel
8 comfortable with, but it wasn't just the two of them doing it.
9 It was a whole group of family playing that same game, so I
10 just dismissed it as fun.

11 Q. So, let's go back to 2016, when GW made that
12 allegation against your boyfriend Gage?

13 A. Um-hum.

14 Q. She actually told her teacher; correct?

15 MS. MAZZA: Objection, relevance.

16 MS. RISTENPART: It was brought up on direct,
17 Your Honor.

18 THE COURT: Overruled.

19 BY MS. RISTENPART:

20 Q. Right, she told her teacher?

21 A. Oh, yeah, I think so. I think it was her
22 teacher. First she told me. And I -- like I said, I
23 dismissed it because I thought it was him tucking her in and
24 she misconstrued it.

1 And you know, I just kind of thought it will blow
2 over and then things will be okay. And then it went further,
3 so there were -- she obviously felt uncomfortable.

4 Q. I see you keep looking at the prosecutor?

5 A. I am able to look wherever I like, aren't I?

6 Q. No, absolutely?

7 A. Okay.

8 Q. I'm just wondering why you are looking over
9 there.

10 A. I'm focusing, because you have a demeanor --

11 THE COURT: Hold on. Hold on, both of you. This
12 is question and answer only. So let's back to that,
13 Ms. Ristenpart.

14 MS. RISTENPART: Thank you, Your Honor.

15 BY MS. RISTENPART:

16 Q. Ms. Woodbridge, G told her teacher that Gage
17 rubbed her butt; correct?

18 MS. MAZZA: Objection, Your Honor. These details
19 are not appropriate for Ms. Woodbridge to be discussing, and I
20 would also refer Ms. Ristenpart to the Court's orders.

21 MS. RISTENPART: Your Honor --

22 THE COURT: Ms. Ristenpart, you may respond.

23 MS. RISTENPART: That was brought up on direct.

24 She's trying to draw some distinction in that G somehow wasn't

1 believable in her first allegation against Gage; in comparison
2 with what she's alleging with Mr. Jenkins. It's appropriate
3 cross.

4 THE COURT: All right. Go ahead.

5 MS. RISTENPART: Thank you.

6 THE WITNESS: Can you repeat?

7 BY MS. RISTENPART:

8 Q. GW made the allegation that Gage rubbed her butt?

9 A. Yes.

10 Q. And, in fact, she was interviewed by police;
11 right?

12 A. Yes.

13 Q. And G also said that Gage would get into bed and
14 put his hands under the covers and rub her butt?

15 MS. MAZZA: Objection, hearsay.

16 THE COURT: Sustained.

17 THE WITNESS: I don't know that.

18 THE COURT: Hold on.

19 Sustained.

20 THE WITNESS: I'm sorry.

21 THE COURT: That's all right. Wait for the next
22 question.

23 BY MS. RISTENPART:

24 Q. That allegation, it was a false allegation;

1 right?

2 MS. MAZZA: Objection, Your Honor. To ask her
3 that is inappropriate.

4 If I could voir dire on that, Your Honor?

5 THE COURT: You may.

6 VOIR DIRE EXAMINATION

7 BY MS. MAZZA:

8 Q. Ms. Woodbridge, were you there every night when
9 Gage tucked GW into bed?

10 A. No, I was not.

11 Q. Did you make a decision regarding whether that
12 was a false allegation, was that up to you?

13 A. No, it wasn't.

14 MS. MAZZA: Your Honor, I don't believe she has
15 any knowledge to make that answer.

16 THE COURT: Ms. Ristenpart?

17 BY MS. RISTENPART:

18 Q. Were you informed at some time that police closed
19 out their investigation against Gage?

20 MS. MAZZA: Objection, hearsay.

21 THE COURT: Overruled.

22 You can answer.

23 THE WITNESS: Okay?

24 Yes.

1 MS. RISTENPART: No further questions. Thank
2 you.

3 THE COURT: Redirect.

4 **REDIRECT EXAMINATION**

5 BY MS. MAZZA:

6 Q. Ms. Woodbridge, Ms. Ristenpart was asking you a
7 lot of questions about NNJ.

8 In your experience, is Marie Foster the person
9 that runs NNJ?

10 A. No, she is not.

11 Q. Is she the person that gave you guys a
12 scholarship?

13 A. No. No. No, she had nothing to do with that.

14 Q. Did you ever receive reports from anyone that GW
15 was having inappropriate contact with Chris, Mr. Jenkins'
16 roommate, or Kim, Mr. Jenkins' girlfriend?

17 A. No, I did not.

18 Q. And Ms. Ristenpart asked you about the "touchy,
19 clingy" demeanor of GW. Is she like that with everyone?

20 A. Yes.

21 Q. And is she like that with only people she's close
22 to?

23 A. Yes.

24 Q. Would she have been like that with Mr. Jenkins,

1 if she had just met him that day?

2 A. No. She trusted him.

3 Q. So going back to the Gage report, do you recall
4 how old GW was?

5 A. I'm thinking 12, maybe.

6 Q. And then how was GW's relationship with Gage back
7 then?

8 A. It was good. It was good. I don't -- I never
9 recognized anything out of place.

10 Q. How was GW's relationship with you back then?

11 A. It wasn't great. It wasn't great at that time.

12 Q. When Ms. Ristenpart asked you about popping into
13 practice, do you have a job?

14 A. Of course.

15 Q. Are you able to pop in at every single practice?

16 A. I wish. No, I'm not.

17 Q. And you mentioned to Ms. Ristenpart, you're
18 really not good on timelines. When you say GW reported what
19 Mr. Jenkins did to her after her interview, are you sure about
20 the number of weeks after her interview?

21 A. No, I'm not.

22 Q. But you believe you called law enforcement as
23 soon as she made that statement?

24 A. Yes. Within a -- within the day.

1 MS. MAZZA: Your Honor, I have no further
2 questions.

3 THE COURT: Thank you.

4 Any recross?

5 MS. RISTENPART: Nothing based upon that.

6 THE COURT: All right.

7 May this witness be excused, Ms. Ristenpart?

8 MS. RISTENPART: Unfortunately, no.

9 THE COURT: Ms. Woodbridge, you are being held;
10 which means you might be called back to the stand. You'll be
11 released at this time, you might come back later.

12 THE WITNESS: Okay.

13 THE COURT: A different day, or even later today.

14 THE WITNESS: Okay.

15 THE COURT: Please do not discuss your testimony
16 with anyone, except for the attorneys in this case or their
17 investigators, until such time as the case has been decided by
18 the jury.

19 THE WITNESS: Okay.

20 THE COURT: Thank you.

21 THE WITNESS: Thank you.

22 THE COURT: You can hand those to me. Thank you.

23 MS. MAZZA: Your Honor, if I may retrieve the
24 next witness?

1 THE COURT: You may.

2 (Brief pause in proceedings.)

3 MS. MAZZA: Your Honor, the State calls GW.

4 With regard to the location of the podium, Your
5 Honor, I would ask that it be moved for questioning by
6 Ms. Ristenpart, and questioning by myself. I don't believe
7 it's in an appropriate location for the alleging party to have
8 to look during questioning.

9 THE COURT: What is the particular problem with
10 the location?

11 MS. MAZZA: Your Honor, she's going to have to
12 stare right at Mr. Jenkins.

13 THE COURT: Okay. Ms. Ristenpart, your -- or
14 your thoughts on that?

15 MS. RISTENPART: Your Honor, we can move the
16 podium, but this is the right to confrontation.

17 THE COURT: Ms. Mazza, are you asking the podium
18 be positioned to block her view of Mr. Jenkins?

19 MS. MAZZA: No, not at all, Your Honor. I just
20 believe a more appropriate location might be towards the
21 middle, where for every single question from counsel, she
22 doesn't have to look at Mr. Jenkins.

23 Of course he has a right to confrontation; that's
24 why GW is being called.

1 THE COURT: All right.

2 Ms. Ristenpart, it sounded like you were okay
3 with moving it to the middle. Do you have any issue with
4 that?

5 MS. RISTENPART: Ms. Mazza can move it to the
6 middle. I don't care.

7 THE COURT: Okay. Let's go ahead and bring in
8 the witness. GW, please stand right there for a minute.
9 Raise your right hand, face the clerk to be sworn.

10 G. W.,
11 called as a witness on behalf of the
12 STATE, was duly sworn and
13 testified as follows:

14 THE COURT: All right. Come on up here to the
15 witness stand, please. Right over here.

16 MS. RISTENPART: Can the witness remove her mask?

17 THE COURT: Yes. Please remove your mask. Thank
18 you.

19 **DIRECT EXAMINATION**

20 BY MS. MAZZA:

21 Q. All right. Good afternoon. Can you please state
22 your first letter of your name and the first letter of your
23 last name?

24 A. GW.

1 Q. And GW, how old are you?
2 A. 16.
3 Q. When is your birthday?
4 A. 9/16/'04.
5 Q. Are you a little nervous today?
6 A. A little bit.
7 Q. Can you tell us about any sports that you play?
8 A. I play volleyball.
9 Q. How long have you played volleyball?
10 A. Actually about seven years.
11 Q. When you play volleyball, do you prefer a
12 specific position or have you gotten a position that you're
13 pretty good at?
14 A. Yeah.
15 Q. What's that?
16 A. I play outside.
17 Q. And what teams have you played on?
18 A. I've played rec. I've played on rec. I played
19 Jobs Peak, NNJ and Douglas and CVMS.
20 Q. And what about back in 2018, did you play on any
21 teams then?
22 A. Yes.
23 Q. What were those be?
24 A. I'm pretty sure it was Jobs Peak.

1 Q. So, did you have a specific coach when you were
2 on the Jobs Peak team?

3 A. Yes.

4 Q. And who was that?

5 A. Dan Hannah.

6 Q. Dan Hannah. And was there anyone else that would
7 help Dan Hannah with practices?

8 A. Yes.

9 Q. And who was that?

10 A. Richard Jenkins.

11 Q. Do you see him here in the courtroom today?

12 A. Yes.

13 Q. Can you tell us what color shirt he's wearing?

14 A. Baby blue.

15 Q. And is he seated directly across from you?

16 A. Yeah.

17 MS. MAZZA: Your Honor, the State would request
18 that the record reflect identification of the Defendant.

19 THE COURT: It will so reflect.

20 BY MS. MAZZA:

21 Q. So Mr. Jenkins wasn't actually your coach; is
22 that right?

23 A. No.

24 Q. He helped you with practices?

1 A. Sometimes.

2 Q. He'd show up when were you being coached by Dan

3 Hannah?

4 A. Yes. Well, his practice was with Dan's.

5 Q. So he coached a different team?

6 A. Yeah.

7 Q. For Jobs Peak?

8 A. Yes.

9 Q. Were they younger or older?

10 A. My age.

11 Q. But you were on a different team?

12 A. Yes.

13 Q. When you would have practices, where would you

14 practice?

15 A. Pau-Wa-Lu.

16 Q. All right. And then did you ever eventually

17 practice somewhere else with Mr. Jenkins?

18 A. Yeah, we practiced at the Rec.

19 Q. Now, I'd like to talk to you about the summer of

20 2018, do you remember losing anyone you were close to?

21 A. Yes.

22 Q. Who was that?

23 A. My step father.

24 Q. What's his name?

1 A. Wayne.

2 Q. And when was that?

3 A. That was in June.

4 Q. Of?

5 A. 9th.

6 Q. Sorry?

7 A. June 9th.

8 Q. June 9th of 2018?

9 A. Yes.

10 Q. And did you grow close to anyone after losing

11 Wayne?

12 A. Yes.

13 Q. Who was that?

14 A. Richard Jenkins.

15 Q. Were you already friends with him or knew of him?

16 A. Yes.

17 Q. How?

18 A. My friend Alyssa.

19 Q. So he was your friend's dad?

20 A. Yeah.

21 Q. Were you already very close to him or did you get

22 more close to him as time went on?

23 A. More close.

24 Q. How -- how did your relationship with him

1 progress? Were you very close to him when you first met
2 Alyssa?

3 A. No.

4 Q. When did you grow closer to him?

5 A. When Wayne passed away.

6 Q. After growing close with Mr. Jenkins, what did
7 you guys do together?

8 A. We would watch movies on the couch.

9 Q. Anything else?

10 A. Practiced a lot of volleyball.

11 Q. Practiced a lot of volleyball?

12 A. Yeah.

13 Q. Who else would be there?

14 A. Alyssa.

15 Q. Did you and Mr. Jenkins ever do anything just the
16 two of you?

17 A. Once.

18 Q. What was that?

19 A. We went to Burger King.

20 Q. How did you guys end up at Burger King?

21 A. He wrote me a note.

22 Q. When --

23 A. Huh?

24 Q. Keep going?

1 A. He wrote me a note, and on the note it said like
2 do you want to go to Burger King after Alyssa leaves.
3 Q. Where was Alyssa going?
4 A. To her mom's house.
5 Q. Did you end up going to Burger King --
6 A. -- yes --
7 Q. -- with Mr. Jenkins?
8 Did you eat food?
9 A. Yeah.
10 Q. With Mr. Jenkins?
11 A. Yes.
12 Q. And now describe for me when you say you guys
13 would play volleyball, where would you play?
14 A. We would play at the Rec Center.
15 Q. Was there ever a time at the Rec Center where you
16 and Mr. Jenkins would be without Alyssa?
17 A. Yes.
18 Q. Where would you be?
19 A. In the closet or underneath the staircase.
20 Q. Okay. Anywhere else?
21 A. There could have been times in the Squishy Room.
22 Q. Where it was just the two of you?
23 A. Yeah.
24 Q. When you say, "the Squishy Room", what is that?

1 A. Yeah.

2 Q. Where was Alyssa?

3 A. Alyssa was on the other side.

4 Q. And where was Mr. Jenkins?

5 A. In the middle.

6 Q. And he would just kind of hang out with you guys;

7 right?

8 A. Yeah.

9 Q. And forth sleep overs, would his other roommates

10 be around when he comes into the room with you guys?

11 A. No. He might have been in the house.

12 Q. Sorry?

13 A. He could be in the house, like in another area,

14 in his room or wherever.

15 Q. When you say, "he", who are you talking about?

16 A. Chris.

17 Q. Would he come into the bed with you, Alyssa and

18 Mr. Jenkins?

19 A. No.

20 Q. Did anyone else live there with Mr. Jenkins?

21 A. What was that?

22 Q. Did anyone else live there with Mr. Jenkins?

23 A. Yes.

24 Q. Who?

1 A. Kim.

2 Q. Did she come into the room when Mr. Jenkins would
3 get in the bed with the two of you?

4 A. No.

5 Q. When else would be it be just the three of you?

6 A. At the Rec Center.

7 Q. Any other times at his house?

8 A. Yeah.

9 Q. Where?

10 A. In the living room.

11 Q. What would you be doing in the living room?

12 A. Watching movies.

13 Q. And when you're watching movies, where would
14 Mr. Jenkins be in relation to you?

15 A. He would be in the middle.

16 Q. In the middle. So who was on the other side of
17 him?

18 A. Alyssa.

19 Q. And you are on one side of Mr. Jenkins?

20 A. Yes.

21 Q. And Alyssa's on the other?

22 A. Yes.

23 Q. And would Mr. Jenkins hug you or touch you at
24 all?

1 A. Yes.

2 Q. When were you on the couch?

3 A. (Nodded head.)

4 Q. When did it grow that you got closer to him that

5 he would touch you on the couch?

6 A. Like a month after.

7 Q. A month after what?

8 A. Wayne passed away.

9 Q. And the first time he touched you in any way on

10 the couch, what happened?

11 A. Can you repeat that?

12 Q. The first time he touched you, maybe it would be

13 a hug or whatever it maybe on the couch, how did that happen?

14 A. He wrapped his arm around me.

15 Q. So would you be leaning on him?

16 A. Yes.

17 Q. And he wrapped his arm around your waste?

18 A. Correct.

19 Q. What he do that with you anywhere else?

20 A. The Rec Center.

21 Q. Where?

22 A. The Squishy Room.

23 Q. At some point at the house on the couch, did it

24 ever progress from his just putting his arm around you?

1 A. Yes.

2 Q. When was that?

3 A. A few months after Wayne had passed?

4 Q. So you say about a month after Wayne passed he

5 puts his arm after you?

6 A. Correct.

7 Q. And how long after that?

8 A. About a month after.

9 Q. What did he do?

10 A. He put his hand on my butt and sometimes in the

11 front.

12 Q. Okay. And the first time he did that, put his

13 hand on your butt, what did you do?

14 A. I kind of scooted away a little bit.

15 Q. Did he say anything to you ever?

16 A. Yeah, he did.

17 Q. What did he say?

18 A. He said if I felt uncomfortable.

19 Q. And what did you say?

20 A. I said no.

21 Q. Did you like Mr. Jenkins at that point?

22 A. In what way?

23 Q. Did you enjoy your time with him?

24 A. Yeah.

1 Q. Back then?
2 A. Yeah.
3 Q. Had you gone anywhere with him at that point?
4 A. What do you mean?
5 Q. Had you gone on any trips with him?
6 A. Yeah.
7 Q. Where to?
8 A. We went to Modesto before and then like river
9 rafting.
10 Q. When you went to Modesto, what do you to?
11 A. He was racing his RC cars.
12 Q. And when up went rafting, where did you go?
13 A. Parks and river, I believe.
14 Q. And when you guys would go rafting, who would sit
15 where?
16 A. I would be in the back. Chris would be on one
17 side, he would be in the middle and then Alyssa on the other
18 side.
19 Q. And who would be next to you?
20 A. No one except the little back seat kind of.
21 Q. Okay. Was there ever a time where Mr. Jenkins
22 wanted to sit next to you on the raft?
23 A. Yes.
24 Q. How did that happen?

1 A. Alyssa wasn't there at the time, so my mom sat in
2 the back kind of along the side.

3 Q. Next to Mr. Jenkins?

4 A. Yes.

5 Q. And now going back to sleep overs at his house,
6 the first time it made you uncomfortable, he put his hand on
7 your butt?

8 A. Yes.

9 Q. What else -- did anything else make you
10 uncomfortable?

11 A. He put his hands down inside of my pants.

12 Q. How?

13 A. He would just slide it down, not like past
14 anything, but like a little bit of my pants.

15 Q. Okay. So, I'm just going to describe this a
16 little bit for you. When he would do that, would he touch
17 your vagina?

18 A. No.

19 Q. Would he get to the top of touching your vagina?

20 A. Yes.

21 Q. Now, you said that there were times when you guys
22 would be alone at the Rec Center. Do you want to tell us
23 about the closet that you described?

24 A. So in the closet he hugged me and hold me for a

1 little while and touched my butt sometimes and then give me a
2 kiss.

3 Q. Okay. Where would he kiss you?

4 A. Either on my neck or my cheek.

5 Q. And when he would do that with you, how did you
6 guys end up in the closet or the equipment room?

7 A. He would ask me to go and follow him in the
8 closet.

9 Q. Were you getting supplies for volleyball every
10 time?

11 A. No.

12 Q. Sometimes were you?

13 A. Not really, no.

14 Q. Most of the time you would go in there to do
15 what?

16 A. Hug each other.

17 Q. How -- why did you go in with him?

18 A. Because I felt like obligated and I didn't want
19 him to feel bad.

20 Q. You didn't want to hurt his feelings?

21 A. Yeah.

22 Q. So describe what happens in the closet? He hugs
23 you; is that right?

24 A. Yes.

1 Q. Puts his arm around you?

2 A. (Nodded head.)

3 MS. RISTENPART: Your Honor, I'm going to object

4 to leading --

5 THE COURT: Sustained.

6 MS. RISTENPART: -- by Miss Mazza.

7 THE COURT: Sustained.

8 MS. MAZZA: I believe, Your Honor, that she just

9 stated all of this. I'm just restating what she stated.

10 THE COURT: The objection is sustained.

11 BY MS. MAZZA:

12 Q. If you could describe exactly what happened in

13 that equipment room?

14 A. So he would hug me for a long time, have his arms

15 wrapped around me closely and he would rub his hand down and

16 touch my butt and then he would give me a kiss and then tell

17 me to leave and he would leave after.

18 Q. Okay. And did this ever happen anywhere else at

19 the Rec Center?

20 A. Yes.

21 Q. Where is that?

22 A. Underneath the staircase.

23 Q. What would happen underneath the staircase?

24 A. About the same thing.

1 Q. Okay. Describe it for us?

2 A. He would hug me closely and sometimes he touches

3 my butt, but that's only like once there.

4 Q. Okay. At the -- under the stairs he would touch

5 your butt?

6 A. Yeah.

7 Q. And is that outside the arcade?

8 A. Yeah.

9 Q. Were there any other places where this would

10 occur?

11 A. Squishy Room.

12 Q. Can you describe what the Squishy Room is for us?

13 A. It's like an area, it's like a half moon, half

14 circle.

15 Q. And in what part of the Squishy Room would this

16 occur?

17 A. We would be like in the corner.

18 Q. In the corner. So the corner of what?

19 A. Like the Squishy Room. So, like -- I don't know

20 how to --

21 Q. Is it the back of the room or the entrance of the

22 room?

23 A. The entrance.

24 Q. At the corner, so --

1 A. Yeah.

2 Q. -- at the side?

3 A. Yeah.

4 Q. Do you know why you guys would go to these

5 locations?

6 A. There was no camera views.

7 Q. And when this was happening, did you report it to

8 anyone?

9 A. No.

10 Q. Why not?

11 A. I didn't want Rick to get in trouble.

12 Q. Did you ever have a time when were you

13 interviewed about this?

14 A. Yes.

15 Q. The first time, did you happen report any of

16 this?

17 A. I reported -- no, not really.

18 Q. No.

19 Did you describe the relationship the two of you

20 had?

21 A. Yeah.

22 Q. What kind of relationship was that?

23 A. Father-daughter.

24 Q. And at the time, did you believe that?

1 A. Yeah.

2 Q. And then did you come forward a second time?

3 A. Yes.

4 Q. And you spoke with who?

5 A. I don't remember. I think it was -- I don't

6 remember her name.

7 Q. Was it someone for the Sheriff's Office?

8 A. I think so.

9 Q. And did you tell her what at that time?

10 A. I told her like the full story, more of what

11 happened.

12 Q. And why did you come forward and tell that story

13 the second time?

14 A. Because Marie Foster was talking to me about past

15 experience she had and I didn't want anything else to happen.

16 Q. Okay. I'm going to slow you down there. Who is

17 Marie Foster?

18 A. A volleyball coach.

19 Q. And how did you have this conversation with her?

20 A. I had a private lesson with her.

21 Q. And did she tell you specifics of what happened

22 to her?

23 A. Not specifics.

24 Q. Did she make you feel any certain way about how

1 this was happening?

2 A. What do you mean by that?

3 Q. Did you feel like you wanted to come forward?

4 A. Yeah.

5 Q. Why?

6 A. Because I didn't want anything else to happen to
7 any other girls.

8 Q. Did you come forward because Marie Foster would
9 feel a certain way about you if you did?

10 A. No.

11 Q. Did you make a certain volleyball team because of
12 coming forward?

13 A. No.

14 Q. So, have you ever reported something like this
15 before?

16 A. No.

17 Q. Involving anyone dating your mother?

18 A. Yes.

19 Q. What did you report?

20 A. Gage was touching.

21 Q. And I'm going to stop you right there. Was what
22 you reported false?

23 A. No. Yeah, it was a misunderstanding.

24 Q. Okay. Explain that?

1 A. So, was like sleeping at the time, and I woke up
2 and I saw him on my bed.

3 Q. Do you admit that that was not true?

4 A. Yes.

5 Q. What you reported to law enforcement?

6 A. At the time, I thought it was true.

7 Q. Okay. And at the time, when you reported it, was
8 it true that he touched your butt?

9 A. I couldn't tell you.

10 Q. Okay. Was this different involving Mr. Jenkins
11 than involving Gage?

12 A. Yes.

13 Q. Why?

14 A. Because I felt more uncomfortable around Rick.

15 Q. Did he actually touch you in those areas?

16 A. Yes.

17 Q. Did Gage actually touch you in those areas?

18 A. No.

19 Q. So after this report was made, did you make the
20 NNJ basketball team, or volleyball team?

21 A. Yeah.

22 Q. And why was that?

23 A. Because I tried out.

24 MS. MAZZA: Your Honor, I have no further

1 questions.

2 THE COURT: Thank you. Cross-examination.

3 MS. RISTENPART: Thank you, Your Honor.

4 **CROSS-EXAMINATION**

5 BY MS. RISTENPART:

6 Q. GW, you have told your story several different
7 times, haven't you?

8 A. Yeah.

9 Q. You had an interview with police; right?

10 A. Yeah.

11 Q. Back in late September of 2018?

12 A. Yeah.

13 Q. And then you told your story again in another
14 interview on November 1st of 2018; right?

15 A. Yes.

16 Q. And then you also have testified in court before?

17 A. Correct.

18 Q. Right?

19 A. (Nodded head.)

20 Q. And some different hearings; right?

21 A. (Nodded head.)

22 Q. And let's go back to your first interview?

23 A. (Nodded head.)

24 Q. On September 27th of 2018, you were interviewed

1 by law enforcement; right?

2 A. Yeah.

3 MS. MAZZA: Your Honor, I'm going to ask if we
4 could take a break.

5 THE COURT: Yes. We'll go ahead and take a
6 five-minute recess. Ladies and gentlemen, I'm going to have
7 you remain in the jury deliberation room.

8 The admonishment I read to you before applies.
9 Hold on a moment. Specifically, you are admonished that it is
10 your duty not to converse amongst yourselves or with anyone on
11 subject connected with the trial either by phone, e-mail, text
12 internet or any other means.

13 Do not read, watch, listen to any report of or
14 commentary on the trial or any person connected with the trial
15 by any medium of information, including without limitation,
16 newspapers, television, radio.

17 You're not to form or express any opinion on any
18 subject connected with the trial until the cause is finally
19 submitted to you.

20 Do not do no research such as consulting
21 dictionaries, using the internet or the using other reference
22 materials. And do not make any investigation, test the theory
23 of the case, recreate any other aspect of the case or any
24 other way investigate or learn about the case on your own.

1 GW, you will be returning here to the witness
2 stand in about -- or excuse me, five minutes.

3 Please do not discuss your testimony with anyone
4 except the attorneys in this case or their investigators.

5 Thank you. We stand in recess.

6 (Recess.)

7 THE COURT: The court is back in session on Case
8 Number 19-CR-188. Show the appearance of counsel both
9 parties. Also appearing is Mr. Jenkins. The witness has
10 resumed the witness stand. She remains under oath.

11 Ms. Mazza, are you ready to bring the jurors back
12 in?

13 MS. MAZZA: Yes, Your Honor.

14 THE COURT: Ms. Ristenpart.

15 MS. RISTENPART: The witness may remove her mask
16 also.

17 THE COURT: Yes, you may remove your mask, and
18 bring in the jurors.

19 Ms. Mazza, do you stipulate to the presence of
20 the jury?

21 MS. MAZZA: I do, Your Honor.

22 THE COURT: Ms. Ristenpart?

23 MS. RISTENPART: I do.

24 THE COURT: All right. Thank you. Please be

1 seated.

2 Ms. Ristenpart, you may continue with your
3 questioning.

4 BY MS. RISTENPART:

5 Q. GW, where we left off, you were talking about
6 your first interview with police on September 27th of 2018;
7 right?

8 A. Right.

9 Q. I'm showing you what's been marked as Defense
10 Exhibit MMM. Do you recognize that photo?

11 A. Yeah.

12 Q. And who is it?

13 A. Myself.

14 Q. So you're aware that that interview that you did
15 in the police station was recorded; right?

16 A. Yeah.

17 Q. Does it accurately reflect how you looked back in
18 September of 2018?

19 A. Yeah.

20 Q. Does that accurately reflect where you are when
21 you're being interviewed?

22 A. Yeah. I was in that chair.

23 Q. You moved over one chair?

24 A. Yeah.

1 MS. RISTENPART: Move for admission, Your Honor.

2 THE COURT: Any objection?

3 MS. MAZZA: Your Honor, the State is going to
4 admitting one still photo of her entire interview. Also I
5 don't believe it's appropriate to admit it through this
6 witness. I don't think she can testify to having actually
7 viewed that footage or having -- being able to say that that's
8 actually that specific day.

9 THE COURT: MMM is a still photograph?

10 MS. RISTENPART: It is, Your Honor. It's for
11 identification purposes.

12 THE COURT: All right. It is admitted.

13 MS. RISTENPART: Thank you.

14 (Exhibit MMM admitted into evidence.)

15 BY MS. RISTENPART:

16 Q. Showing MMM to the jury, that's the picture of
17 you in the interview room; correct?

18 A. Yeah.

19 Q. Now, during that interview, you were asked a lot
20 of questions about Rick; correct?

21 A. Yeah.

22 Q. And in that first interview, GW, you told police
23 that nothing happened between you and Rick other than hugging;
24 right?

1 A. Correct.

2 Q. And you told police that Rick never grabbed your
3 butt?

4 A. I told them he might have.

5 Q. Are you claiming today that you told police that
6 he might have touched grabbed your butt?

7 A. From what I read in my -- yeah.

8 Q. Oh, so you read something in preparation for
9 today?

10 A. Yeah, my transcript.

11 Q. So just to confirm, you're claiming that Rick
12 never -- you told police that Rick might have grabbed your
13 butt in that first interview?

14 A. Well, I -- I told him he -- I told them he did, I
15 believe in -- but he might not have asked me.

16 Q. In that first interview, you told the police that
17 Rick never touched you in any private parts of your body;
18 right?

19 A. Yeah.

20 Q. And in that first interview you told police that
21 Rick, nothing sexual ever happened between you and Rick;
22 correct?

23 A. Correct.

24 Q. And you told police in that first interview that

1 there was never a time where Rick -- or that Rick made you
2 feel uncomfortable; right?

3 A. Correct.

4 Q. And you told police that you never felt Rick
5 touched you inappropriately?

6 A. Correct.

7 Q. And you told police in that first interview that
8 you did not feel that the physical relationship between you
9 and Rick was inappropriate?

10 A. Correct.

11 Q. In fact, you told police that Rick was like a
12 father to you; right?

13 A. Correct.

14 Q. Especially because you had just suffered the loss
15 of your step father Wayne?

16 A. Um-hum.

17 Q. Who you were really close with?

18 A. Yeah.

19 Q. And you told police in that first interview that
20 your relationship with Wayne was very similar to your
21 relationship with Rick; right?

22 A. No, I don't remember.

23 Q. Would listening to a clip of your interview
24 refresh your memory?

1 A. Probably.

2 Thank you.

3 MS. RISTENPART: With the Court's permission, I'm
4 going to remain seated.

5 THE COURT: You may.

6 MS. RISTENPART: Thank you. Your Honor, I am
7 putting in Exhibit AAAA.

8 MS. MAZZA: What clip is that?

9 MS. RISTENPART: 13. You have the headphones on?
10 Your Honor, if we could just have it for the
11 witness and defense counsel?

12 THE COURT: So you're just asking that the audio,
13 that you're playing the audio through your computer?

14 MS. RISTENPART: Your Honor, yes, I've tested it
15 and it should only play through the headphones.

16 THE COURT: Okay. You may proceed.

17 MS. RISTENPART: Thank you.

18 (Audio played via headphones to the witness.)

19 BY MS. RISTENPART:

20 Q. Does that refresh your memory?

21 A. Yes.

22 Q. After your memory has been refreshed, asking you
23 again in that first interview, you told police that your
24 relationship with Wayne was very similar with your

1 relationship with Rick?

2 A. It was somewhat.

3 Q. And your relationship with Wayne just like Rick
4 was you would hug Wayne; right?

5 A. Correct.

6 Q. You would push each other around; right?

7 A. Correct.

8 Q. Playfully, though?

9 A. Yeah.

10 Q. And Wayne would rub your back?

11 A. Yeah.

12 Q. In fact, after you lost Wayne, you told Alyssa
13 numerous times that you wish you had a dad like Rick; right?

14 A. No. I don't recall.

15 Q. Do you remember telling Alyssa that you were
16 jealous of Alyssa's relationship with her dad?

17 A. No.

18 Q. And even before this interview, GW, your mom had
19 asked you if anything had been going inappropriate between you
20 and Rick; right?

21 A. Can you repeat that?

22 Q. Before this interview with police, did your mom
23 ever ask you if anything happened inappropriate with you and
24 Rick?

1 MS. MAZZA: Objection, hearsay.

2 THE COURT: She can answer the question. It
3 called for a yes or no response.

4 THE WITNESS: I don't recall.

5 BY MS. RISTENPART:

6 Q. Now, during this time in the fall of 2018, you
7 were trying out for the high school volleyball team; right?

8 A. 2018.

9 Q. Correct?

10 A. I believe so.

11 Q. You would have been a freshman?

12 A. Yeah.

13 Q. But you did not make the high school team; right?

14 A. Nope.

15 Q. You were cut after try outs?

16 A. Correct.

17 Q. And that was really hard?

18 A. Yeah, I guess.

19 Q. To not make the team?

20 A. Kind of. Not really.

21 Q. You like playing volleyball?

22 A. Yeah.

23 Q. And you want to play in the high school?

24 A. Yeah. But there's other opportunities.

1 Q. Let's talk about that. So the Douglas County
2 High School team, one of the coaches was Coach Marie Foster;
3 correct?

4 A. Yeah.

5 Q. And she also coaches a club team; right?

6 A. Yep.

7 Q. NNJ?

8 A. Yeah.

9 Q. And after you didn't make the high school team,
10 you reached out to Coach Marie Foster to ask her why; right?

11 A. Yeah.

12 Q. You emailed her?

13 A. Correct.

14 Q. And essentially your understanding was that you
15 didn't make it because your skill set wasn't sufficient for
16 high school; right?

17 A. And my talking.

18 Q. And talking?

19 A. Communication.

20 Q. And your communication?

21 A. Correct.

22 Q. And so you asked for maybe some lessons with
23 Coach Marie?

24 A. Correct.

1 Q. And at that time, NNJ is a pretty expensive club
2 team; right?

3 A. Yeah.

4 Q. It's about \$5,000?

5 A. No.

6 Q. Do you know how much it costs?

7 A. Not the one I went. It was like 3,000.

8 Q. Several thousand?

9 A. Yeah.

10 Q. And so you asked Coach Marie for lessons and at
11 that time, I'm not trying to embarrass you here, could your
12 family afford to pay the NNJ fee?

13 A. No.

14 Q. And so Coach Marie suggested meeting in person;
15 right?

16 MS. MAZZA: Objection, hearsay.

17 THE COURT: Ms. Ristenpart?

18 MS. RISTENPART: I'll rephrase it, Your Honor.

19 THE COURT: Thank you.

20 BY MS. RISTENPART:

21 Q. You met with Coach Marie for a private lesson;
22 right?

23 A. Correct.

24 Q. And even before you started the lesson, Coach

1 Marie wanted to talk to you; right?

2 A. I don't know.

3 MS. MAZZA: Objection, speculation.

4 THE COURT: Sustained.

5 BY MS. RISTENPART:

6 Q. Even before starting the lesson, did you have a

7 conversation with Coach Marie?

8 A. I don't recall if it was before.

9 Q. When you met with Coach Marie, did you have a

10 conversation with her?

11 A. Yeah.

12 Q. And in that conversation, were you asked

13 questions about Rick Jenkins?

14 A. No.

15 Q. In that conversation, were you told -- or did you

16 learn about Coach Marie's own sexual abuse?

17 A. Yeah.

18 Q. She disclosed it to you?

19 A. Yeah. Not details.

20 Q. And Coach Marie told you she had heard rumors

21 about Rick Jenkins; right?

22 A. I believe so.

23 MS. MAZZA: Objection, hearsay.

24 THE COURT: Ms. Ristenpart.

1 MS. RISTENPART: Effect on listener.

2 THE COURT: Objection is overruled.

3 BY MS. RISTENPART:

4 Q. And, in fact, Coach Marie told you that you were
5 like the perfect victim; right?

6 MS. MAZZA: Objection, hearsay.

7 THE COURT: Overruled.

8 THE WITNESS: I don't think so, no.

9 BY MS. RISTENPART:

10 Q. And during that conversation with Coach Marie,
11 you told Coach Marie that Rick would shove you into the
12 equipment room closet and would grope you?

13 A. No.

14 Q. You're claiming today that you never told Coach
15 Marie that?

16 A. Yeah.

17 Q. Shortly after -- well let's go back. You met
18 with Marie Foster on October 31st of 2018; right?

19 A. I don't know if that was the date.

20 Q. It was a while after your first interview with
21 police; right?

22 A. Yeah, I think so.

23 Q. And immediately after meeting with Coach Marie,
24 did you go back in for a second interview with police?

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A. Correct.

Q. In fact, you went on an interview on November 1st of 2018; right?

A. Yeah.

Q. I'm showing you what's been marked as Defense Exhibit UUU. Do you recognize who is in that photo?

A. Myself and the investigator.

Q. And where are you in that photo?

A. The same room I was in the first one.

Q. So this is a picture in the second interview?

A. Yeah.

Q. Does that accurately and fairly reflect?

A. What was that?

Q. Does it accurately and fairly reflect -- does it look like what you looked like in your second interview?

A. I believe, yeah.

MS. RISTENPART: Move for admission.

THE COURT: Any objection?

MS. MAZZA: Your Honor, first I would like to voir dire the witness on this as well as I do have an objection.

THE COURT: Go ahead.

1 VOIR DIRE EXAMINATION

2 BY MS. MAZZA:

3 Q. GW, how do you know that that's the second
4 interview?

5 A. I was just questioning that myself.

6 Q. So you don't know if that's the second interview?

7 A. Because that was the -- she showed me the first
8 one in the same outfit.

9 Q. Correct. So looking at that exhibit, do you
10 actually know if it's your second or first interview?

11 A. No.

12 MS. MAZZA: On that basis, Your Honor, I would
13 object as well as the basis of taking a screenshot from the
14 entire interview does not show her demeanor through the entire
15 interview.

16 I think that exhibit is an attempt to show her
17 demeanor in an entire interview. I think it's highly
18 prejudicial and inappropriate.

19 THE COURT: The objection is sustained as to the
20 foundation.

21 Ms. Ristenpart, you may attempt to lay further
22 foundation.

23 MS. RISTENPART: Thank you, Your Honor.

24 BY MS. RISTENPART:

1 Q. Approaching again with UUU. Is there a date at
2 the bottom of that picture?

3 A. Yeah.

4 Q. Does that date reflect November 1st, 2018?

5 A. Yeah.

6 Q. And is that the date of your second interview?

7 A. I believe so.

8 Q. And did you happen to wear the same jacket to
9 both interviews?

10 A. It could have been possible.

11 MS. RISTENPART: Your Honor, I believe I've laid
12 a foundation, move for admission again.

13 THE COURT: Ms. Mazza, I understand the second
14 part of your objection, but as to the first part, do you have
15 any objection regarding foundation?

16 MS. MAZZA: Your Honor, I still object for the
17 foundation. Showing her and telling her that that's the date
18 doesn't mean she knows that that's the date.

19 It hasn't been established that she actually took
20 that screenshot, or that she's actually even seen that
21 interview footage. So I don't believe the foundation has been
22 laid.

23 THE COURT: The objection is sustained as to
24 foundation.

1 BY MS. RISTENPART:

2 Q. GW, you were aware that your second interview was
3 also being video recorded; correct?

4 | A. Yeah.

5 Q. And in this interview, you claimed to police that
6 Rick would stick his hands down your pants in the Squishy Room
7 at the Rec Center?

8 A. Yeah.

9 Q. And you claimed to police that Rick would touch
10 your butt in the Squishy Room?

11	A. Correct.
----	-------------

12 Q. And you claimed that Rick would touch your butt
13 at his house?

14	A. Correct.
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15 Q. And you claimed in regards to the Squishy Room,
16 you told law enforcement that second interview that Rick would
17 do it every chance he could?

18	A. Correct.
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19 Q. Almost every time you saw him?

20 | A. Yeah.

21 Q. In the Squishy Room?

22 | A. Yeah.

23 Q. But you were very clear in your second interview
24 that Rick never touched your private areas in any way; right?

1 A. He touched my butt.

2 Q. You told law enforcement that Rick never touched
3 your private areas in any way; right?

4 A. He touched my butt.

5 Q. Now, about the equipment room closet, in your
6 second interview, you claimed that Rick would touch your butt
7 from the equipment room; right?

8 A. Yeah.

9 Q. And you told police that he would not touch your
10 butt inside your pants; right?

11 A. I don't -- I don't recall.

12 Q. Would seeing a clip of your interview refresh
13 your memory?

14 A. Yeah, possibly.

15 MS. RISTENPART: I am playing what has been
16 marked as CCCCC, so that's five Cs.

17 MS. MAZZA: Your Honor, if I could just ask what
18 clip this is. I didn't see the exhibit?

19 MS. RISTENPART: For the record, I'm showing.

20 THE COURT: Thank you.

21 MS. MAZZA: Thank you.

22 MS. RISTENPART: You want to put the headphones
23 back on.

24 THE WITNESS: (Complies.)

1 (Audio interview played
2 via headphones for the witness.)

3 MS. MAZZA: And, Your Honor, is it possible to
4 display the exhibit on my computer as well? Or not?

5 THE COURT: I don't believe so. Is there
6 something on the -- if you would like to see the display.

7 MS. MAZZA: I can see her computer from here, I
8 just --

9 THE COURT: Okay.

10 BY MS. RISTENPART:

11 Q. Does that refresh your memory, GW?

12 A. Yeah.

13 Q. In your second interview, you told police that
14 Rick never touched your private areas in any way; right?

15 A. I don't recall. You said touched my private
16 areas, because he touched my butt.

17 Q. In your second interview, you told police that
18 Rick never touched your private areas; right?

19 MS. MAZZA: Your Honor, asked and answered.

20 THE COURT: Overruled.

21 THE WITNESS: I don't recall.

22 BY MS. RISTENPART:

23 Q. Now, GW, moving on to the equipment room closet,
24 you claim that Rick would touch your butt in the equipment

1 room but never touched inside your pants in that second
2 interview; right?

3 A. Correct.

4 Q. You claimed that Rick would just touch the top of
5 your butt; right?

6 A. I don't know.

7 Q. Would listening to a clip of your interview
8 refresh your memory?

9 A. No. Yeah. Yeah. I'm sorry, I'm so overwhelmed.
10 Go ahead.

11 Q. So would listening to a clip in the second
12 interview refresh your memory?

13 A. Yes.

14 MS. RISTENPART: Your Honor, GW is becoming
15 emotional through my cross and so maybe we need to take
16 another break.

17 THE COURT: All right. Let's take another break.
18 Be another five-minute break.

19 During the course of the break, please do not
20 discuss your testimony with anyone except for the attorneys in
21 this case or their investigators. And, ladies and gentlemen,
22 the same admonishment applies.

23 Do not converse amongst yourselves or with anyone
24 else on any subject connected with the trial either by phone,

1 email, text, internet or any other means.

2 Do not read, watch or listen to any report of or
3 commentary on the trial or any person connected with the trial
4 by any medium of information, including without limitation
5 newspapers, television and radio.

6 Do not form or express any opinion on any subject
7 connected with the trial until the cause is finally submitted
8 to you. Do not do any research such as consulting
9 dictionaries, using the internet or using other reference
10 materials.

11 Do not make any investigation, test the theory of
12 the case, recreate any aspect of the case or in any other way
13 investigate or learn about the case on your own.

14 Again, because this is going to be a short
15 recess, I'm going to have you remain back in the jury
16 deliberation room.

17 The Court stands in recess.

18 (Recess at 2:11 p.m..)

19 THE COURT: The Court is back in session on Case
20 Number 19-CR-188. Show the appearance of counsel for both
21 parties as well as the Defendant. The witness has resumed the
22 witness stand. She remains under oath.

23 Let's bring in the jurors.

24 MS. RISTENPART: Can the witness take off her

1 mask, Your Honor?

2 THE COURT: Yes, please.

3 Ms. Mazza, do you stipulate to the presence of
4 the jury?

5 MS. MAZZA: Yes, Your Honor.

6 THE COURT: Ms. Ristenpart?

7 MS. RISTENPART: Yes, Your Honor.

8 THE COURT: Thank you folks. Please be seated.

9 Ms. Ristenpart, you may continue with your questioning.

10 MS. RISTENPART: Thank you, Your Honor.

11 BY MS. RISTENPART:

12 Q. Where we left off, GW, is I was asking you in
13 your second interview with police on November 1st, 2018, you
14 told police that in the equipment room closet where Rick would
15 just touch the top of your butt; right?

16 A. I don't recall.

17 Q. Okay. Would looking at a transcript of your
18 second interview refresh your memory?

19 A. Yeah.

20 MS. RISTENPART: May I approach with what has
21 also already been marked as YYYYYY, five Ys?

22 THE COURT: Yes, you may.

23 BY MS. RISTENPART:

24 Q. Does that refresh your memory?

1 A. Yeah.

2 MS. MAZZA: Ms. Ristenpart, can I know what
3 you're looking at?

4 MS. RISTENPART: Page 16, line 18, 19.

5 THE COURT: GW, I'm going to ask when you
6 respond, move as close to that microphone as can you.

7 Thank you.

8 BY MS. RISTENPART:

9 Q. In that second interview, you told police that
10 you claimed that Rick touched you on the top of your butt;
11 right?

12 A. Correct.

13 Q. And also in that second interview with police,
14 GW, on November 1st, you told police that Rick would tell you
15 to go out of the equipment room first; right?

16 A. Yeah.

17 Q. And you claimed that he would come out two
18 minutes later?

19 A. Just a little bit after me.

20 Q. In your second interview, you told police that he
21 would come out two minutes later; right?

22 A. I can't recall. All I know he is told me to go
23 first and then he would come out later.

24 Q. Would listening to a clip of your interview from

1 what you told police on November 1st refresh your memory?

2 A. Yes.

3 MS. RISTENPART: I'm going to clip 12,
4 Prosecutor.

5 For the record, Your Honor, it's ZZZ.

6 THE COURT: Thank you.

7 BY MS. RISTENPART:

8 Q. You want to put the headphones on?

9 A. (Complies.)

10 Q. Playing clip 12.

11 (Audio interview played
12 via headphones for the witness.)

13 BY MS. RISTENPART:

14 Q. Does that refresh your memory?

15 A. What was the question?

16 Q. In your second interview, you claimed to police
17 that Rick would tell you to go into -- out of the equipment
18 room first; right?

19 A. It didn't say anything about that.

20 Q. And also --

21 MS. RISTENPART: Clarification. Sorry, Your
22 Honor. Thank you. You're absolutely correct. It was the
23 wrong interview.

24 May I approach Ms. Clerk?

1 THE COURT: You may.

2 MS. RISTENPART: For the record, now I'm playing
3 5B Exhibit, Your Honor.

4 THE COURT: Thank you.

5 MS. RISTENPART: Playing clip 12.

6 (Audio interview played
7 via headphones for the witness.)

8 BY MS. RISTENPART:

9 Q. Does that refresh your memory?

10 A. Yes.

11 Q. In that second interview on November 1st, you
12 claimed to police that Rick would tell you to go out to the
13 equipment room first; right?

14 A. Correct.

15 Q. And you told the police and claimed that he would
16 come out two minutes later?

17 A. Correct.

18 Q. And you claimed to police that Rick told you to
19 always go out first so people wouldn't get suspicious?

20 A. Correct.

21 Q. You also claimed to police in that second
22 interview that when you went into the equipment room with
23 Rick, you were never doing anything with equipment; right?

24 A. Correct.

1 Q. I'm showing you what's already been admitted as
2 Exhibit 20.

3 THE COURT: You're asking this to be published to
4 everyone?

5 MS. RISTENPART: Correct, Your Honor.

6 THE COURT: Okay. I just wanted to make sure.

7 MS. RISTENPART: It's already been admitted. And
8 for the record, I am going to be showing what is labeled as
9 4/29 on September 19th and ACC -- sorry, Your Honor.

10 Court's indulgence.

11 THE COURT: Take your time.

12 MS. RISTENPART: Thank you. Number 12, ACC
13 export.

14 BY MS. RISTENPART:

15 Q. GW, do you recognize where this is?

16 A. Yes.

17 Q. And where is it?

18 A. The Rec Center.

19 Q. And where specifically in the Rec Center?

20 MS. MAZZA: Your Honor, I'm going to ask that her
21 name be stricken.

22 MS. RISTENPART: Apologies, GW.

23 THE COURT: All right. That request is granted.

24 THE WITNESS: If you're like walking in, it would

1 be the far right back court.

2 BY MS. RISTENPART:

3 Q. And you see the doors right here where I'm
4 putting the cursor?

5 A. Yeah.

6 Q. The doors, where do those doors go?

7 A. Into the closet.

8 MS. RISTENPART: Your Honor, with the Court's
9 indulgence, it looks like it's not playing. If I could shut
10 it down and restart it.

11 THE COURT: Go ahead.

12 MS. RISTENPART: Thank you.

13 BY MS. RISTENPART:

14 Q. Okay. I'm showing 12 ACC which I'm moving
15 forward to 5:03.

16 GW, is that a video of you and Mr. Jenkins coming
17 out of the equipment room?

18 A. Yes.

19 Q. And it shows Mr. Jenkins coming out first?

20 A. Yeah.

21 Q. And you coming out right after him?

22 A. Yeah.

23 Q. And you're coming out with volleyball equipment;
24 right?

1 A. Yeah.

2 Q. Also showing you 13 ACC.

3 MS. RISTENPART: Apologies, Your Honor. With the
4 Court's indulgence.

5 BY MS. RISTENPART:

6 Q. I show you what's already been admitted as
7 Exhibit 21. Going to Wednesday, September 19th, 4:29.

8 Do you see a video of you and Mr. Jenkins?

9 A. Yeah.

10 Q. Going into the equipment room?

11 A. Yeah.

12 Q. Fast forwarding. Fast forwarding to 4:30:10,
13 rewinding to 4:31, do you see someone walking across the
14 courts right there?

15 A. Yeah.

16 Q. And who is that?

17 A. Alyssa.

18 Q. Your best friend; right? Used to be?

19 A. At the time, yeah.

20 Q. And where she's coming from is the Squishy Room
21 area?

22 A. I have no clue where she was coming from.

23 MS. RISTENPART: With the Court's indulgence.
24 It's right at 4:30.

1 BY MS. RISTENPART:

2 Q. GW, that was you walking out of the equipment
3 room; right?

4 A. Correct.

5 Q. And Rick was right behind you?

6 A. Correct.

7 Q. And you had volleyball equipment; right?

8 A. He did, yeah.

9 Q. In fact, you went and grabbed some additional
10 volleyball equipment; right?

11 A. Correct.

12 Q. In your second interview with police on
13 November 1st, GW, you claim that Rick touched your butt while
14 you were on the couch watching a movie; right?

15 A. Correct.

16 Q. And today you claim that Rick told you and said
17 something a long the lines of, is this making you
18 uncomfortable?

19 A. Correct.

20 Q. In your second interview to police, the detective
21 specifically asked you when you claim that he touched you on
22 the butt on his couch while watching a movie, did Rick say
23 anything; right?

24 A. Yeah.

1 Q. And you told the detective in that interview that
2 no, Rick never said anything to me?

3 A. Can I see that?

4 Q. Sure.

5 A. Please.

6 Q. Would you like to see your clip or the
7 transcript?

8 A. Transcript.

9 MS. RISTENPART: Counsel, page 4, lines 9
10 through 12.

11 THE COURT: Which Exhibit?

12 MS. RISTENPART: Exhibit, Your Honor, five Ys.

13 THE COURT: Thank you.

14 BY MS. RISTENPART:

15 Q. Now, you looked at it?

16 A. Correct.

17 Q. Does it refresh your memory?

18 A. Yeah.

19 Q. You told police in that second interview that
20 while were you on the couch, you claimed that Rick touched
21 your butt, you never said anything?

22 A. Correct.

23 Q. And you told police in that interview that Rick
24 never touched your private areas; right?

1 A. I don't know.

2 Q. Would looking at the transcript of your interview
3 refresh your memory?

4 A. Yeah.

5 MS. RISTENPART: Counsel, page 19, 14 to 15 of
6 the five lines.

7 THE WITNESS: What ones?

8 MS. RISTENPART: 14, 15.

9 BY MS. RISTENPART:

10 Q. Does that refresh your memory?

11 A. Yes.

12 Q. In that second interview, GW, you never -- well,
13 you told police that Rick never touched you in your private
14 areas; right?

15 A. Yeah.

16 Q. In your second interview, you never made a claim
17 that anything occurred in the stairwell, did you?

18 A. I don't know.

19 Q. In your second interview, you never claimed that
20 Mr. Jenkins touched your butt in the stairwell, did you?

21 A. I don't know.

22 Q. Now, you told your story another time after that
23 second interview; right? You came and testified at court
24 previously?

1 A. Oh, correct, yep.

2 Q. And it was court just like this; right?

3 A. Yeah.

4 Q. Ms. Mazza was there; correct?

5 A. Um-hum.

6 Q. I was there?

7 A. Yeah.

8 Q. It was a different Judge, but a Judge was there?

9 A. Um-hum.

10 Q. And Mr. Jenkins was there; right?

11 A. Yeah.

12 Q. And in that you swore to tell the truth; right?

13 A. Yeah.

14 Q. The whole truth and nothing but the truth?

15 A. Yeah.

16 Q. And in that hearing, you claimed that Rick put

17 his hands down your pants while touching your butt while you

18 were on the couch watching a movie with Alyssa and Rick;

19 right?

20 A. Yeah.

21 Q. And at that hearing, you claimed that Rick would

22 put his hands down in front of your pants at his house?

23 A. Yeah.

24 Q. And you said it either happened on the couch or a

1 bed; right?

2 A. Correct.

3 Q. But you couldn't quite remember where?

4 A. Correct.

5 Q. And today, you claim that Rick would get on to
6 the bed with you Alyssa; right?

7 A. Yeah.

8 Q. In your first -- or excuse me, your second
9 interview with police, you never claimed that; right?

10 A. They didn't ask me about it.

11 Q. And when you testified, you never claimed that
12 you were in the bed with Alyssa and Rick?

13 A. You didn't ask me about it.

14 Q. And at that hearing when you swore to tell the
15 truth under oath, you said that you couldn't recall anything
16 happening in the Squishy Room; right?

17 A. Correct. I actually don't know. Sorry.

18 Q. And then today you told us the story, sticking
19 with just the Squishy Room; right?

20 A. Yeah.

21 Q. Stay there. You testified when you talked for
22 the State that you claimed that Rick would touch you in the
23 Squishy Room?

24 A. Correct.

1 Q. Which is different than what you told us at
2 preliminary hearing; right?

3 A. Yeah. That was -- I reviewed for then.

4 Q. What?

5 A. I didn't read transcripts or anything.

6 Q. So we could talk about you read transcripts. So
7 in preparation for today, you've met with Ms. Mazza several
8 times, haven't you?

9 A. Yeah.

10 Q. And you've gone over what you're going to say in
11 court?

12 A. No. Just transcripts and stuff.

13 Q. Okay. But she gave you copies of transcripts for
14 you to review?

15 A. Yeah.

16 Q. And read?

17 A. Yeah.

18 Q. And look at?

19 A. Yeah.

20 Q. And let's just talk about your allegation in the
21 Squishy Room?

22 A. Okay.

23 Q. Describe exactly what occurred?

24 A. He had his hand around me and lower waste, at my

1 waste and he would just hold me.

2 Q. Where were you in the Squishy Room?

3 A. In the corner.

4 Q. What were you wearing?

5 A. No idea. Most likely leggings.

6 Q. And how were your bodies positioned?

7 A. Against each other. Sitting down.

8 Q. Sitting down against each other?

9 A. Yeah.

10 Q. Was he behind you?

11 A. I can't recall that. It's been too long.

12 Q. And today you claim that he would touch your butt
13 in the Squishy Room?

14 A. Yeah.

15 Q. Which is different than what you told previously
16 in your second interview that he would stick his hands down
17 the front of your pants in the Squishy Room; right?

18 A. He's done both.

19 Q. He's done both.

20 So now you're claiming that he touched the front
21 of you in the Squishy Room?

22 A. Both. Back and front.

23 Q. Which hand?

24 A. I don't know.

1 Q. His hand, did it move around?
2 A. He would go up and down my back.
3 Q. Your back or your butt?
4 A. Both. He would move down to my butt, up and
5 down.
6 Q. He never harassed you; right?
7 A. I don't know what that means.
8 Q. He never groped you?
9 A. Grabbed?
10 Q. Groped?
11 A. I don't what that means.
12 Q. Did he rub his hand around?
13 A. No. Well, my back, not my butt.
14 Q. Did he rub around the hand in what you claim to
15 be your front area?
16 A. No.
17 Q. Now, when you went in the equipment room, you
18 told us today that you claim he would go in there with you,
19 hug, hold a little, kiss you on the neck or cheek and touch
20 your butt; right?
21 A. Yeah.
22 Q. So where were you standing?
23 A. Where was I standing? In the equipment room.
24 Q. Where?

1 A. Wherever there was space.

2 Q. The equipment room is a little disorganized;

3 right?

4 A. Yeah. Not really, kind of.

5 Q. And what were you wearing?

6 A. Probably leggings.

7 Q. And what was Rick wearing?

8 A. Shorts and a t-shirt probably.

9 Q. And which hand?

10 A. No idea.

11 Q. No idea you said?

12 A. Yeah.

13 Q. And you say he would touch your butt, never

14 inside your clothing; right?

15 A. He would sometimes. I don't know. He would do

16 it, but I don't like know the exact places.

17 Q. And then you also told us today that allegedly

18 Rick touched you while on the couch at his house?

19 A. What does that mean?

20 Q. You claimed that Rick touched you on the couch at

21 his house?

22 A. Yeah.

23 Q. And you actually claim today that it was your

24 belly, your front and your butt while on the couch?

1 A. Yeah.

2 Q. Which is not what you told police in your second
3 interview, was it?

4 A. Pretty sure it was.

5 Q. You never told police in your second interview
6 that allegedly -- that you claimed, GW, that Rick touched you
7 on your belly and front on the couch?

8 A. I don't think I said belly today, nor did I ever
9 say belly.

10 Q. And then today you claimed that Rick would touch
11 your butt underneath the stairs at the Rec Center?

12 A. I believe so.

13 Q. You just testified to it today; right?

14 A. Yeah. He did.

15 Q. And that's the first time you've ever claimed
16 that Rick touched you, your butt underneath the stairs at the
17 Rec Center?

18 A. No.

19 Q. Are you claiming that you told law enforcement
20 this before?

21 A. I don't -- I don't know.

22 Q. Now, speaking of claims or allegations, GW, in
23 2016, you made a report to your teacher about your mom's
24 boyfriend Gage; right?

1 A. Yeah.

2 Q. In fact, that's Gage Marcyes?

3 A. Marcyes, yeah.

4 Q. And at the time Gage was living with you and your
5 mom?

6 A. Yeah.

7 Q. And you actually wrote a note to your teacher;
8 right?

9 MS. MAZZA: Objection, relevance, Your Honor.

10 THE COURT: Overruled.

11 BY MS. RISTENPART:

12 Q. You wrote a note to your teacher?

13 A. Yeah.

14 Q. And in that note, you told your teacher that Gage
15 came into your room, laid in your bed and did things to you?

16 MS. MAZZA: Objection, hearsay.

17 THE COURT: Overruled.

18 THE WITNESS: Correct.

19 BY MS. RISTENPART:

20 Q. And that you claimed it was while were you
21 watching videos?

22 A. I can't recall.

23 Q. Would looking at your note refresh your memory?

24 A. Yeah.

1 MS. RISTENPART: I'm showing counsel YY.

2 BY MS. RISTENPART:

3 Q. Does that refresh your memory?

4 A. Yeah, it's the note.

5 Q. So you wrote a note to your teacher that this
6 would happen while you were watching videos; right?

7 A. Yeah.

8 Q. And you claimed that Gage would touch your butt?

9 MS. MAZZA: Your Honor, hearsay. I believe the
10 Court's order was specific on what defense could ask about
11 this.

12 THE COURT: Ms. Ristenpart.

13 MS. RISTENPART: It was, Your Honor, but this is
14 all part of that allegation.

15 THE COURT: You may continue.

16 MS. RISTENPART: Thank you.

17 BY MS. RISTENPART:

18 Q. And you claimed that Gage touched your butt?

19 A. At the time.

20 Q. And actually police got involved; right?

21 A. Yeah.

22 Q. Because your teacher called the police?

23 A. No.

24 MS. MAZZA: Objection, speculation.

1 MS. RISTENPART: You don't know how?
2 THE COURT: Sustained.
3 BY MS. RISTENPART:
4 Q. But at some point up spoke with some police
5 officers; right?
6 A. I think so.
7 Q. And were you asked questions about what Gage or
8 what you claimed about Gage?
9 A. I honestly --
10 MS. MAZZA: Objection, hearsay.
11 THE COURT: Overruled.
12 THE WITNESS: I don't remember, honestly.
13 BY MS. RISTENPART:
14 Q. Would looking at an interview clip of that
15 interview refresh your memory?
16 A. Yeah.
17 MS. RISTENPART: Ms. Clerk, clip 4 and 7 of
18 4/5/16. Your Honor, if we could take the stream dark off.
19 Thank you.
20 MS. RISTENPART: Playing clip 4 which Exhibit
21 EEE?
22 MS. MAZZA: Your Honor, can we have a taken off
23 the big monitors?
24 THE COURT: It should be off of. It is off the

1 witness' monitor and the over head monitor.

2 MS. MAZZA: It's on my monitor, Your Honor.

3 THE COURT: And it's off of the jury's monitor as
4 well.

5 Jurors, you can't see it; is that correct?

6 JURORS: (Jurors as a group indicating no.)

7 THE COURT: Anybody that can see it? Anybody
8 can't look at it. Nobody can see it. It's just for counsel.

9 BY MS. RISTENPART:

10 Q. Are your headphones on?

11 A. (Complies.)

12 (Audio interview played
13 via headphones for the witness.)

14 BY MS. RISTENPART:

15 Q. Does that refresh your memory?

16 A. Yeah.

17 Q. And in that interview with law enforcement, you
18 told police that Gage sat on your bed; right?

19 A. Yeah.

20 Q. And started to touch your butt; right?

21 A. I didn't state that in that clip.

22 Q. Would reviewing another clip refresh your memory
23 of what you told police?

24 A. But I do remember that.

1 Q. And you told the police that Gage would stick his
2 hand over your covers and start touching you?

3 A. Did you say over?

4 Q. Under.

5 A. Yeah.

6 Q. And you also claimed to police that Gage would
7 rub your butt?

8 A. No.

9 Q. Would listening to a clip of your interview
10 refresh your memory?

11 A. Yeah.

12 MS. RISTENPART: Playing HHH.

13 MS. MAZZA: What clip is that?

14 MS. RISTENPART: Clip 7.

15 BY MS. RISTENPART:

16 Q. Ear phones?

17 A. (Complies.)

18 (Audio interview played
19 via headphones for the witness.)

20 BY MS. RISTENPART:

21 Q. Does that refresh your memory?

22 A. What was that?

23 Q. Does that refresh your memory?

24 A. Yeah.

1 Q. Yes?

2 A. Yes.

3 Q. In that interview with police about Gage, you
4 told him -- you told police and claimed that Gage would rub
5 your butt?

6 A. Yes.

7 Q. Now, GW, that allegation you made against Gage
8 about rubbing your butt, that was not true; right?

9 A. That was a misunderstanding.

10 Q. He actually never rubbed your butt; right?

11 A. I don't think so.

12 Q. So what you told the police was not true?

13 A. That was a misunderstanding.

14 Q. What you told your teacher was not true?

15 A. A misunderstanding.

16 Q. Now, in the fall of 2018, GW used to hang out the
17 Jenkins' home a lot; right?

18 A. Yeah.

19 Q. Alyssa lived there?

20 A. (Nodded head.)

21 Q. She was your best friend?

22 A. Yeah.

23 Q. In fact, she was really kind of your go to
24 friend; right?

1 A. Yeah.

2 Q. And of course Rick lived there?

3 A. Yeah.

4 Q. And also Rick's girlfriend, Kimberly Copeland?

5 A. Yeah.

6 Q. And you knew Kim?

7 A. Yeah.

8 Q. And you were close to Kim; right?

9 A. No, not really.

10 Q. Are you claiming you are not close -- you weren't

11 close to Kim in the fall of 2018?

12 A. No, I never really talked to her.

13 Q. Would you message Kim on social media?

14 A. I don't think so. I don't remember, honestly.

15 Q. Did you ever talk to Kim about Gage?

16 A. No, I don't think so.

17 Q. Did you ever talk to Kim about allegations about

18 Gage?

19 A. No.

20 Q. Did you tell Kim that Gage had raped you?

21 A. No.

22 MS. MAZZA: Objection, hearsay.

23 THE COURT: Overruled.

24 THE WITNESS: No.

1 BY MS. RISTENPART:

2 Q. You're sitting here today you never said you told
3 Kim that Gage raped you?

4 A. No.

5 MS. MAZZA: Objection, asked and answered.

6 THE COURT: Sustained.

7 BY MS. RISTENPART:

8 Q. Has Gage ever raped you?

9 A. No.

10 Q. So any allegation that Gage raped you, that would
11 be false?

12 A. Yeah.

13 Q. Any allegation that Gage raped you, that would
14 just not be true?

15 MS. MAZZA: Objection, Your Honor, asked and
16 answered.

17 THE COURT: Sustained.

18 BY MS. RISTENPART:

19 Q. Now, GW, after you met with Marie Foster, then
20 you went to the police station the next day and claimed that
21 Rick had touched you, you then started playing on Marie
22 Foster's team; right?

23 A. Yeah.

24 Q. Somehow you got to play for free; right?

1 A. Yeah.

2 MS. RISTENPART: No further questions at this
3 time, Your Honor.

4 THE COURT: Okay. Redirect examination.

5 MS. MAZZA: Thank you, Your Honor. If I may
6 approach the clerk?

7 **REDIRECT EXAMINATION**

8 BY MS. MAZZA:

9 Q. GW, did you make this up against Mr. Jenkins?

10 A. No.

11 Q. Is this time different than the time involving
12 Gage?

13 A. Yes.

14 Q. Why is that?

15 A. Because I was more uncomfortable around Rick.

16 Q. Say that again?

17 A. I was uncomfortable around Rick.

18 Q. And let's go back. How old were you at the time
19 that all of this was happening?

20 A. 13.

21 Q. And you turned 14 when?

22 A. September 19th, 2018.

23 Q. Would it be 2018?

24 A. '18.

1 Q. If you were 13 over that summer?
2 A. Yeah.
3 Q. Did you make this up to make Marie Foster's
4 volleyball team?
5 A. No.
6 Q. Did Marie Foster have anything to do with you
7 playing for free?
8 A. No.
9 Q. Who did?
10 A. It was a scholarship they do for people.
11 Q. Who actually runs NNJ, is it Marie Foster?
12 A. No.
13 Q. Is volleyball your whole life?
14 A. Yeah, pretty much.
15 Q. So, do you want to do anything else in your life?
16 A. Yeah.
17 Q. What do you want to do?
18 A. I want to do oncology.
19 Q. So volleyball is a hobby?
20 A. Yeah.
21 Q. How long ago was all of this?
22 A. About three years ago.
23 Q. Do you have a difficult time remembering it?
24 A. Yeah.

1 Q. So, Ms. Ristenpart asked you about saying you
2 wished you had a dad like Rick. Did you have a dad in your
3 life other than Rick at the time?

4 A. Yeah.

5 Q. Who?

6 A. It was my biological father.

7 Q. Okay. So was Rick -- would you have said that?

8 A. No.

9 Q. Now, GW, I'm going -- GW, I'm going to show you
10 what's been marked as State's admitted 20.

11 Can you tell us about the month of September or
12 towards the end of you and Mr. Jenkins' relationship?

13 A. What do you mean?

14 Q. Had you guys been warned to not touch each other?

15 A. Yes.

16 Q. What happened after that? How did Mr. Jenkins
17 act after that?

18 A. He was more cautious.

19 Q. So towards the end, would you say that towards
20 the end he was more cautious?

21 A. Yes.

22 Q. And you interviewed when with the Douglas County
23 Sheriff's Office?

24 A. I don't know.

1 Q. Would it be the end of September?

2 A. Oh, yeah.

3 Q. Is that correct?

4 A. Yes.

5 Q. All right. I'm showing you what's been marked
6 Exhibit 20, video 6. Now, GW, I'm going to Zoom in on an
7 area.

8 Do you know what area this is?

9 A. I don't see.

10 MS. MAZZA: Oh, Your Honor, may I publish?

11 THE COURT: Yes. I believe you might have to
12 plug in on your end.

13 BY MS. MAZZA:

14 Q. Now, do you see an image up there?

15 A. Yeah.

16 Q. What is that?

17 A. It's the arcade.

18 Q. Sorry?

19 A. The arcade.

20 Q. Where? At the Rec Center?

21 A. Yeah.

22 Q. And is this that area that you're referring to as
23 under the stairs?

24 A. Yes.

1 Q. Did something happen to you there only once?

2 A. Yes.

3 Q. Did you and Mr. Jenkins go to this area together
4 on multiple occasions?

5 MS. RISTENPART: Asked and answered.

6 THE COURT: Overruled.

7 THE WITNESS: What was that?

8 BY MS. MAZZA:

9 Q. Did you go to this area with Mr. Jenkins on
10 multiple occasions?

11 A. Yeah.

12 MS. MAZZA: Now, I'm playing video 6.

13 (Video played.)

14 BY MS. MAZZA:

15 Q. And do you see the date in the left corner of
16 that?

17 A. Yeah.

18 Q. Was that before or after Mr. Jenkins had stepped
19 back a little bit?

20 A. It's -- I don't know specific dates.

21 Q. Okay. But after your mom had talked to the
22 Douglas County High School?

23 A. Yeah, I think so.

24 Q. Was that you and Rick?

1 A. Yeah.

2 Q. Is that hard to watch?

3 A. Yeah.

4 Q. And now when you described that Mr. Jenkins would

5 touch your butt in this area, was it in that same area?

6 A. Yeah.

7 Q. Now, I'm going to show you what's not been

8 admitted State's Exhibits 6 and 7. Do you recognize those?

9 A. Yeah.

10 Q. What are they?

11 A. Rick and I.

12 Q. Where?

13 A. At CVI.

14 Q. Is it accurately reflect how the two of you were

15 at CVI?

16 A. Yeah.

17 Q. Is that how the two of you were commonly?

18 A. Yeah.

19 Q. When?

20 A. Like every we saw each other.

21 Q. Do you have a difficult time seeing these videos

22 or photos?

23 A. Yes.

24 Q. Why?

1 A. Because it's just not memories I would like to
2 hold in my mind.

3 Q. At the time, did you think of Mr. Jenkins as a
4 father figure?

5 A. Yeah.

6 Q. Did you trust him?

7 A. Yeah.

8 Q. Now, when you said -- Ms. Ristenpart asked you
9 about your relationship with Wayne and was it similar. You
10 actually told Investigator Chrzanowski he didn't touch your
11 butt; is that right?

12 A. Who?

13 Q. Wayne?

14 A. Yeah, he never touched my butt.

15 Q. Never?

16 A. Never.

17 Q. And Ms. Ristenpart asked you about saying in your
18 first interview that Mr. Jenkins never touched your butt.

19 Did you say more to Investigator Chrzanowski?

20 A. What do you mean?

21 Q. Would it be difficult to touch your butt?

22 A. What -- oh, yeah -- no. I'm confused.

23 Q. Okay. So, in your interview with Investigator
24 Chrzanowski, she asked you if he touched your butt. What did

1 you say?

2 A. In the first one?

3 Q. Um-hum.

4 A. I said, no, but he might have.

5 Q. Because why?

6 A. Because he might not have -- like my body, like

7 where things are.

8 Q. Now, when you're describing Mr. Jenkins putting

9 his hands down your pants, I'll talk about the front. Where

10 did he touch?

11 A. Just like, he didn't go very far, but like, I

12 guess, like where my hip bone would line up.

13 Q. So, would that be just above your vagina?

14 A. Yeah.

15 Q. Is that correct or no?

16 A. No, that's correct.

17 Q. And where did that happen?

18 A. At his house.

19 Q. Anywhere else?

20 A. The Rec Center.

21 Q. Is -- again, is it hard to remember?

22 A. Yeah.

23 Q. When you met with Marie Foster, why did you come

24 forward after meeting with her?

1 A. Because she told me a story, and I like didn't
2 want anything else to happen to anyone else.

3 Q. Did she tell you a story that planted these ideas
4 in your head?

5 A. No.

6 Q. What did she tell you about her stories any
7 details?

8 A. No.

9 Q. Did you make this up to make NNJ volleyball team?

10 A. No.

11 Q. At the time, did you went to report this?

12 A. Yes. Well, what do you mean, what time?

13 Q. The first time you were interviewed, were you
14 still friends with Rick?

15 A. Yeah.

16 Q. Did you want to lose them or his family as
17 friends?

18 A. No.

19 Q. But that changed at some point?

20 A. Yeah.

21 Q. Why?

22 A. Because I know it wasn't right to lie and Alyssa
23 was already going away from me, so I already knew I lost them
24 as friends.

1 Q. And when you were reporting what you say was a
2 misunderstanding with Gage, did you have the same experience
3 or feelings that do you regarding Mr. Jenkins?

4 A. No.

5 Q. How old were you back then when you wrote that
6 letter to your counsel's or teacher?

7 A. I was in 6th grade, so I don't know how old I
8 would be.

9 Q. Were you -- okay. So were you older when you
10 reported what happened with Mr. Jenkins?

11 A. Yeah.

12 Q. When you met with the prosecution, did anyone
13 tell you what to say here today?

14 A. Wait, what does that mean?

15 Q. When you met with my office and me, did anyone
16 tell you what to say here today?

17 A. No.

18 Q. Are you making this testimony here today because
19 of meeting with my office?

20 A. No.

21 Q. So, when you say that it kind of -- the contact
22 between the two of you kind of slowed down because of the
23 reports, when would you say it was at its height of what
24 Mr. Jenkins was doing to you?

1 A. What was that?

2 Q. In 2018, Mr. Jenkins, you indicated he kind of
3 stepped back from how he would act with you after reports were
4 made of your contact; is that correct?

5 A. Yes.

6 Q. At what point was it the height of how he was
7 touching you?

8 A. When he would stick his hand inside my pants.

9 Q. Was that in the summer of 2018?

10 A. Yeah.

11 Q. How far after Wayne died do you believe?

12 A. About two months.

13 Q. Now, I'm going to put Exhibit 21 into the
14 computer. I'm playing Wednesday, September 19, 42924432.

15 That's a video you watched with Ms. Ristenpart.

16 How long does it take to find the items you went
17 into that equipment room for?

18 A. Like in reality, they're right there right when
19 you walk in.

20 Q. Pretty quick to find them?

21 A. Yeah.

22 Q. And Ms. Ristenpart was asking you about when you
23 stated Rick would tell you to go out first?

24 A. Yeah.

1 Q. Was that at the end here of -- after people had
2 reported your contact or the height of when he was touching
3 you?

4 A. I'd say like the height and the end.

5 Q. Ms. Ristenpart was asking you about private
6 areas. What do you define as a private area?

7 A. My butt and like the vaginal area.

8 (Video played.)

9 BY MS. MAZZA:

10 Q. Now, you said in your interview you were never
11 doing anything with equipment. After watching this video, do
12 you believe every time the two of you went in there and he
13 touched you that you wouldn't bring equipment out?

14 A. Can you repeat that?

15 Q. Did you bring equipment out sometimes?

16 A. Yeah.

17 Q. But sometimes when he touched you, would you
18 bring equipment out?

19 A. Sometimes.

20 Q. Now, I'm going to show you, go back to
21 Exhibit 20.

22 (Video played.)

23 BY MS. MAZZA:

24 Q. Do you recognize this area that's playing on the

1 screen?

2 A. Yeah.

3 Q. What is it?

4 A. It's like the entrance.

5 Q. And so even after being talked to, would you and
6 Rick conduct yourselves like this?

7 A. Yeah.

8 Q. Now, I'll play video 4. Is this the same area?

9 A. Yeah.

10 Q. And was it common for Rick to do that to your
11 butt?

12 A. Yeah.

13 Q. What did you do with your hands?

14 A. I put them behind me.

15 Q. Why was that?

16 A. Because I didn't like it.

17 Q. And again when you made the NNJ team, did you
18 have to try out?

19 A. Yes.

20 Q. What's included in a try out?

21 A. Everyone who wants to be on the team does
22 tryouts.

23 Q. Do some people not make it?

24 A. Well, for NNJ you make it no matter what pretty

1 much because you pay.

2 Q. Pretty much any one can make NNJ?

3 A. Yeah.

4 Q. Even regardless of their skills?

5 A. Yeah.

6 MS. MAZZA: Your Honor, I have no further
7 questions.

8 THE COURT: Okay. Recross.

9 **RECROSS-EXAMINATION**

10 BY MS. RISTENPART:

11 Q. In November of 2018, you never claimed to police
12 that Rick and you would go underneath the stairwell and that
13 he would touch your butt, did you?

14 A. I don't think so. I don't know.

15 Q. When we were in court and you testified about
16 your allegations, you never claimed that you would go under
17 the stairwell with Rick and he would touch your butt, did you?

18 A. I don't remember.

19 Q. And then you've met with Ms. Mazza and now today
20 you came in and claimed to us that you would go to the
21 stairwell with Rick and he would touch your butt?

22 A. Yeah.

23 Q. And then you're claiming now today that it
24 happened more than once underneath the stairwell?

1 A. Yeah.

2 Q. Now, you also told us that during the time
3 between your first interview with police when you said that
4 Rick never touched you inappropriately to your second
5 interview after meeting with Coach Marie and then claiming
6 that Rick touched you, you said that Alyssa was pulling away
7 from you; right?

8 A. What?

9 Q. Alyssa was no longer really friends up with
10 during that time; right?

11 A. Yeah, she was already pulled -- she was pulling
12 away.

13 Q. And, in fact, things got heated between of two of
14 you; right?

15 A. No, not really.

16 Q. You're claiming that Alyssa never yelled at you?

17 A. I can't remember. It's been too long.

18 Q. You got in a fight after your first interview to
19 your second interview with Alyssa, didn't you?

20 A. I don't remember.

21 Q. And your definition of the private area is your
22 butt and vaginal area; correct?

23 A. Correct.

24 Q. And let's talk about the equipment room. We just

1 saw that clip where you and Rick came out with some equipment,
2 specifically volleyballs; right?

3 A. Yeah.

4 Q. There's a lot of different types of volleyballs;
5 right?

6 A. No, not really.

7 Q. There's different brands?

8 A. Yeah.

9 Q. Right?

10 There's also different sizes; right?

11 A. Yeah.

12 Q. And different weights?

13 A. Yeah.

14 Q. So there's some that are lighter weight for
15 younger kids; right?

16 A. Correct.

17 Q. There's higher weights for older kids?

18 A. Correct.

19 Q. And so today you claim that sometimes Rick would
20 touch you in the equipment room closet, but you would also be
21 getting equipment too. That's what you're claiming today?

22 A. Sometimes.

23 Q. But you told police back on November 1st of 2018,
24 that every time you went in the equipment room closet, Rick

1 would tell you to go out first and would follow two minutes
2 later?

3 A. I don't remember that being every time.

4 Q. And when you interviewed with police, that was
5 much closer in time to your allegation?

6 A. Yeah.

7 MS. RISTENPART: No further questions. Thank
8 you.

9 THE COURT: Ms. Ristenpart, may this witness be
10 excused?

11 MS. RISTENPART: Your Honor, I have to keep her
12 under subpoena. Apologies.

13 THE COURT: GW, you are held which means you
14 might be recalled to the witness stand at some point.

15 THE WITNESS: Okay.

16 THE COURT: Please do not discuss your testimony
17 with anyone except for the attorneys in this case or their
18 investigators until such time as the jury has returned its
19 verdict.

20 THE WITNESS: Okay.

21 (Partial Proceedings concluded.)

22 THE COURT: You may go ahead and exit the
23 courtroom.

24 Counsel, I'd ask that you return any exhibits.

1 We are going to take a recess.

2 Ladies and gentlemen, you are admonished that it
3 is your duty not to converse amongst yourselves or with anyone
4 else on any subject related to the trial, either by phone,
5 e-mail, text, internet, or any other means.

6 Do not read, watch or listen to any report of or
7 commentary on the trial, or any person connected with the
8 trial, by any means of information, including, without
9 limitation, newspapers, television, and radio.

10 Do not form or express any opinion on any subject
11 connected with the trial until the cause is finally submitted
12 to you.

13 Do not do any research, such as consulting
14 dictionaries, using the internet, or using other reference
15 materials; or make any investigation, test the theory of the
16 case, recreate any aspect of the case, or in any other way
17 investigate or learn about the case on your own.

18 This recess will be 15 minutes in length, and you
19 are free to go outside and get some fresh air if you'd like to
20 do so. Court's in recess.

21 (Recess.)

22 THE COURT: Court is back in session on Case
23 Number 19-CR-188. I show the appearance of counsel for the
24 State, counsel for the Defendant, and also appearing is the

1 Defendant.

2 Ms. Mazza, are you ready to bring in the jury?

3 MS. MAZZA: I am, Your Honor, and I just want to
4 kind of update the Court on a -- schedule wise.

5 THE COURT: Thank you.

6 MS. MAZZA: I do have two more witnesses
7 available and ready. I think one may take a bit longer than
8 the other. So if -- I will leave it to the Court's
9 discretion, if we want to get through that one today, or if we
10 want to save that for the next day of trial.

11 THE COURT: Okay. Thanks for that order. We'll
12 kind of take it as it comes and we'll see where we are at.

13 Ms. Mazza: Thank you.

14 THE COURT: Ms. Ristenpart, are you ready to
15 bring in the jurors?

16 MS. RISTENPART: We're ready.

17 THE COURT: All right. Let's do it.

18 (The jury enters the courtroom.)

19 THE COURT: Ms. Mazza, do you stipulate to the
20 presence of the jury?

21 MS. MAZZA: Yes, Your Honor.

22 THE COURT: Ms. Ristenpart?

23 MS. RISTENPART: Yes, Your Honor.

24 THE COURT: Thank you. Please be seated.

1 (The jury is present.)
2 THE COURT: Ms. Mazza, you may call your next
3 witness.
4 MS. MAZZA: Thank you, Your Honor. The State
5 calls VS.
6 THE COURT: VS, please raise your right hand.
7 Face the court clerk to be sworn.
8 V. S.,
9 called as a witness on behalf of the
10 STATE, was duly sworn and
11 testified as follows:
12 THE COURT: Thank you. Come on up to the witness
13 stand, please. Go ahead and have a seat, and please remove
14 your mask.
15 THE WITNESS: Thank you.
16 **DIRECT EXAMINATION**
17 BY MS. MAZZA:
18 Q. Can you please state the first initial of your
19 first and last name?
20 A. VS.
21 Q. And VS, did I call you in here kind of unexpected
22 today?
23 A. Yes.
24 Q. Would you rather have dressed a different way?

1 A. Yes.

2 Q. Okay. I just wanted to make sure we got that
3 out.

4 A. Yes.

5 Q. And I'd like to kind of direct your attention to
6 a friend of yours.

7 Do you know a friend with the initials GW?

8 A. Yes.

9 Q. How do you know her?

10 A. A good friend, a teammate, a schoolmate.

11 Q. Okay. Teammate for what?

12 A. The sport of volleyball.

13 Q. Do you still play volleyball?

14 A. Yes.

15 Q. You do. For what?

16 A. School and club, but I didn't play school this
17 year, or club.

18 Q. Okay. So you're not on a current team --

19 A. No.

20 Q. -- with GW? No?

21 A. No. Not currently at the moment.

22 Q. Okay. And through your playing of basketball
23 [sic], have you ever had a coach with the name of Richard
24 Jenkins?

1 A. Yes.

2 Q. What did he coach you in?

3 A. Volleyball.

4 Q. On what team?

5 A. Freshman volleyball.

6 Q. At Douglas County High School?

7 A. Yes.

8 Q. Do you see Mr. Jenkins here in the courtroom
9 today?

10 A. Yes.

11 Q. What color shirt is he wearing, and seated in
12 relation to you?

13 A. Blue, and straight across.

14 Q. In front of you?

15 A. Yes.

16 MS. MAZZA: Your Honor, the State would request
17 that the record reflect the identification of the Defendant.

18 THE COURT: The record will so reflect.

19 BY MS. MAZZA:

20 Q. All right. VS, did you have the occasion to
21 observe the relationship between GW and Mr. Jenkins?

22 A. Yes.

23 Q. What did you observe?

24 A. Touching each other, like hugging; like arms

1 touching, like crossing. Sitting really, really close to each
2 other.

3 Q. Okay. So I'm going to take you back with every
4 item that you've mentioned. Where were all of these?

5 A. Different locations. I recall one time, I saw
6 them hugging in front of the Douglas County Rec Center.

7 Another occasion I saw them hugging was in front
8 of the restaurant Woodettes, and I think there was a couple
9 times that they would hug at like a volleyball game,
10 afterwards.

11 Q. Do you know Mr. Jenkins' daughter?

12 A. Yes.

13 Q. What's her name?

14 A. Alyssa Jenkins.

15 Q. Did you ever observe her and Mr. Jenkins?

16 A. Not very often. I didn't hang out with Alyssa as
17 often as did with GW. I don't really recall them ever hugging
18 or physically touching a lot.

19 Q. So those times that you just described between GW
20 and Mr. Jenkins, was Alyssa there?

21 A. More than when she hung out with Mr. Jenkins
22 alone. Without her.

23 Q. Can you tell me what you mean by that?

24 A. I recall GW showing me a picture of a time that

1 they had went river rafting with Jenkins and GW's mother, and
2 Alyssa was not present.

3 Q. And these times that you've described, the hug
4 outside of the Rec Center, touching each other; where was
5 Alyssa during those?

6 A. The one time I recall GW hugging Mr. Jenkins in
7 front of the Rec Center, Alyssa was not there. And when she
8 hugged Jenkins in front of Woodettes, there were two
9 occasions. One occasional, Alyssa was there; and one
10 occasion, she was not.

11 Q. So on one occasion, Alyssa was at Woodettes?

12 A. Yes.

13 Q. When he hugged GW?

14 A. Yes.

15 Q. And another time, Alyssa was not there?

16 A. Yes.

17 Q. So at any point through your relationship with
18 GW, did you observe her have any non physical contact with
19 Mr. Jenkins?

20 A. Yes.

21 Q. What was that?

22 A. One night we had a sleepover, I was at GW's house
23 and she had received a phone call from Mr. Jenkins. And she
24 had put it on speaker and I was sitting there on the ground,

1 and he was asking her, "Is anybody there? Where is your mom?
2 Can she hear us? Is your door closed?" Things like that,
3 trying to make sure that nobody could hear their conversation.

4 MS. RISTENPART: Objection, speculation.

5 THE COURT: Overruled.

6 BY MS. MAZZA:

7 Q. So you could finish your sentence?

8 A. Just asking certain questions, like, "Is someone
9 there," so that he didn't think anybody could hear the
10 conversation.

11 THE COURT: All right. So that last part was
12 speculation and will be stricken. Go ahead.

13 MS. MAZZA: Thank you.

14 BY MS. MAZZA:

15 Q. And did Mr. Jenkins know you were there?

16 A. No.

17 Q. How do you know that?

18 A. She said on the conversation, "No, nobody's
19 there." I wasn't talking, I was trying to be as quiet as
20 possible.

21 Q. Hearing this phone call, did it worry you?

22 A. Yes, because GW had told me that she was not
23 supposed to be in contact with Mr. Jenkins. And they had
24 mentioned to me that she was not supposed to be in contact

1 with Mr. Jenkins. And he seemed really mad on the phone,
2 trying to ask her questions, and I -- it made me a little
3 scared.

4 Q. So, I want to kind of back you up. You said
5 "they" had told me she was not to be in contact with him. Who
6 do you mean, "they"?

7 A. GW's mom.

8 Q. So, you know GW's mom?

9 A. Yes.

10 Q. Is that Tammy?

11 A. Yes.

12 Q. And she had a conversation with you about
13 Mr. Jenkins and GW?

14 A. Yes.

15 Q. As a friend, did you get worried when that phone
16 call came in?

17 A. Yes.

18 Q. Now, was this phone call before or after you
19 observed the hugs at Woodettes?

20 A. I don't recall.

21 Q. And the hugs at Woodettes, can you describe the
22 first one you saw?

23 A. The one where Alyssa was there was kind of a,
24 like, smaller hug. It wasn't as big as the one when Alyssa

1 was not present.

2 Q. What was the hug like when Alyssa was not
3 present?

4 A. Like a big bear-hug type thing. (Indicating.)

5 Q. And you kind of put your arms out?

6 A. (Indicating.)

7 Q. Can you describe what you mean by "bear hug"?

8 A. Like it was not an a side hug that you would
9 usually give someone that you don't really know or -- it was a
10 big bear hug. Like, for example, one I would give like my mom
11 or my dad.

12 Q. Okay. And is Rick Jenkins GW's dad?

13 A. No.

14 Q. So that bear hug, I guess you described, did that
15 one concern you?

16 A. Yes.

17 Q. Why?

18 A. It's not something you would usually do with
19 someone who's not your parent, or like someone of your own
20 age.

21 Q. Did you know the relationship between Mr. Jenkins
22 and GW?

23 A. I -- I would say like more than it should have
24 been with a friend's father.

1 Q. And do you -- you know Alyssa?

2 A. Yes.

3 Q. And did you and GW talk about this case?

4 A. No.

5 Q. Because GW's your friend, how do we know that
6 you're not making this up?

7 A. Because I want to speak my truth, and not what
8 someone else has told me to say. I want to say the truth, so
9 that people know what actually happened, of what I have
10 witnessed.

11 Q. And this bear hug you described outside, was it
12 inside or outside of Woodettes?

13 A. Outside.

14 Q. Was this before or after Tammy had told you GW
15 and Rick shouldn't have contact?

16 A. After.

17 Q. And how did you guys end up at Woodettes?

18 A. We wanted to go on a walk. We thought it was a
19 nice day, and take the dog out.

20 Q. Did you know Rick Jenkins was going to be there?

21 A. No.

22 MS. MAZZA: Your Honor, I have no further
23 questions.

24 THE COURT: Cross-examination?

1 MS. RISTENPART: Thank you.

2 **CROSS-EXAMINATION**

3 BY MS. RISTENPART:

4 Q. VS, you're telling us here today that you claim
5 you overheard a phone conversation between GW and Mr. Jenkins?

6 A. Yes.

7 Q. When was it?

8 A. I don't recall the date.

9 Q. Roughly?

10 A. I know it was during like volleyball season, or
11 like the very end of volleyball season. I don't know the
12 exact date. I mean, it was around three years ago, so I'm not
13 too positive on the date.

14 Q. And you claim here today that it worried you?

15 A. Yes.

16 Q. But you didn't tell anyone?

17 A. No, I did not.

18 Q. And you also claim here today that you saw
19 Mr. Jenkins and GW hug; right?

20 A. Yes.

21 Q. Once in front of the restaurant Woodettes?

22 A. Yes.

23 Q. And also in front of the Rec Center?

24 A. Yes.

1 Q. And in front of the Rec Center, that hug that you
2 say you saw; it was when you and GW were leaving the Rec
3 Center; correct?

4 A. Yes.

5 Q. And Rick was leaving at the same time?

6 A. Yes.

7 Q. And GW kept going up to him and hugging him;
8 right?

9 A. I only recall the one hug when we were leaving.

10 Q. But GW wouldn't let Rick go; right?

11 A. No.

12 Q. In fact, you were like, to GW, "Come on, let's
13 go, come on"; right?

14 A. Yes.

15 MS. MAZZA: Objection, hearsay.

16 THE COURT: Overruled.

17 BY MS. RISTENPART:

18 Q. And you were telling GW, "We've got to leave" --

19 A. Yes.

20 Q. -- right? And GW was grabbing Rick?

21 A. What do you mean by "grabbing"?

22 Q. Like holding on to him and not letting go?

23 A. Yes.

24 Q. And Rick was trying to leave to get into his car;

1 right?

2 A. Rick was hugging her back. And then at one
3 point, he said, "We shouldn't be seen together."

4 Q. You talked to police, didn't you?

5 A. No.

6 Q. You've never talked to the police?

7 A. Not about this case, no.

8 Q. Do you remember being interviewed on
9 November 20th of 2018?

10 A. At the high school.

11 Q. By police?

12 A. An investigator, is that still considered like,
13 it wasn't like the Sheriff's Office, but she was an
14 investigator, yeah.

15 Q. And you told this story to the investigator about
16 watching GW not let Rick go as he was trying to leave; right?

17 A. Yes.

18 Q. And you -- in that interview, you never told the
19 investigator that you heard Rick say that "We shouldn't be
20 doing this"?

21 A. He said, "We should not be seen together right
22 now."

23 Q. You never told the investigator that's what you
24 claim you heard in front of the Rec Center; right?

1 A. I don't believe so, no.

2 Q. That's new today; right?

3 A. Yes.

4 Q. During your interactions -- or excuse me, during

5 any time you saw GW and Mr. Jenkins together, you never saw

6 Mr. Jenkins touch GW on the butt?

7 A. No.

8 Q. You never saw Mr. Jenkins touch GW on her private

9 area?

10 A. No.

11 Q. And since -- you've had a falling out with

12 Alyssa; right?

13 A. Yes.

14 Q. You guys had a fight?

15 A. We did haven't a fight. We just kind of stopped

16 talking.

17 Q. And sitting here today, you're GW's best friend?

18 A. Yes.

19 Q. You guys talk all the time?

20 A. Um-hum.

21 Q. GW, she's a hugger; right?

22 A. Yeah.

23 Q. She hugs you?

24 A. Yeah.

1 Q. She hugged Alyssa?

2 A. (Nodded head.)

3 Q. She hugs friends?

4 A. (Nodded head.)

5 Q. She likes to hug?

6 A. (Nodded head.)

7 Q. You have to answer out loud?

8 A. Yes.

9 MS. RISTENPART: No further questions.

10 THE COURT: Redirect?

11 MS. MAZZA: Thank you, Your Honor.

12 **REDIRECT EXAMINATION**

13 BY MS. MAZZA:

14 Q. VS, do you recall how old you were at the time
15 you saw all of this?

16 A. I want to say 14 or 15.

17 Q. When is your birthday?

18 A. September 19th of 2003.

19 Q. And Ms. Ristenpart asked you about not telling
20 anyone. Why did you not tell anyone?

21 A. At the time, I didn't really think it was that
22 big of a deal. I just know they weren't supposed to be
23 talking, but I didn't know what the status of everything going
24 on was at the time.

1 Q. Were you a lot younger then than you are now?

2 A. Yes.

3 Q. And you explained the hug outside the Rec Center.
4 GW was hugging Rick. Was Rick hugging her back?

5 A. Yes.

6 Q. Ms. Ristenpart asked you about your interview
7 with the Sheriff's Office. Do you know much about law
8 enforcement and the titles of people?

9 A. Not really.

10 Q. You indicated to Ms. Ristenpart you and Alyssa
11 had a falling out. Did it have anything to do with this case?

12 A. No.

13 Q. So GW is a hugger, is what you said?

14 A. Yeah.

15 Q. Does she hug other men the way she was hugging
16 Mr. Jenkins?

17 A. No.

18 Q. Does she hug your dad the way she was hugging
19 Mr. Jenkins?

20 A. No.

21 Q. Does your dad hug her the way he was --
22 Mr. Jenkins was hugging GW?

23 A. No.

24 MS. MAZZA: Your Honor, I have no further

1 questions.

2 THE COURT: Recross?

3 **RECROSS-EXAMINATION**

4 BY MS. RISTENPART:

5 Q. VS, you just claimed that up falling out with
6 Alyssa had nothing to do with [name redacted] GW -- excuse me,
7 GW; right?

8 A. Yes.

9 MS. MAZZA: Your Honor, I ask that we strike the
10 term -- the name.

11 THE COURT: It's granted.

12 BY MS. RISTENPART:

13 Q. And as we talked about, you talked with the
14 investigator before; right?

15 A. Yes.

16 Q. And you actually talked to her about your falling
17 out with Alyssa; right?

18 A. (Nodded head.)

19 Q. You have to answer out loud?

20 A. Yes.

21 Q. And you told the investigator that you and Alyssa
22 had sent really mean texts to [name redacted] GW about [name
23 redacted] GW -- excuse me, GW ruining her life?

24 MS. RISTENPART: Strike the others, please.

1 MS. MAZZA: Objection, hearsay.

2 THE WITNESS: I do not remember --

3 THE COURT: Hold on one second. There's been an
4 objection.

5 I was focusing the use of the name instead of
6 initials.

7 Ms. Ristenpart, could you re-ask the question?

8 BY MS. RISTENPART:

9 Q. You told the investigator that Alyssa had sent
10 really mean texts to GW about how GW was ruining her life?

11 A. Yes.

12 MS. MAZZA: Your Honor, again, I object as
13 hearsay.

14 THE COURT: Ms. Ristenpart?

15 MS. RISTENPART: Your Honor, it's an effect on
16 listener; and also, it's a prior inconsistent statement.

17 THE COURT: All right. I'm going to allow it.
18 And she's answered.

19 BY MS. RISTENPART:

20 Q. You also told the investigator that Alyssa and --
21 you had the falling out with Alyssa, because [name redacted]
22 GW. Excuse me.

23 MS. RISTENPART: Apologies, Your Honor.

24 MS. MAZZA: And, Your Honor, again, I'd ask to

1 strike the name.

2 THE COURT: It's granted.

3 BY MS. RISTENPART:

4 Q. Because Alyssa was going around telling people
5 that GW was lying?

6 MS. MAZZA: Your Honor, hearsay within hearsay.

7 THE COURT: Ms. Ristenpart.

8 MS. RISTENPART: It's a prior inconsistent
9 statement, Your Honor.

10 THE COURT: It is hearsay within hearsay. The
11 objection is sustained.

12 MS. RISTENPART: No further questions.

13 THE COURT: Ms. Ristenpart, may this witness be
14 excused?

15 MS. RISTENPART: Yes, Your Honor.

16 THE COURT: Ms. Mazza?

17 MS. MAZZA: Yes, Your Honor.

18 THE COURT: All right. VS, thank you for coming
19 in. You are excused. Please do not discuss your testimony
20 with anyone, except for the attorneys in this case or their
21 investigators, until the jury's reached its verdict. Thank
22 you. You are excused.

23 THE WITNESS: Thank you.

24 THE COURT: Ms. Mazza, you may call your next

1 witness.

2 MS. MAZZA: And, Your Honor, as I indicated, I do
3 believe this witness may take a little more time than VS.

4 Does the Court have any preference to me calling
5 her or not?

6 THE COURT: Let's go ahead and proceed. Thank
7 you.

8 MS. MAZZA: Your Honor, the State calls Marie
9 Foster.

10 THE COURT: Ms. Foster, please go ahead and raise
11 your right hand. Face the court clerk to be sworn.

12 MARIE CALVIN FOSTER,
13 called as a witness on behalf of the
14 STATE, was duly sworn and
15 testified as follows:

16 THE COURT: All right. If you could, why don't
17 you leave your purse with Deputy Lindsay there. Thank you.

18 THE WITNESS: Thank you.

19 THE COURT: You may come on up here to the
20 witness stand.

21 THE WITNESS: Do I keep this on?

22 THE COURT: You can go ahead and remove your mask
23 and have a seat.

24 THE WITNESS: Thank you. Okay.

DIRECT EXAMINATION

BY MS. MAZZA:

Q. Ma'am, can you please state your full name, and spell your last name for the record?

A. Marie Calvin Foster. F-O-S-T-E-R.

Q. Ms. Foster, I'd like to take you back to 2018?

A. (Nodded head.)

Q. Were you coaching volleyball at that time?

A. Yes, I was.

Q. And at that time, who were you coaching volleyball for?

A. I was coaching for Douglas County High School, and Northern Nevada Juniors.

Q. Are you any longer coaching for Douglas High School?

A. I am not.

Q. Were you let go from that position?

A. Yes, I was.

Q. And when you were coaching volleyball back in 2018, what kind of age group were you coaching?

A. Predominantly JV, for the high school. The high school coaches tended to float, so I would help with JV; I would help with varsity. I would help with the freshman team, if they requested it. And then for NNJ, it was a wide variety

1 of ages, anywhere from 12 to 18.

2 Q. And through your coaching experience, did you
3 know Richard Jenkins?

4 A. Yes, I did.

5 Q. Do you see him here in the courtroom today?

6 A. Yes, I do.

7 Q. Can you describe what color shirt he's wearing?

8 A. Light blue.

9 Q. And where he is seated in relation to you?

10 A. Directly in front of me.

11 MS. MAZZA: Your Honor, the State would request
12 that the record reflect identification of the Defendant.

13 THE COURT: The record will so reflect.

14 BY MS. MAZZA:

15 Q. Through your experiences with Mr. Jenkins, did
16 you get along with him?

17 A. Yeah, I did. Yeah.

18 Q. Did you guys help each other with coaching?

19 A. I'm sorry?

20 Q. Sorry. Help each other with coaching?

21 A. With coaching, yes, we did.

22 Q. Can you explain what did you with each other, as
23 far as helping each other?

24 A. I guess the easiest is to go back to 2014, when

1 we had first met, and we both were offered a co-coaching
2 position for the freshman team for Douglas High School. And
3 we had worked together through different and a variety of
4 things.

5 I know when we first started working, the
6 rotations for high school volleyball have evolved. And it was
7 a 6-2 rotation or a 5-1 rotation, which is pretty intricate.

8 I was also aware that Rick only knew the 4-2
9 rotation, and it was something that he had stressed over
10 throughout the years. So we worked a lot on helping him build
11 the knowledge the 5-1, build the knowledge to the 6-2
12 rotation. I know that we had met a handful of times, and went
13 over paperwork and different things.

14 Through the years, as he was coaching for
15 Pau-Wa-Lu Middle School, I would come in as a volunteer and
16 help his hitters; or I would help him coach, or I would help
17 him explain the 4-2 and the defensive process to it.

18 Q. And so through that time period, would you say
19 you guys got along?

20 A. I would say so, yeah.

21 Q. Do you have a problem with Mr. Jenkins?

22 A. No.

23 Q. So I'd like to kind of direct your attention
24 specifically to the process for NNJ?

1 A. Okay.

2 Q. What does NNJ stand for?

3 A. Northern Nevada Juniors.

4 Q. And is that a volleyball league?

5 A. It's a club. And it's like a pay-to-play, like a
6 customer service thing. They're part of a California
7 association, which I don't know if that association is
8 still -- it's the NCVA, where they all go and they play,
9 usually to California tournaments. Because there's not much
10 here, in the northern Nevada area.

11 Q. And you work for NNJ?

12 A. Yes.

13 Q. Are you the owner of NNJ?

14 A. No.

15 Q. Who is?

16 A. Jason Sterrett.

17 Q. Okay. And with regard to NNJ, would people be
18 given scholarships?

19 A. Absolutely.

20 Q. Why?

21 A. A lot of times, the kids couldn't afford to play.
22 And Jason and his now-wife Alix, they were married recently,
23 they have always said --

24 Q. Let me stop me real quick. Can you spell Alix?

1 A. Alix? A-L-I-X.

2 Q. Okay.

3 A. And they -- they've always had a foundation or a
4 theory that if a kid wanted to play, it wasn't about the
5 money, it was about the kid; and so they would do their best
6 to make it work.

7 So I know that there were several kids throughout
8 the years that received either full scholarships here for
9 Douglas County, or partial; or maybe they had to pay for
10 uniforms. I didn't know a lot of the details of it. Those
11 were things that they set up directly with their parents.

12 Q. Were you allowed to suggest people for a
13 scholarship?

14 A. Absolutely. All the coaches were.

15 Q. I'd like to direct your attention to the fall of
16 2018. Did you suggest anyone for a scholarship?

17 A. Yep, I did. Olivia Newton and [name redacted]
18 GW.

19 Q. Let me just stop you right there.

20 Ms. Mazza: Your Honor, I would ask that we
21 strike the name and use the initials.

22 THE COURT: It's granted.

23 THE WITNESS: Okay. So G, I did suggest with
24 her. In talks with her and asking her if she was going to

1 further play in club -- she didn't make the high school team.
2 We as a collective, the high school team as a collective
3 decide, the coaches decide, kind of like a democracy about the
4 kids, based off their skill set.

5 We also have outside coaches that come in and
6 assess skills for us so we can get the most unbiased, you
7 know, based off their performance. And she didn't make the
8 high school team that year.

9 And in asking her if she had a plan to play, she
10 had mentioned that she couldn't afford it. So she had no
11 intention of playing.

12 BY MS. MAZZA:

13 Q. And when you say it's a democracy, the decision
14 for GW to not play high school that year, 2018; was that
15 solely your decision?

16 A. No. No. I wasn't even a head of the freshman
17 team.

18 Q. And if someone were to suck up to you, would they
19 get to make the team?

20 A. No, that wouldn't matter.

21 Q. Okay. And for NNJ, you kind of said it's a
22 pay-to-play?

23 A. Yes.

24 Q. Do you have tryouts?

1 A. They do. Basically the tryouts are to assess
2 skill, so that they can make sure that they can be placed at
3 the appropriate skill level, the appropriate age level. I
4 know that the NCVA has like age criteria by a certain month of
5 the year, at this age. They can't play lower than that, but
6 they can play above that.

7 So if they were 16, but they had amazing an skill
8 set and could be on an 18's team, then they could be possibly
9 placed there.

10 Q. Did you end up meeting with GW after she didn't
11 make the team?

12 A. What team?

13 Q. The Douglas County High School team?

14 A. Yeah, she started to email me shortly after. It
15 was about two weeks, I want to say, after that. She sent me a
16 couple of emails asking me if I would do private lessons as a
17 coach, which I did at the time for kids.

18 And I had mentioned to her that maybe it would be
19 better for her to come to one of our clinics initially, to see
20 if she even liked my coaching style.

21 Q. Did she?

22 A. Yeah, yeah. She thought I was inspiring.

23 Q. Okay. So she went to a clinic first?

24 A. Yes.

1 Q. And then did a one-on-one?

2 A. Yes.

3 Q. And do people pay for that one-on-one?

4 A. Yeah.

5 Q. And did her family or her pay for that
6 one-on-one?

7 A. Yes.

8 Q. And based upon meeting with her on that date, did
9 Rick Jenkins come up?

10 A. It did, yeah. I just asked her if she was doing
11 okay. You know, small town; you hear the conversation. And
12 how she was holding up.

13 Q. And why did you ask her that? Did it have
14 anything to do with how you felt about Mr. Jenkins?

15 A. Oh, not at all. We care about our players.

16 Q. So you wanted to see how she was doing?

17 A. Yeah.

18 Q. Did she open up to you?

19 A. She did.

20 Q. Did you open up to her?

21 A. Yes, I did.

22 Q. And did you tell her an experience that you had?

23 A. I did.

24 Q. Did you tell her details about experience?

1 A. No. Those are really hard to talk about.

2 Q. Did you tell her pretty much just that you were a
3 survivor?

4 A. Um-hum.

5 Q. And why did you tell her that?

6 A. So that she knows she's not alone. And I even
7 stressed that to her and her mom. I wanted her to know that,
8 after she had disclosed a couple of things to me, that she's
9 not alone, and she should -- you know, it's normal to be
10 afraid, but she doesn't have to be afraid.

11 And I did mention to her that whatever comes of
12 this, that because of even what she had told me, that it would
13 be wise for her to seek therapy. That she doesn't have to
14 just be alone in the world; she can talk to her mom, she can
15 trust to her mom. She has coaches, she has counselors.
16 There's just people out there that care about her.

17 Q. Did you hear, "GW, you must report this to law
18 enforcement"?

19 A. No. No. I did tell her that she should, and
20 that she shouldn't be afraid to. I didn't tell her that she
21 absolutely had to.

22 In fact, the conversation with her mother and her
23 then was, I believe my words were, "Whether you pursue this or
24 not, please learn to talk about it with somebody."

1 Q. And so, what were you mostly concerned for?

2 A. Her emotional wellbeing, and her wellbeing
3 overall. This is -- this is something that's hard to survive.

4 Q. And did she tell you her experience with
5 Mr. Jenkins?

6 A. Yes.

7 Q. Did she say Mr. Jenkins shoved her in the closet
8 at the Rec Center?

9 A. I know she said that they went in there together.
10 I believe I said "shoved," but I can't --

11 Q. Now, when you say you believe you said "shoved,"
12 do you mean during your interview --

13 A. During my interview, yeah.

14 Q. With law enforcement?

15 A. Yes.

16 Q. Do you think that's the exact word she used?

17 A. I don't think so.

18 Q. Okay. You kind of relayed what your conversation
19 was with her --

20 A. Yeah.

21 Q. -- in your own language?

22 A. Yeah, in my own language. I think in -- you
23 know. I tried to do my best to remember, but I couldn't be
24 verbatim on that word.

1 Q. And after your meeting with her for the private
2 lesson --

3 A. (Nodded head.)

4 Q. -- did she make the NNJ team?

5 A. Well, she did. We mentioned to Alix, who was
6 there at the tryouts, Suzi Townsell and myself, the other
7 coach, we had mentioned a few kids. And some of the kids were
8 aware of the scholarship opportunities, and they were actually
9 there that night to try out. So they were aware, they were
10 hopeful that they would be able to play with either a discount
11 or a possible scholarship.

12 I don't believe that [name redacted] GW was aware
13 that there were even scholarship opportunities --

14 MS. RISTENPART: Objection, speculation.

15 THE COURT: Sustained.

16 MS. MAZZA: Your Honor, first, I'd like to strike
17 the name.

18 BY MS. MAZZA:

19 Q. And then I'm going to stop you right there.

20 Did GW ever ask you about scholarships?

21 A. She did. But she didn't come to the tryout.

22 Q. So, was she invited to the tryout, ultimately?

23 A. She was. It was about five minutes to 10 minutes
24 into the tryout that Alix had told me to text her and ask her

1 to come down.

2 Q. And was anyone else asked to come down to try
3 out?

4 A. Not that I'm aware of.

5 Q. Were other people there playing for scholarships?

6 A. Yes.

7 Q. And everyone made the team?

8 A. Yep.

9 Q. No matter your skill level?

10 A. No matter your skill level.

11 The only time that they don't is if they don't
12 have an appropriate skill level team. So they have to look at
13 the team size, so that everybody gets play time. Because it's
14 a pay-to-play, they want to see everyone play through the
15 season. So they don't want to stack 15 kids on a team and not
16 let them have enough play time.

17 So I've seen in the past, maybe one or two kids
18 that were offered to go to Reno, rather than stay here,
19 because there was space in Reno, but there wasn't space here.

20 Q. So, not everyone on the team can get a
21 scholarship?

22 A. No.

23 Q. So going back to --

24 A. I mean, I guess if they applied for it or knew

1 about it or --

2 Q. Do you know if a lot of scholarships are given?

3 A. Yes.

4 Q. How do you know that?

5 A. In 2019, 2018, that same year, 2018 to 2019, NNJ
6 had to change their complete format here, because the gyms
7 were only going to be available for non profits. And at the
8 time, NNJ was a profit for Douglas, and so they actually
9 looked into their own records. I sat in the meeting with them
10 when they discussed this.

11 But they sat and mentioned that they had actually
12 subsidized -- that year alone, they subsidized \$37,000 for
13 players in Douglas County to play.

14 Q. That was in 2018?

15 A. The crossover to 2018 to --

16 Q. '19?

17 A. To 2019, I believe, yeah.

18 Q. Okay.

19 A. And it kind of came as a shock to them, and to
20 us, that they were subsidizing that much over the years or
21 over that year alone. And it was really easy for them to get
22 a non profit, because they literally just kind of donated that
23 cost.

24 Q. And you mentioned someone named Suzi Townsell.

1 Is she also a volleyball coach?

2 A. Yes.

3 Q. What does she coach?

4 A. She's the head coach, she's the head of the
5 program for Douglas County, and she was one of the head
6 coaches for NNJ.

7 Q. So would she be someone who kind of had a little
8 more say over the high school?

9 A. Absolutely.

10 Q. And so going back to, you no longer work for
11 Douglas County High School --

12 A. Um-hum.

13 Q. -- as a coach?

14 A. (Nodded head.)

15 Q. When did that happen?

16 A. Fall of 2019.

17 MS. MAZZA: Your Honor, I have no further
18 questions.

19 THE COURT: Thank you.

20 Cross-examination.

21 **CROSS-EXAMINATION**

22 BY MS. RISTENPART:

23 Q. Ms. Foster, back in the fall of 2018, you were,
24 you were one of the coaches at Douglas County High School?

1 A. Yes, ma'am.

2 Q. Volleyball?

3 A. (Nodded head.)

4 Q. Correct?

5 You have to answer out loud.

6 A. What?

7 Q. You have to answer out loud.

8 A. I said "yes, ma'am."

9 Q. Okay. You were also the director of NNJ?

10 A. Yes. For Douglas County.

11 Q. And you just told us that GW did not make the

12 Douglas County High School team?

13 A. That year, she did not. I believe she was a

14 freshman that year.

15 Q. And she started to email you; correct?

16 A. Yes.

17 Q. And emailing you, asking you for assistance?

18 A. With coaching, yes.

19 Q. For coaching?

20 A. She wanted to continue to play the sport.

21 Q. In fact, on her email, she told you that you were

22 very inspiring to her?

23 A. After my first clinic with her, yes. After the

24 clinic.

1 Q. And so you recommended that she may take some
2 private lessons with you?

3 A. I offered it to her, you know. I said it's an
4 option, because that's what she originally emailed me for. So
5 she originally emailed me for private lessons; and I
6 suggesting to her that she try this clinic and see if my
7 coaching style was something that even appeased her, something
8 that she got along with.

9 Q. And the first time that she came for a private
10 lesson, you actually sat her down to talk to her first?

11 A. We talked about the private lesson, and I had her
12 and her mom there.

13 Q. And before you even started the lesson, you sat
14 down to talk to her; right?

15 A. Yeah, ask her how she's doing.

16 Q. And you told us today that it was just to ask her
17 how she was doing. You actually had asked her -- and told
18 her, "I don't really know how you feel about everything, but
19 I've heard the stories and I've heard the rumors;" right?

20 A. Um-hum.

21 Q. And you were referring about Mr. Jenkins?

22 A. Yes.

23 Q. And then you told her about your own personal
24 experience of being a victim of sexual abuse?

1 A. Yes. I had said I was a victim and I've survived
2 something like this, and it's hard. It's difficult to go
3 through. And you don't have to go alone, you don't have to be
4 alone, you don't have to be afraid.

5 Q. And then you state that GW disclosed to you that
6 Mr. Jenkins did touch her?

7 A. Yes.

8 Q. And you specifically told Investigator
9 Chrzanowski, when you met with her the next day, that GW told
10 you that he would shove her in the closet and grope her in
11 there?

12 A. Those were my words, but that was not the next
13 day. I actually called the Detective on Monday afternoon, and
14 she set up an appointment to meet with me. I remember it was
15 the Wednesday after.

16 Q. Well, that brings me to the point, Ms. Foster.
17 You just told the State that you didn't tell GW that she had
18 to tell the police what she told you; right?

19 A. Right.

20 Q. You testified to that; right?

21 A. Yes.

22 Q. But actually, when you had your conversation with
23 GW, you told her that, as a coach, you were a mandated
24 reporter; right?

1 A. Absolutely.

2 Q. And you told them -- specifically GW, "I'm going
3 to give you until Monday, then I'm going to make sure the
4 Detective knows"?

5 A. Um-hum.

6 Q. And during that conversation, you also told [name
7 redacted] GW that she was --

8 MS. MAZZA: Your Honor --

9 BY MS. RISTENPART:

10 Q. -- the perfect victim?

11 MS. MAZZA: I'm going to ask that we strike the
12 name and insert the initials.

13 MS. RISTENPART: I'm sorry GW.

14 THE COURT: Granted.

15 BY MS. RISTENPART:

16 Q. You told GW she was the perfect victim?

17 A. I did.

18 Q. And you told Investigator Chrzanowski that, even
19 before you met with GW, you just kind of had a weird feeling
20 that if you got with her, that she would talk to you?

21 A. Um-hum.

22 Q. And you're very -- well, talk about a term,
23 "psychic;" right?

24 MS. MAZZA: Objection, relevance.

1 THE COURT: I question the relevance of that.
2 The objection is sustained.

3 BY MS. RISTENPART:

4 Q. And then after the conversation with GW, she was
5 able to play for NNJ for free; correct?

6 A. That, yeah. But that wasn't my decision.

7 Q. But you did note from your communications with GW
8 that she thought you were inspiring; right?

9 A. (Nodded head.)

10 Q. And you also -- you kind of started to hang her
11 moon?

12 A. Yeah, that -- there was an email that was like
13 that. And that was after a few things, and I think it was
14 related to volleyball; that she had mentioned in those emails
15 that she had learned more from me in a handful of times than
16 she had learned over the years with Mr. Jenkins, and it was
17 really motivating for her. She felt like she was getting
18 somewhere with the sport that she loved. And that's what that
19 was in reference to.

20 Q. And you referred to "started to hang her moon"?

21 A. That's what she said, yeah, in her email.

22 Um-hum.

23 Q. And you got terminated from the Douglas County --

24 A. Yes, I did.

1 Q. -- School District for inappropriate
2 conversations with students about your own sexual abuse?

3 MS. MAZZA: Objection, relevance.

4 THE WITNESS: (Shakes head.)

5 THE COURT: Sustained.

6 BY MS. RISTENPART:

7 Q. Joe Girdner was the one who wrote your
8 termination letter; right?

9 A. Yes.

10 MS. RISTENPART: No further questions.

11 THE COURT: Redirect?

12 **REDIRECT EXAMINATION**

13 BY MS. MAZZA:

14 Q. Have you inspired volleyball players before?

15 A. Yes.

16 Q. How do you know that?

17 A. I don't know if I can list names, but I know that
18 there's several kids. There was a kid in particular that, for
19 four years, was scholarshipped with NNJ. She was in a foster
20 care situation, and couldn't afford to play. She furthered
21 herself, went to college. She's now coaching at NNJ with a
22 college scholarship.

23 That's probably the most rewarding part of
24 coaching. It's definitely not the rate of pay. But to teach

1 kids that they're capable is the greatest thing. And I know
2 that there has been several kids. My own daughter received a
3 scholarship.

4 Another kid her age -- actually, three more kids
5 her age received scholarships, all underneath us. They were
6 brought up with us in their freshman year. And they --
7 they're pretty neat, once you get them believing in
8 themselves.

9 Q. When you first met GW, did she believe in
10 herself?

11 A. No.

12 MS. MAZZA: Your Honor, I have no further
13 questions.

14 MS. RISTENPART: I was just going to lately
15 object to that as total speculation.

16 THE COURT: Well, it's been answered. Do you
17 have any recross?

18 **RECROSS-EXAMINATION**

19 BY MS. RISTENPART:

20 Q. Did you know that GW made a false allegation
21 before?

22 A. Hum-um.

23 MS. MAZZA: Objection, outside the scope of
24 redirect.

1 THE COURT: Sustained.

2 MS. RISTENPART: No further questions.

3 THE COURT: Ms. Ristenpart, may this witness be
4 excused?

5 MS. RISTENPART: Your Honor, I'm going to keep
6 her under subpoena, and we'll let her know.

7 THE COURT: Okay. Ms. Foster, you are still
8 going to be held, which means you might get recalled to the
9 witness stand.

10 Please do not discuss your testimony with anyone,
11 except for the attorneys in this case or their investigators,
12 until the jury has reached a verdict.

13 THE WITNESS: Okay. Yes, sir.

14 THE COURT: Thank you. You are released for
15 today.

16 THE WITNESS: Thank you.

17 THE COURT: Ms. Mazza, you may call your next
18 witness.

19 MS. MAZZA: Your Honor, I will need a little
20 break to call my next witness, if that would work for the
21 Court.

22 THE COURT: Yes, that's fine. We'll take a quick
23 recess. Five minutes. The jury will remain in the jury
24 deliberation room.

1 Ladies and gentlemen, it is your duty not to
2 converse amongst yourselves or with anyone else on any subject
3 connected with the trial, either by phone, email, text,
4 internet or any other means.

5 Do not read, watch, or listen to any report of or
6 commentary on the trial, or any person connected with the
7 trial, by any medium of information; including, without
8 limitation, newspapers, television, and radio.

9 Do not form or express any opinion on any subject
10 connected with the trial until the cause is finally submitted
11 to you.

12 Do not do any research, such as consulting
13 dictionaries, using the internet, or using other reference
14 materials; or make any investigation, test the theory of the
15 case, recreate any aspect of the case, or in any other way
16 investigate or learn about the case on your own.

17 We will be in recess until 4:45.

18 (Recess.)

19 THE COURT: The Court is back in session on Case
20 Number 19-CR-188. I show the appearance of counsel for both
21 parties. Also appearing is the Defendant.

22 We're convened outside the presence of the jury.

23 Ms. Mazza, are you ready to bring the jurors in?

24 MS. MAZZA: Your Honor, the State is ready to

1 bring the jurors in. However, at this time, I do not have a
2 witness that can fill the amount of time we have left in the
3 day, that can be here. The two that probably could fill the
4 time are not available at this time.

5 I based the schedule on our schedule yesterday;
6 and having not taken the same length of lunch, I don't have a
7 witness available.

8 And the two that are available, Investigator
9 Nadine Chrzanowski as well as Dr. Blake Carmichael, I believe
10 will take us significantly more time than the 30 minutes we
11 have left for the day.

12 THE COURT: Okay. So we'll go ahead and bring in
13 the jurors with the idea of announcing that, and then we will
14 take the break for the weekend. Let's go ahead and bring the
15 jurors in.

16 (The jury enters the courtroom.)

17 THE COURT: Ms. Mazza, do you stipulate to the
18 presence of the jury?

19 MS. MAZZA: I do.

20 THE COURT: Ms. Ristenpart?

21 MS. RISTENPART: Yes, Your Honor.

22 THE COURT: Thank you.

23 Please be seated.

24 (Jury present.)

1 THE COURT: Ms. Mazza, are you prepared to call
2 your next witness?

3 MS. MAZZA: Your Honor, at this time, based upon
4 the hour, the State believes the remaining witnesses for the
5 day would take a lot longer than the amount of time we have
6 left for the day.

7 So at this time, we would ask to reconvene next
8 week.

9 THE COURT: Okay. Ladies and gentlemen, we will
10 be recessing for the weekend. In addition to that, on
11 Mondays, the Court has what is called the law and motion
12 calendar that the Court needs to attend to.

13 So we will not be in session in this jury trial
14 at all on Monday. You folks will be coming back here on
15 Tuesday.

16 Because we are ending a little bit early here
17 today, and I want to keep this matter on course, we are going
18 to begin a little bit early on Tuesday. So Tuesday at 8:30 is
19 your return time.

20 Again, you do not need to be here on Monday.
21 Please return Tuesday at 8:30.

22 As you exit here tonight, again leave your
23 notebooks where you are seated. They will be collected and
24 preserved for you for next week.

1 The admonishment continues to apply, and of
2 course applies throughout the weekend. And it is important
3 that you adhere to this admonishment at all times.

4 It is your duty not to converse amongst
5 yourselves, or with anyone else, on any subject connected with
6 the trial, either by phone, email, text, internet or any other
7 means.

8 Do not read, watch, or listen to any report of or
9 commentary on the trial, or any person connected with the
10 trial, by any medium of information; including, without
11 limitation, newspapers, television, and radio.

12 Do not form or express any opinion on any subject
13 connected with the trial until the cause is finally submitted
14 to you.

15 Do not do any research, such as consulting
16 dictionaries, using the internet, or using other reference
17 materials; or make any investigation, test the theory of the
18 case, recreate any aspect of the case, or in any other way
19 investigate or learn about the case on your own.

20 Madam Clerk, have all the exhibits been returned
21 to you?

22 THE CLERK: Yes.

23 THE COURT: All right. Thank you, folks. We'll
24 see you Tuesday at 8:30. The court is in recess.
 (Proceedings concluded at 4:39 p.m.)

1 STATE OF NEVADA)
2 COUNTY OF DOUGLAS)

3

4 I, Michel Loomis, Certified Shorthand Reporter of
5 the Ninth Judicial District Court of the State of Nevada, in
6 and for the County of Douglas, do hereby certify:


7 That I was present in Department No. II of the
8 above-entitled Court and took stenotype notes of the
9 proceedings entitled herein, and thereafter transcribed the
10 same into typewriting as herein appears;

11 That the foregoing transcript is a full, true and
12 correct transcription of my stenotype notes of said
13 proceedings.

14 DATED: At Carson City, Nevada, this
15 [!TODAY'S DAY DATE] day of [!TODAY'S MONTH], 2021.

16

17


//SHELLIE LOOMIS
Shellie Loomis, CCR No. 228

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6 IN THE NINTH JUDICIAL DISTRICT COURT
7
8 IN AND FOR THE COUNTY OF DOUGLAS, STATE OF NEVADA

9 STATE OF NEVADA,)
10)
11 Plaintiff,)
12)
13 vs.)
14)
15 RICHARD JENKINS,)
16)
17 Defendant.)
18 _____)
19)
20)
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25 **AFFIRMATION**

26 **Pursuant to NRS 239B.030**

27 The undersigned does hereby affirm that the following
28 document **DOES NOT** contain the social security number of
29 any person?
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35 *Shellie Loomis*
36 //SHELLIE LOOMIS
37 SHELLIE LOOMIS, RPR
38 NV CCR #228

39 CAPITOL REPORTERS (775) 882-5322

40 **APP1401**

CERTIFIED
COPY

Case No. 19-CR-0188

Dept. No. 2

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS
BEFORE THE HONORABLE DISTRICT COURT JUDGE THOMAS GREGORY

---oOo---

THE STATE OF NEVADA,

Plaintiff,

vs.

RICHARD ALEXANDER JENKINS,

Defendant.

_____/

TRANSCRIPT OF PROCEEDINGS

VOLUME IV

JURY TRIAL

TUESDAY, APRIL 27, 2021

MINDEN, NEVADA

APPEARANCES:

For the Plaintiff: CHELSEA MAZZA, ESQ.
Deputy District Attorney

For the Defendant: THERESA RISTENPART, ESQ.
Attorney at Law

REPORTED BY: CHRISTY Y. JOYCE, CCR #625
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1 TUESDAY, APRIL 27, 2021

2 ---oOo---

3 THE COURT: Court is back in session on Case
4 Number 19-CR-188, State of Nevada versus Richard Alexander
5 Jenkins. Show the appearance of Chelsea Mazza on behalf of
6 the State. Good morning, Ms. Mazza.

7 MS. MAZZA: Good morning, your Honor.

8 THE COURT: Theresa Ristenpart is appearing on
9 behalf of the defendant. Good morning, Ms. Ristenpart.

10 MS. RISTENPART: Good morning, your Honor.

11 THE COURT: And also appearing is the defendant,
12 Mr. Jenkins. Good morning, Mr. Jenkins.

13 THE DEFENDANT: Good morning, your Honor.

14 THE COURT: Ms. Mazza, are you ready to call in
15 the jurors?

16 MS. MAZZA: Yes, your Honor.

17 THE COURT: Ms. Ristenpart?

18 MS. RISTENPART: I am, your Honor.

19 THE COURT: Thank you.

20 Deputy Schramm, let's bring in the jurors.

21 Ms. Mazza, do you stipulate to the presence of
22 the jury?

23 MS. MAZZA: I do, your Honor.

24 THE COURT: Ms. Ristenpart?

1 MS. RISTENPART: I do, your Honor.

2 THE COURT: Thank you, folks. Please be seated
3 and good morning to you.

4 Ms. Mazza, you may call your next witness.

5 MS. MAZZA: Thank you, your Honor. The State
6 calls Kurt Ahart.

7 THE COURT: Good morning, sir. Please raise your
8 right hand, face the court clerk to be sworn.

9 (The witness was sworn in)

10 THE COURT: Please come on up to the witness seat
11 and make yourself comfortable. Go ahead and have a seat and
12 remove your mask. Thank you.

13

14 KURT AHART

15 Called as a witness on behalf of the
16 State, having been first duly sworn,
17 Was examined and testified as follows:

18

19 DIRECT EXAMINATION

20 By Ms. Mazza:

21 Q. Sir, can you please state your full name and
22 spell your last name for the record.

23 A. My name is Kurt Andrew Ahart. My last name is
24 spelled A-h-a-r-t.

1 Q. Mr. Ahart, are you currently employed?
2 A. No, I am not.
3 Q. Were you previously employed?
4 A. Yes.
5 Q. And how was that?
6 A. I worked for Douglas County Parks and Rec.
7 Q. Okay. And in what capacity did you work for
8 Douglas County Parks and Rec?
9 A. I was a recreational specialist.
10 Q. And as a recreational specialist did you have a
11 certain location where you typically worked?
12 A. Yes. I worked at the community center on
13 Waterloo Lane, Gardnerville.
14 Q. Is that the Douglas County Community and
15 Recreation Center?
16 A. Yes.
17 Q. And how long did you work there?
18 A. About six years.
19 Q. Did you work in the newer -- Is that a newer
20 facility?
21 A. Yes. It was open in December of 2014. And I
22 started just a little after that.
23 Q. And, in the working for Douglas County in that
24 capacity, what sort of duties or tasks did you have?

1 A. I mainly worked at the front desk. So greeting
2 members and people who were coming in to use the facility,
3 selling memberships, preparing the community center for
4 different sports like basketball or, you know, volleyball,
5 you know, I also scheduled events like, you know, like
6 exercise classes, you know, people would rent rooms for
7 parties, that type of thing.

8 Q. So is it safe to say your employment was mostly
9 in the recreation side of the community center?

10 A. Yes, yes.

11 Q. Did you have anyone you directly reported to in
12 your employment?

13 A. Yes. At first I directly reported to Cheryl
14 Christian. She was the one who hired me. And then she
15 retired and I directly reported to another woman, Amanda
16 Reed.

17 Q. And how often would you work when you were
18 working then?

19 A. My schedule was roughly 30 to 32 hours a week.

20 Q. During the weekdays?

21 A. Mainly in the afternoons until closing.

22 Q. And when is closing?

23 A. Before the epidemic, COVID, it was 9:00 o'clock
24 during the weekdays, 8:00 o'clock on Saturdays. And then we

1 had a short schedule on Sunday until 4:00 p.m.

2 Q. And so directing your attention specifically to
3 the summer of 2018 was that the schedule you were working?

4 A. Yes.

5 Q. Were you working in that same position?

6 A. Yes.

7 Q. At that time through your employment did you know
8 anybody by the name of Richard Jenkins?

9 A. Yes.

10 Q. And how did you know him?

11 A. He was a coach. He would coach some volleyball
12 classes. He also refereed volleyball and he played
13 volleyball. And I know that he was also in the Carson Valley
14 Table Tennis Club and also he would play pickle ball on
15 occasion.

16 Q. And so those are the different, I guess,
17 recreations he would take part in at the community center?

18 A. Yes.

19 Q. And back in 2018 had you known Mr. Jenkins for
20 some time?

21 A. Yes, yes.

22 Q. About how long?

23 A. I don't know. I would say several years, maybe a
24 few years.

1 Q. Do you see him here in the courtroom today?

2 A. Yes, I do.

3 Q. Can you describe what color shirt he's wearing
4 and where he's seated in relation to you?

5 A. He's seated directly across from me next to this
6 woman that's next to you. He's wearing a white shirt and
7 wearing a tie with blue and it's gray or maybe tan.

8 MS. MAZZA: Your Honor, the State would request
9 that the record reflect identification of the defendant.

10 THE COURT: The record will so reflect.

11 Q. (By Ms. Mazza) Back in 2018 would Mr. Jenkins
12 come and partake in the activities at the community center
13 often?

14 A. Yes, I saw him often.

15 Q. More than once a week?

16 A. I would say so, yes.

17 Q. And now I'd like to direct your attention
18 specifically to September of 2018. Did you come in to
19 contact with the defendant in any way that brings you here to
20 court today?

21 A. Yes. Yes, I did.

22 Q. And what was that?

23 A. We had a complaint that there was some odd
24 behavior. And a colleague of mine, by the name of Scott

1 Doerr, and I decided to confront Mr. Jenkins about it.

2 Q. Had you personally observed any odd behavior?

3 A. Yeah, I did observe some odd behavior.

4 Q. And what specifically did you observe?

5 A. I observed a young girl kissing Mr. Jenkins on
6 the neck. She was a young teen. And then some just I would
7 say some pushing, like, you know, you know, not -- just
8 playful pushing, you know, like off your arm or waist or
9 something, not anything more than that.

10 Q. So would you describe it as touching each other
11 in some form?

12 A. Yeah.

13 Q. And this girl you described, is that -- who was
14 that, do you know?

15 A. She was the best friend of Mr. Jenkins' daughter.

16 Q. Did you know her name?

17 A. I learned it later. I think it's G.

18 MS. MAZZA: Your Honor, I would ask that we
19 strike the name. Does her first initial start with G?

20 THE WITNESS: I believe so.

21 THE COURT: The name is stricken.

22 THE WITNESS: Sorry.

23 THE COURT: That's okay.

24 Q. (By Ms. Mazza) And was this observation you made

1 before or after you made contact with Mr. Jenkins?

2 A. It was -- Oh, the observation was before.

3 Q. And then did you then in fact talk to
4 Mr. Jenkins?

5 A. Yes.

6 Q. Where was that?

7 A. In the community center, on the gym floor.

8 MS. MAZZA: And, your Honor, may I approach with
9 Exhibit 46?

10 THE COURT: You may.

11 MS. MAZZA: And I'm showing that to defense
12 counsel.

13 Q. (By Ms. Mazza) Mr. Ahart, I'm just handing you
14 Exhibit 46. Do you recognize that?

15 A. Yeah. It's a -- it's the plan of the gym floor.

16 Q. And is that the gym floor at the Douglas County
17 Recreation Center?

18 A. Yes.

19 Q. The recreation center you worked at?

20 A. Yes.

21 Q. And is that exhibit in front of you, Exhibit 46,
22 a fair and accurate representation of the gym floor in
23 September of 2018?

24 A. Yes, yes. This is what it looks like today and

1 looked like then.

2 MS. MAZZA: Your Honor, the State would move to
3 admit Exhibit 46.

4 THE COURT: Any objection?

5 MS. RISTENPART: No objection.

6 THE COURT: 46 is admitted.

7 Q. And now, Mr. Ahart, in front of you I've given
8 you a pen. Are you able to mark on that map where you
9 observed what you described as odd behavior between
10 Mr. Jenkins and the female?

11 A. Yeah, I could. I could circle it?

12 Q. Yes. You can put a circle and if you could put
13 your initials and the date.

14 A. The date?

15 Q. Yes.

16 A. I'm not sure of the date. I mean, it was --

17 Q. Oh, no. Today's date.

18 A. Oh, today's date. Okay. That's the 27th, right?
19 Okay.

20 Q. And then now you described that you then made
21 contact with the defendant. Where was that located on that
22 map?

23 A. It was in the back of the gym. Do you want me to
24 circle that too?

1 Q. Yes.

2 A. Not too far -- Initial?

3 Q. Yes, if you could initial and date that as well.

4 A. Okay.

5 MS. MAZZA: Your Honor, if I may display through
6 the projector?

7 THE COURT: You may. Is it plugged in to your
8 desk or Ms. Ristenpart's? It looks like yours.

9 MS. MAZZA: Mine, your Honor. Thank you.

10 Q. (By Ms. Mazza) And, Mr. Ahart, you described two
11 circles on here. The back of the gym is where you indicated
12 that you spoke with Mr. Jenkins; is that correct?

13 A. Right.

14 Q. When you first approached him where was he?

15 A. He was in the back of the gym coaching some girls
16 with volleyball.

17 Q. Did you end up speaking to Mr. Jenkins?

18 THE COURT: Ms. Mazza, I think the projector is
19 off.

20 MS. MAZZA: Thank you, your Honor.

21 THE COURT: You're welcome.

22 Q. (By Ms. Mazza) Did you end up speaking to
23 Mr. Jenkins?

24 A. Yes.

1 Q. And what happened after you spoke to him?

2 A. So the events after I spoke to him?

3 Q. So, when you spoke to Mr. Jenkins, did he say
4 anything to you?

5 A. Oh, yeah, he did. He said that he was going to
6 stop his behavior and it was, you know, he was definitely,
7 you know, understood what we didn't want to happen in the
8 gym.

9 Q. When you approached Mr. Jenkins or anytime
10 throughout that day did you see him in the area known as the
11 squishy room?

12 A. No. No, I didn't see him in there.

13 Q. And, Mr. Ahart, I'm going to show you what's been
14 admitted as State's Exhibit 21.

15 Your Honor, I apologize. If I could switch over
16 to the laptop?

17 THE COURT: Okay.

18 Q. (By Ms. Mazza) And I'm playing the video labeled
19 615 to 617. Did you end up having anything to do with
20 pulling surveillance footage?

21 A. No. I haven't viewed any surveillance footage
22 and I didn't have anything to do with that.

23 Q. In looking at Exhibit 21, video 615 to 617, do
24 you recognize this area?

1 A. Yes, definitely. That's the rear of the gym.
2 That's where Mr. Jenkins was coaching volleyball.

3 Q. And, as part of the team in charge of recreation,
4 I guess you could say, do you see the white nets I guess you
5 could call them?

6 A. Yeah, yeah, sure.

7 Q. Are those commonly used?

8 A. Yeah. What those -- Those are partitions that
9 you can raise them and lower them depending on the sports
10 that you're playing. And what they do is they contain the
11 ball, you know, so that you don't have to run all the way
12 across the gym to retrieve your ball. And it gives you more
13 of a, you know, a playing area that's, you know, that's
14 manageable for what you're doing.

15 Q. And are those commonly put up?

16 A. Yeah, absolutely.

17 Q. Or put down, I guess?

18 A. Yeah, they roll up to the ceiling, so they're
19 lowered.

20 Q. Okay. And now playing this exhibit, at some
21 point if you could let us know if you see yourself. And I
22 can zoom in a little bit.

23 And is this the conduct that you described you
24 observed between Mr. Jenkins and the female?

1 A. Yeah. I would say -- Well, I don't really --
2 Yeah, probably, you know, just affectionate touching, you
3 know -- yeah.

4 That might be me right there. Yeah, that's me
5 right there.

6 Q. And so the touching that you observed, is that
7 similar to what we just saw in Exhibit 21?

8 A. You know, I didn't really see that kind of
9 touching. It was more, like, you know, kind of pushing. I
10 didn't really witness this type of touching, no.

11 Q. And then you described as you observed what you
12 thought was her kissing Mr. Jenkins?

13 A. You know, it happened -- You know how I walked on
14 to the scene there kind of in between courts, I think that's
15 where I saw the girl kissing him on the neck. That's all.

16 Q. And so this -- what you observed did you know
17 about the reports made already at this point?

18 A. Okay. So this is where I'm a little unclear.
19 Like, I'm not sure if I saw the touching before I got the
20 complaint or after. I think it was within a day, because I
21 had been on vacation for a couple of weeks. I came back and
22 all of a sudden this event was going on.

23 Q. And was this a long time ago?

24 A. This was really a long time ago, yeah. At least

1 a couple of years ago.

2 Q. Based upon the observations you made and the
3 report did you have some concerns?

4 A. Yeah, yes.

5 Q. And is that when you made the decision to speak
6 with Mr. Jenkins?

7 A. Well, the decision to speak to Mr. Jenkins wasn't
8 made just by me. I also work with the sports coordinator. I
9 worked. Not anymore. But I did work with a man by the name
10 of Scott Doerr. And so the two of us actually spoke to Rick
11 together. I didn't speak to him by myself.

12 MS. MAZZA: Your Honor, I have no further
13 questions. Thank you.

14 THE COURT: Thank you.

15 Ms. Ristenpart, cross-examination.

16 MS. RISTENPART: Thank you, your Honor.

17 CROSS-EXAMINATION

18 By Ms. Ristenpart:

19 Q. Mr. Ahart, you stated that you saw an individual
20 you know by G kiss Mr. Jenkins on the side of the neck?

21 A. Yeah, right.

22 Q. Just once; right?

23 A. Yeah, just once.

24 Q. And were you right next to them?

1 A. I was behind them. I was probably almost not on
2 the court. I was probably closer to the desk and walking on
3 to the court. And they were probably on their way to the
4 practice or the coaching.

5 Q. And you observed some kind of playful pushing
6 between the two of them?

7 A. Yeah, yeah.

8 Q. And part of this how you had opportunities to
9 observe Mr. Jenkins and G?

10 A. I'm sorry.

11 Q. Had you been there at other practices?

12 A. Yes, yes.

13 Q. Never saw anything that you would think
14 inappropriate?

15 A. You know -- Yeah, I wouldn't say. Yeah, I would
16 say I didn't see anything inappropriate before then, no.

17 Q. Because, if you had, you would have brought it to
18 someone's attention; right?

19 A. Yeah, absolutely, yeah.

20 Q. And you stated that you know Mr. Jenkins through
21 the rec center as a coach but you don't hang out with
22 Mr. Jenkins, do you?

23 A. No, no.

24 Q. You don't know Mr. Jenkins' family?

1 A. I know his -- I mean, I know his daughter. She
2 actually comes in to the gym. I mean she still comes in to
3 the gym quite often, so.

4 Q. And you said you didn't even know G's name before
5 this; right?

6 A. That's correct, yeah.

7 Q. And you knew that G and Alyssa were best friends
8 at some point; right?

9 A. Right, right, exactly.

10 Q. But you have no idea how frequently G would go
11 over to the Jenkins' home; right?

12 A. No.

13 Q. You have no idea --

14 A. No, no.

15 Q. -- how close the Jenkins family was to G?

16 A. No.

17 Q. And, in addition, from all of your observations,
18 you never saw Mr. Jenkins grab G's butt?

19 A. No, no.

20 Q. Never saw Mr. Jenkins touch her butt?

21 A. No, no.

22 Q. Never saw Mr. Jenkins stick his hands down her
23 pants?

24 A. No.

1 Q. Never saw Mr. Jenkins touch her vaginal area?

2 A. No, no, absolutely not.

3 Q. Never saw Mr. Jenkins touch her private area?

4 A. No.

5 Q. Now, there's bleachers that we saw in Exhibit 21
6 kind of on the sidelines of the court?

7 A. Yeah.

8 Q. Are those sometimes set up for parents to sit on?

9 A. Oh, yeah, absolutely.

10 Q. And parents frequently sit around the court
11 watching?

12 A. Yes.

13 Q. Mr. Ahart, I am showing you what's already been
14 admitted as Exhibit Number 12. And do you recognize this
15 area?

16 A. Yes.

17 Q. And what is this area?

18 A. That's where we have the climbing wall.

19 Q. And before was it commonly referred to as the
20 squishy room?

21 A. Right, yeah. It had a floor that had a carpet on
22 it, but there was, like, six inches of foam underneath it, so
23 it was, you know, quite bouncy.

24 Q. And so back in fall summer 2018 none of this was

1 in that area?

2 A. Right.

3 Q. And you're aware that there's a security camera
4 above?

5 A. Yeah. There's one directly, like, on the --
6 right in the middle above, yeah.

7 Q. Is that this camera right here you can see
8 depicted?

9 A. Yeah, that's it, sure.

10 Q. And that camera is actually 360; correct?

11 A. Yes.

12 Q. So it can turn all the way around?

13 A. Uh-huh.

14 Q. And you can look from all different angles?

15 A. Yes.

16 MS. RISTENPART: No further questions. Thank
17 you.

18 THE WITNESS: Sure.

19 THE COURT: Ms. Mazza, redirect.

20 REDIRECT EXAMINATION

21 By Ms. Mazza:

22 Q. Mr. Ahart, you indicated you know Mr. Jenkins'
23 daughter Alyssa; is that correct?

24 A. Yes.

1 Q. Did you ever observe anything between Mr. Jenkins
2 and Alyssa that made you concerned?

3 A. No.

4 Q. Do you know details about the security footage
5 system or is there someone that's in charge of that system?

6 A. Yeah. You know, the security system was
7 installed while I was working there. And I think that the
8 managers are in charge of that system. So it would be, you
9 know, my boss and then the head of the community center,
10 Scott Morgan.

11 Q. Would he know the most about the security system?

12 A. I would say so.

13 Q. And what areas the security footage actually
14 picks up?

15 A. Yeah, he would know all of that.

16 Q. Did you ever go with Mr. Jenkins and G in to the
17 equipment closet?

18 A. No.

19 Q. Did you ever go with Mr. Jenkins and G in to the
20 coroners of the squishy room?

21 A. No.

22 Q. Did you ever go with Mr. Jenkins and G in to an
23 area called the nook outside of the arcade?

24 A. No.

1 Q. And, those bleachers Ms. Ristenpart asked you
2 about, are they always set up?
3 A. Are the bleachers always set up?
4 Q. Yeah.
5 A. No. No. Sometimes they're actually horizontal
6 and against the wall out of the way so nobody can sit on
7 them. It makes more room for something else to go on.
8 Q. Do you -- When you see these observations between
9 Mr. Jenkins and G, they were on the gym floor; is that
10 correct?
11 A. Yes.
12 MS. MAZZA: Your Honor, I have no further
13 questions. Thank you.
14 THE COURT: Any re-cross, Ms. Ristenpart?
15 MS. RISTENPART: Nothing based on that.
16 THE COURT: Ms. Ristenpart, may this witness be
17 excused?
18 MS. RISTENPART: Yes, your Honor.
19 THE COURT: Ms. Mazza?
20 MS. MAZZA: Yes, your Honor.
21 THE COURT: Mr. Ahart, you are excused. Please
22 do not discuss your testimony with anyone except for the
23 attorneys in this case or their investigators until such time
24 as the jury has reached a verdict. Thank you, sir. You are

1 excused.

2 THE WITNESS: Okay. Thank you, sir.

3 THE COURT: Ms. Mazza, you may call your next
4 witness.

5 MS. MAZZA: Thank you, your Honor. The State
6 calls Dr. Blake Carmichael.

7 MS. RISTENPART: Your Honor, may we be heard?

8 THE COURT: Yes. Ms. Ristenpart, is this a
9 hearing that should be outside the presence?

10 MS. RISTENPART: Your Honor, I requested some
11 information from Ms. Mazza. It has not been provided
12 pursuant to our previous conversation regarding
13 Dr. Carmichael.

14 THE COURT: Okay. I'm going to excuse the jury
15 to the jury deliberation room while we take up a legal issue.

16 Ladies and Gentlemen, during your recess, please
17 do not converse amongst yourselves or with anyone else on any
18 subject connected with the trial either by phone, e-mail,
19 text, internet, or any other means. Do not read, watch, or
20 listen to any report of or commentary on the trial or any
21 person connect with the trial by any medium of information,
22 including, without limitation, newspapers, television, and
23 radio. Do not form or express any opinion on any subject
24 connected with the trial until the cause is finally submitted

1 to you. Do not do any research such as consulting
2 dictionaries, using the internet, or using other reference
3 materials, or do not make any investigation, test the theory
4 of the case, recreate any aspect of the case, or in any other
5 way investigate or learn about the case on your own. Thank
6 you, folks.

7 We are convened outside the presence of the jury.
8 Ms. Ristenpart, go ahead.

9 MS. RISTENPART: Thank you, your Honor. The
10 State, as you are aware, noticed Mr. Carmichael as their
11 expert witness 20, 21 days ago. And, at the hearing that we
12 had, at the Hallmark hearing, I specifically put on the
13 record and made a request for any kind of treatises, journal
14 articles, that Dr. Carmichael was basing his opinions on. As
15 we had testimony, Dr. Carmichael doesn't do any kind of
16 research on his own nor really any kind of publications, but
17 he's well-versed having read current journal articles as to
18 why he thinks his expert testimony would assist the trier of
19 fact.

20 I followed up with a e-mail to Ms. Mazza and I
21 still have not received any journal articles or treatises
22 that he is basing his expert opinion on.

23 There's a couple of issues with that, your Honor.
24 One is that it's hearsay. Two is that I haven't been

1 provided the materials that he's basing his opinion on. So,
2 at this point, your Honor, she still hasn't provided me any
3 kind of material.

4 THE COURT: Ms. Ristenpart, are you requesting
5 any kind of remedy?

6 MS. RISTENPART: Your Honor, I'm requesting that
7 Dr. Carmichael not be allowed to testify because she has not
8 provided the underlying support for his opinions. I'm also,
9 having researched Dr. Carmichael and some of his testimony in
10 California cases which are currently up on appeal,
11 Dr. Carmichael tends to go in to reported statistics and also
12 based upon his reading of literature and studies, which has
13 not been provided to me.

14 THE COURT: Thank you.

15 Ms. Mazza, your response.

16 MS. MAZZA: Your Honor, first, I believe the
17 record would be very clear that Ms. Ristenpart did not make
18 this request in our hearing regarding Dr. Carmichael. She
19 did file -- she did e-mail a written request on April 15th.
20 Defense is requesting all of the research and publications
21 Dr. Carmichael is relying upon to found his expert
22 conclusion, giving the State zero information as to what
23 she's asking for.

24 Dr. Carmichael can testify on several different

1 topics, as your Honor is aware and as your Honor made clear
2 from the order in this case.

3 In addition, Dr. Carmichael also made clear what
4 he's basing his opinions on are based upon his experience and
5 his knowledge. Your Honor, Ms. Ristenpart is not entitled to
6 anything that she's requesting here today. She had an
7 opportunity to ask Dr. Carmichael about this in our hearing.
8 I believe in the hearing he did give some research titles to
9 Ms. Ristenpart. But, otherwise, Ms. Ristenpart has not made
10 clear what exactly she's asking for from the State, nor does
11 the State believe that Ms. Ristenpart is entitled to any of
12 this. In addition, Ms. Ristenpart has the opportunity to
13 cross-examine Dr. Carmichael here today.

14 THE COURT: Do you -- Is it your intention to
15 have Dr. Carmichael offer statistics?

16 MS. MAZZA: No.

17 THE COURT: All right. Thank you.

18 Ms. Ristenpart, your response and any legal
19 authorities that you wish to cite?

20 MS. RISTENPART: Thank you, your Honor. The
21 concept that defense is not entitled to the underlying
22 research that supports an expert's conclusion or theories is
23 frankly nonsensical, your Honor. Dr. Carmichael, through our
24 Hallmark hearing, testified general misconceptions, as he

1 called it. And when I actually asked him specifically for
2 some of the journal articles that he had read to form his
3 expert opinions, he didn't name a single one, your Honor.

4 When you are talking about Hallmark versus
5 Aldridge, and also off the top of my head, your Honor, I
6 think it's Potter -- It was in my motion hearing, your
7 Honor -- that there were five aspects the Court is to look
8 at, and one was reliability.

9 If we're allowing Dr. Carmichael to testify to
10 hearsay because he's reading someone else's report and then
11 not providing that report to defense so I can look at it,
12 assess it, attack it, if there's other opposing journal
13 articles that then say that this is out of date research or
14 there's newer research, that is completely hindering our
15 defense capability. And, frankly, it doesn't meet the
16 criteria for Hallmark that it's not proven to be reliable
17 without this information as to where is he getting his
18 opinion from. Again, he didn't do the research himself. He
19 is relying upon other individuals who did this research,
20 formulated an opinion, and now he's adopting that opinion as
21 his own.

22 So, with that, your Honor, they have not under
23 Hallmark actually done all of their, the State, preparation
24 and we requested it. And it's not -- She's claiming April

1 15th. They waited until the last minute to notice this
2 expert. So we're doing our best trying to keep up with their
3 late notice.

4 So, with everything, your Honor, we're asking
5 that you not allow Dr. Carmichael to testify without
6 providing this material to defense. Thank you.

7 THE COURT: Thank you.

8 All right. The Court is going to recess. We'll
9 reconvene when the Court is ready to issue its decision.
10 We'll do that outside the presence of the jury and then we'll
11 bring the jury back in. Court is in recess.

12 (Recess was taken)

13 THE COURT: The court is back in session on Case
14 Number 19-CR-188. Show the appearance of counsel for both
15 parties, as well as the defendant. We are convened outside
16 the presence of the jury. The Court recessed to deliberate
17 the objection that's been tendered by Mr. Jenkins requesting
18 exclusion of the State's expert.

19 The Court has considered the arguments made by
20 both counsel and I'm prepared to issue my decision.

21 In making its decision, the Court --

22 MS. MAZZA: Your Honor, if I can briefly be heard
23 just based upon -- I would like to additionally object to the
24 State's -- or the defense motion based upon District Court

1 Rule 13. I think this is extremely untimely. And
2 Ms. Ristenpart had ample time to make this motion to the
3 Court. And I would ask that the Court consider that in
4 making a ruling here today.

5 THE COURT: Ms. Ristenpart, would you like to
6 respond to that?

7 MS. RISTENPART: Your Honor, until the State
8 actually calls Dr. Carmichael, I would not know if they were
9 calling him as an actual expert witness and that we had
10 notice. But even then, your Honor, I requested the documents
11 from Ms. Mazza. She has not provided them to us. Until the
12 last minute, she could have handed me documents today when
13 Dr. Carmichael came in for me to review. And so, therefore,
14 I can't make the motion until she doesn't provide us any and
15 intends to call him.

16 THE COURT: Thank you, Counsel. I will take that
17 additional argument in to consideration.

18 The Court has found particularly helpful here NRS
19 50.305 which indicates that an expert witness does not have
20 to prior to a trial disclose data relied on. An expert,
21 however, can be asked about that information during
22 cross-examination.

23 In essence, what that statute and the intended
24 case law say is that's what cross-examination is for. The

1 Court has also found probative NRS 51.255 to the extent
2 defendant has lodged a hearsay objection. NRS 51.255 covers
3 learned treatises. And the statute indicates that such
4 information is not hearsay to the extent either party asks
5 the witness to go in to treatises, you will need to lay a
6 foundation for the reliability of that treatise. But that
7 statute says that that foundation can be laid by the expert
8 himself or herself.

9 And so the Court -- I have also considered the
10 nature of the testimony here and the nature of the area of
11 expertise. All of that was considered at the time of the
12 Hallmark hearing. To the extent the defense is asking the
13 Court to reconsider its ruling, the Court will not reconsider
14 its ruling. I stand by that prior ruling.

15 Lastly, I believe the State's position regarding
16 the timeliness of the motion is also well taken. So the
17 defense's objection is overruled.

18 And, I would like to bring in the jury, Deputy
19 Schramm.

20 Ms. Mazza, do you stipulate to the presence of
21 the jury?

22 MS. MAZZA: Yes, your Honor.

23 THE COURT: Ms. Ristenpart?

24 MS. RISTENPART: I do, your Honor.

1 THE COURT: Thank you.
2 Please have a seat, folks.
3 Ms. Mazza, you may call your next witness.

4 MS. MAZZA: Thank you, your Honor. The State
5 calls Blake Carmichael.

6 THE COURT: Sir, please raise your right hand.
7 Face the court clerk to be sworn.

8 (The witness was sworn in)

9 THE COURT: Sir, if you could just leave your bag
10 right there, that would be helpful. Thank you. Come on up
11 to the witness stand. Go ahead and have a seat and please
12 remove your mask.

13

14 BLAKE CARMICHAEL

15 Called as a witness on behalf of the
16 State, having been first duly sworn,
17 Was examined and testified as follows:

18

19 DIRECT EXAMINATION

20 By Ms. Mazza:

21 Q. Sir, can you please state your full name and
22 spell your last name for the record.

23 A. Sure. My name is Blake Carmichael, B-l-a-k-e
24 C-a-r-m-i-c-h-a-e-l.

1 Q. All right. Sir, can you explain for the jury a
2 little background of your education?

3 A. Sure. I went to UC Davis and majored in
4 psychology and graduated back in 1995. From there I went on
5 to get my Masters and Ph.D., doctorate in clinical
6 psychology. And so while you're reading all the books,
7 taking all the tests, you start actually seeing clients at
8 that time.

9 And so I really focused my career working with
10 foster youth, kids who had been exposed to community
11 violence, domestic violence, sexual abuse, physical abuse.
12 And so my training and course work lead me to gain a career
13 in that field with trauma and child neglect, physical abuse,
14 and sexual abuse.

15 Q. And so you have your Bachelor's degree from UC
16 Davis; is that correct?

17 A. I do.

18 Q. And then your other degrees from where?

19 A. So the Masters and Doctorate are from Alliant
20 University and it was in Alameda, but it's now in San
21 Francisco bay area.

22 Q. And based -- In addition to those, do you hold
23 any licenses?

24 A. Yes. I am licensed in the State of California.

1 I was licensed in 2003 in clinical psychology.

2 Q. As a clinical psychologist?

3 A. Yes.

4 Q. And currently what is your current employment?

5 A. So I work at the UC Davis Children's Hospital as
6 a clinic called The CAARE Center and that stands for the
7 Child Adolescent Abuse Resource Evaluation Diagnostic and
8 Treatment Center. And so we call it The CAARE Center for
9 short. I have a few different titles. I am a clinical
10 psychologist. I also supervise trainees in the work that we
11 do because we're a teaching hospital. I'm the evaluation
12 program manager responsible for the operations and training
13 in that program. I'm also a volunteer clinical faculty,
14 meaning I teach. So didactic series for our trainees,
15 courses within the university, and then external training for
16 sheriffs departments, social services, therapists, things in
17 that regard. All, again, focused on child maltreatment,
18 trauma, as part of the focus of our work.

19 Q. What do you mean by didactic?

20 A. So didactic meaning training, teaching, a regular
21 series. So twice a month we have a group of five to ten
22 people, different topics around assessment, mostly around
23 child abuse and court work, making recommendations to court,
24 family court, dependency court, criminal court. So it's a

1 regular series that we do annually in our American
2 Psychological Association-approved internship program. So
3 lots of different avenues to educate people about child
4 abuse.

5 Q. So, through your employment, do you take clients?

6 A. Yes, I still see clients, both individually for
7 therapy, working with families, but also assessments or
8 evaluations. So making recommendations to the Court about
9 treatment need, the impact of abuse on the child,
10 recommendation for reunification, placement. So lots of
11 different types of activities that I still do on my own and
12 training others to do the same.

13 Q. When you say a client, do you mean a child would
14 be your client?

15 A. Yes. In short, yes. But, more realistically,
16 when you're working with kids, you're working with adults and
17 caregivers. And I also do assessments of adults, caregivers,
18 adult sex offenders, making recommendations for risk
19 assessments. So, I actually do work with both kids and
20 adults in various capacities, but most of my treatment cases
21 currently are with kids.

22 Q. Do you work ever with sexual abuse offenders?

23 A. Yes. Mostly in an assessment or evaluation
24 capacity. I actually did my internship at the Alameda County

1 Juvenile Hall in Hayward, California and worked on the
2 juvenile sex offense unit, and so did assessments and
3 treatment for kids, young adults, who had been found to have
4 committed sex offenses. So I've worked with both victims and
5 offenders of sex offenses.

6 Q. And, your past employment, is it in that same
7 area as well?

8 A. So, yes. I, again, during your training, getting
9 supervised experience worked primarily with kids in lower
10 socioeconomic areas where there was a lot of trauma,
11 community and family-based.

12 I got my internship at the Alameda County, what I
13 told you about. And then my post-doctoral fellowship was
14 actually The CAARE Center. So from there I got hired on as
15 staff and then kind of graduated, if you will, up through the
16 program to a managerial supervision role.

17 Q. And through your current employment, as well as
18 past employment, have you taken clients that have suffered
19 sexual abuse as children?

20 A. Absolutely. I've worked with kids who have been
21 dealing with the effects of being sexually abused. But I've
22 also worked with adults in my prior placements where adults
23 had been sexually abused as kids. And so I've worked with a
24 variety of ages who have been victimized by sexual abuse.

1 Q. And, now, on that specific topic, victims of
2 sexual abuse, do you have any specific training in that area?

3 A. Well, certainly in order to get licensed, you
4 have to take courses and trainings on child maltreatment. So
5 qualified that way. But also because we're a teaching
6 institution and my role as supervisor, I attend a number of
7 conferences, do other trainings specifically for treatment
8 and assessment of kids who have been sexually abused. And so
9 I stay up to date on the research. We have thousands of
10 journals available to us at the med center. Staying on top
11 of the most recent research and practice for this population.
12 And so it's really an ongoing education, if you will, and
13 teaching in this area. And that's how I do that.

14 Q. And are you continually taking clients in that
15 area?

16 A. Yes. I, again, still have my own client load.
17 Right now I have two or three kids. And I'm supervising
18 upwards of 40 or 50 different cases with staff and trainees
19 that I supervise.

20 Q. Now, I believe you spoke a little bit about it.
21 But do you have any training with regard to assessing sexual
22 abusers and their patterns of behavior?

23 A. Yes. I'm actually part of the Sacramento County
24 Juvenile Expert Panel where we do risk assessments for

1 juveniles and young adults who have committed sex offenses.
2 I've also continued to do risk assessments for adults in that
3 area when asked. Not as often, but usually it's through the
4 expert panel. And so, again, staying on top of risk
5 assessment tools, patterns and relationships established with
6 sex offenses, and the manners in which there are higher risk
7 when people are establishing a relationship with a child and
8 the methods that can be used to, say, groom or be part of the
9 child's life and integrate sexual contact in to that
10 relationship.

11 Q. And would you say as a clinical psychologist that
12 you might have any area of specialty?

13 A. Generally child maltreatment is we are looked
14 upon at The CAARE Center as experts in our area, if not the
15 region. But that's really where a lot of my specialty
16 practice has been, both reading the research, having direct
17 client service, and then training others in this area. So,
18 broadly, child maltreatment, which certainly includes child
19 sexual abuse.

20 Q. And you mentioned the term groom or grooming.
21 Are you familiar with that term?

22 A. Yes.

23 Q. What does that mean?

24 A. Well, generally speaking, grooming in a sexual

1 relationship is kind of a couple of different levels. One,
2 establishing contact. And then ongoing contact. And then
3 trust with that individual. And, once that's established,
4 then integrating sexual contact in to the existing
5 relationship that is there. And there's many different ways
6 that can be done. But that's typically the way in which
7 grooming is thought of. Gaining access, ongoing access, and
8 then sexual access to the child where other people are not
9 aware of that, so that it can maintain that secrecy or others
10 not knowing about it.

11 Q. And what types of behavior do you typically see
12 from your experience with regard to grooming?

13 A. Well, typically, we're looking at pretty regular
14 activities to start. It's important to understand that child
15 sexual abuse really can't be looked upon as the act that
16 occurs to the child. It's the way the child perceives the
17 actions within the context of that relationship. And so
18 regular, everyday activities such as a pat on the back or a
19 kiss on the forehead are just ways to show affection and to
20 build that kind of closeness. And that's appropriate. So
21 people could look in and see that and go, oh, that's just
22 pretty normal stuff.

23 But, as that contact becomes more sexualized or
24 inappropriate, it may not be recognized by the child that

1 somehow this touch is now becoming irregular or something
2 that shouldn't be done.

3 And, if you couple the progressively more sexual
4 touch with enjoyable things, watching movies, getting extra
5 phone time, going out to the ball game together, if those
6 kinds of things are coupled as enjoyable, now it's the way we
7 relate. It's just part of our relationship.

8 And when you have a young, more vulnerable, child
9 who is learning about relationship development and this is
10 someone I trust and someone I expect to see and enjoy seeing,
11 suddenly it's not something that they may feel like there is
12 anything to talk about.

13 And so that's kind of the process in which it can
14 occur. Certainly, it can be more coercive and aggressive,
15 like threatening a child not to tell. But, again, you don't
16 have to be coercive or aggressive to maintain secrecy or not
17 talk about sexual abuse.

18 Q. All right. And in referring to behaviors such as
19 time spent with the child, we've heard testimony about
20 getting food together, going on trips together. Would those
21 fit in to that category?

22 A. Well, it certainly can, because you have access
23 and ongoing access and activities that are otherwise typical
24 as part of the relationship. Again, it's a misnomer or a

1 myth to think or people think at times that child sexual
2 abuse occurs commonly with strangers, when, in fact, it's
3 exactly the opposite. Most child abuse occurs with an
4 ongoing, trusting, often loving relationship.

5 And so when we think about sexual abuse, it's not
6 just the thing. It's one thing in a broader relationship or
7 context in a family. So, going to movies, cooking dinner
8 together, doing things that you would otherwise expect to
9 occur in a family can be all part of a relationship that is
10 also inappropriate or sexual.

11 Q. And is it possible for those things that are
12 being done for the perpetrator to actually enjoy them?

13 A. Oh, absolutely. It's another misnomer to think
14 that all victims are angry at or hate their perpetrator.
15 Often times they love them, rely on them for things, food,
16 shelter. They're told they have to be with them. So, again,
17 it's a part of the relationship, the sexual abuse. But
18 there's other things that the child can enjoy and still like
19 the person and maybe feel guilty about talking bad about them
20 or fearing that they'll get in trouble because then they'll
21 feel responsible for that person who they like getting in
22 trouble.

23 So, there's a lot of reasons why grooming,
24 relationships, the formation of relationships is important to

1 understand that the sexual abuse is part of that context and
2 not just the acts themselves.

3 Q. And does the term grooming or the behavior of
4 grooming relate to physical touch?

5 A. Certainly, yes. I mentioned a pat on the back or
6 a kiss on the forehead and as that becomes more to the lower
7 back and then maybe to the buttocks and then eventually maybe
8 to the privates, coupled with tickling or something enjoyable
9 that makes it kind of more fun and a game, kind of masking,
10 if you will, the inappropriate part of it. It just becomes
11 part of how you relate to each other. So physical touching
12 itself can be normalized in the context of something fun and
13 enjoyable and yet still inappropriate, all kind of occurring
14 over time or in that moment.

15 Q. And so if testimony were to be about movie nights
16 on the couch, would that be consistent with grooming
17 behavior?

18 MS. RISTENPART: Objection. Speculation.

19 THE COURT: Sustained.

20 MS. MAZZA: And you said that those movie nights
21 could be in the form of grooming; is that correct?

22 MS. RISTENPART: Objection. Speculation.

23 THE COURT: Ms. Mazza.

24 MS. MAZZA: Your Honor, he already testified to

1 that.

2 THE COURT: All right. Go ahead.

3 THE WITNESS: So any enjoyable activity. I think
4 I said going to a ball game, watching a movie, video game
5 time, something like that. If that is an expected enjoyable
6 part of one's relationship, then looking forward to movie
7 night, game night, is just a natural part of relating. And
8 then if the sexual abuse is coupled with that, the other part
9 is still enjoyable. Still physical touch can also be
10 enjoyable. Being touched where sensitive areas are in the
11 privates can actually have a positive physical sensation.
12 And so even as inappropriate as that can be, the child
13 experiencing some tingling or tickling or something like
14 that, can all be part of this experience that can be
15 confusing but also in the context of enjoying it and liking
16 this person. So all reasons why those things should be
17 understood in that context as opposed to the acts or what we
18 think is inappropriate that should be reacted to. All the
19 other things are going on at the same time as well.

20 Q. (By Ms. Mazza) And so do these actions or the
21 category of grooming conduct impact a child?

22 A. Yes. Again, I mentioned confusion. Like, if
23 they're -- even with the awareness that this shouldn't be
24 happening or I don't like this part of it. The confusion of

1 just experiencing it is one thing. But then if you have this
2 assumption or the awareness of if I tell, bad things will
3 happen, I'll feel guilty, ashamed, I feel responsible for the
4 family getting angry. I'm told to obey adults and trust
5 people. And, yet, now I'm going against that person.

6 The process of disclosure is a process, not an
7 event. It's grappling with and dealing with what potentially
8 a negative consequence can be from telling that can dissuade
9 or keep a child from wanting to even talk about it, even if
10 they think it's inappropriate. So, all of those kinds of
11 things juggled all at once can be quite confusing, daunting
12 for a child. And we can't think of them as mini adults
13 standing up to someone bigger, stronger, more sophisticated,
14 and all of those dynamics we think about in terms of child
15 sexual abuse victims.

16 Q. And would a child going through a difficult time
17 impact that?

18 A. It certainly can. Like, if we're thinking about
19 kids, we're not thinking of one thing, right. They have
20 other family members, extended family members, sports,
21 athletics -- Excuse me -- academics. So they have other
22 parts of their life that are going on at the same time.
23 They're not just isolated to this sexual abuse. And, so if
24 they're having a hard time at school, with friends, or some

1 other area of their life not going well, it could very well
2 be that their relationship with their perpetrator where they
3 feel valued and special and get attention is one part that
4 they can actually enjoy, despite the fact that they're being
5 abused by that person, which is kind of counter-intuitive,
6 but, again, within the context of the child as a person, not
7 just the event. And so that's another reason why if there's
8 family turmoil, problems at school and with peers, they can
9 feel even more isolated and therefore maybe even have a
10 harder time talking about something that is going on in their
11 life.

12 Q. And, from your experience and your studies, are
13 there different types of child sexual abusers or
14 perpetrators?

15 A. There's no profile. People have tried to make
16 personality tests and checklists to identify people who abuse
17 kids. The fact is those have failed miserably. They do not
18 identify reliably child sexual perpetrators. And so there
19 are a variety of different types of people, ages,
20 relationships where people abuse kids.

21 And, again, the other thing too is it's not
22 always about sex. Power, control, feeling valued yourself or
23 feeling like you have a connection to someone, despite the
24 sex. So there are a lot of misconceptions about who -- what

1 a profile would be for a perpetrator. There just isn't one.

2 Q. And now, speaking of grooming and how that can
3 impact a child, are there other impacts that you've seen
4 through your experience on children?

5 A. Oh, certainly. Well-researched area. Kids can
6 suffer a lot of different mental health issues, anxiety,
7 depression, getting to behavioral difficulties and
8 challenges, self harm, drug and alcohol use. A lot of it is
9 in terms of, one, the negative consequences of what's
10 happening or the fear of what might happen if you tell,
11 anxiety and depression. But then also there's a lot of kids
12 who may appear absolutely just like themselves because they
13 immerse themselves in other parts of their life. There's a
14 misnomer as well that kids will always appear sad or angry or
15 devastated when talking about sexual abuse, when in fact
16 there's a sizeable majority of kids when talking about it
17 kind of appear stoic or unaffected or very matter of fact
18 when they talk about it.

19 So, again, there's a variety of ways that kids
20 can and do react to the sexual abuse itself but then also
21 telling about it. There isn't one way to go about that.

22 Q. And, with regard to children going through this
23 experience, is there a term in your field that you use called
24 disclosure?

1 A. Yes.

2 Q. What does that mean?

3 A. So, with regards to the things that I've talked
4 about, we're talking about kids who have been sexually
5 abused. And when a child has been abused, often times they
6 may not tell right away. In fact, a minority of kids tell
7 quickly. And it's also well-researched that usually the
8 first time people know about the sexual abuse occurring is
9 when the child talks about it. You know, people may walk in
10 on something and see something, but, again, that's not
11 usually as often as what we see with kids first telling about
12 it. So the child discloses the sexual abuse, they tell about
13 or tell somebody that the abuse is occurring. And that's
14 what we mean by disclosure.

15 Q. In your experience have you experienced delayed
16 disclosure?

17 A. Absolutely. I've treated over a hundred kids
18 directly who have been sexually abused. Very few of those
19 told within days or weeks of the abuse starting. And the
20 same holds true with the research and also as supervised
21 cases I have. Most kids delay disclosing sexual abuse.
22 That's a very common consensus-oriented conclusion.

23 Q. What about a child that's asked about it and
24 doesn't disclose it right away when asked about it?

1 A. Sure. We call those denials. If a child is
2 being sexually abused, even when directly asked about sexual
3 abuse occurring, many kids deny that the abuse has occurred.
4 Multiple researchers in that area, Pollock, Bylen, Rice,
5 Shoenberg and Linglad. In fact, even socially-sanctioned
6 genital touch, kids can be very reluctant to talk about.
7 Saywitz has some great studies in this area. Kids go to a
8 physical just with -- to get a work-up done and the doctor as
9 part of it touches the penis or the vagina and the buttocks.
10 And after coming out of that experience, when asked what did
11 you do with the doctor, the majority of kids don't mention
12 the genital touch. And even when asked direct questions
13 about did the doctor touch you on the penis or vagina, a
14 number of kids still don't acknowledge that it occurred.
15 Kids who have been found with their pediatrician for a
16 general work-up and they discover a sexually transmitted
17 disease, so gonorrhea, syphilis, clearly some sort of sexual
18 contact, a sizeable number of those kids, even when directly
19 asked, did something happen or were you touched, would say no
20 and deny it. Now, later on they may tell about it when asked
21 again. Maybe even years later.

22 And so it really goes in to the fact that kids do
23 deny it happening. And, even after denying, they may tell
24 later. And so that's part of the disclosure is a process.

1 It's not a one-time gig. It's not an all-at-once thing. And
2 that's what we know about kids who have been sexually abused.

3 Q. Is there any experience that you've had or the
4 research that you've done talk about what can cause this in a
5 child?

6 A. Well, it goes back to the relationship that we
7 talked about earlier. If the child feels guilty or ashamed
8 or fears the negative consequences, if I tell, I will be in
9 trouble, if I tell, my mom will be really upset, and now I'm
10 the one that caused that or bad things might happen to me
11 like going to foster care or not being believed and people
12 looking at me differently. So there's lots of reasons why
13 kids would be motivated to not tell about what's happened.

14 And, if someone has threatened you, if you tell,
15 I'll kill your mother, or if you tell, I can get in really
16 big trouble, now it's on the child fearing those outcomes and
17 being responsible for that. So there's a lot of reasons,
18 including, just enjoying the person as to why they won't
19 talk.

20 Q. So now you mentioned enjoying the person. So,
21 can those enjoyable times, those enjoyable events, play a
22 factor in that?

23 A. Sure. Kids can continue to seek out time with
24 the person that abused them because of those factors, which

1 is really counter-intuitive. Often times we do tell kids say
2 no, run, tell someone. And, even with that education, we do
3 not often see kids biting and kicking and screaming and
4 running out and telling people. Most kids fail to do those
5 things. And so these are reasons why it's important to
6 understand why that can occur.

7 Q. Now, when you're talking about, I guess, the
8 process of disclosure, can the statement or disclosure from a
9 child be unconvincing?

10 A. Oh, sure. And there's research in this area too
11 where often times people expect consistency when they're told
12 something that happened. And that kind of cues someone. If
13 they say consistently, then I can kind of buy in to it more,
14 when the reality is that because disclosure is a process,
15 kids may not tell a number of details the first time they
16 talk about it. It won't be until later when they talk to
17 somebody else or they feel more comfortable that they might
18 disclose certain details.

19 The other thing too is that if something happens
20 once in your life, you've got a pretty good shot at getting a
21 lot of the details in order and reliably tell about that,
22 especially for positive experiences. But, if something
23 happens multiple times over many months or even years, a lot
24 more difficult to pick out certain details from every single

1 incident.

2 So, if you go to the same grocery store and you
3 know the layout and you can tell me where the parking lot is
4 and where the milk is, you can tell them pretty reliably.
5 But, if I asked you back on October 13th last year what was
6 on your grocery list, how long were you in the store, did you
7 get milk that day, who checked you out at the check counter
8 and where you parked, you have a lot harder time picking out
9 those specific things about that event that one time. So
10 there's lots of reasons why kids may or may not tell
11 consistent details.

12 It's also important to understand just because
13 you remember something doesn't mean you feel good about or
14 confident telling. And it's only after you feel like you're
15 being heard that you feel more comfortable telling. Certain
16 details may not come out until later.

17 Q. Now, Dr. Carmichael, obviously, the State called
18 you as a witness here today. Does that impact the
19 truthfulness of your testimony here today?

20 A. No. The information is the information. This is
21 information that we know from practical experience,
22 professional experience, and research. So I testify for --
23 Well, whoever subpoenas me, I go to testify. And I've
24 testified for multiple different parties in criminal, family,

1 and dependency courts.

2 Q. And, now, from your experience, has there ever
3 been children who felt bad themselves for the experience or
4 what has happened to them?

5 A. Sure. Often times I've worked with kids that
6 blame themselves for the abuse occurring, feeling guilty that
7 they, quote/unquote, let it happen. Kids will say, I just
8 pretended I was asleep, hoping it would go over faster and it
9 would just get over with. Often times too kids will tell me,
10 you know, some of it felt good. I had fun. And when
11 thinking about it that was wrong but I enjoyed it, that guilt
12 and shame, embarrassment seeps in even more.

13 And so those negative reactions, not just to the
14 abuse, but for not telling or feeling responsible in some way
15 can weigh pretty heavily on a child. And working through
16 those issues is important for treatment, not just for the kid
17 but for the caregivers and parents where they may blame
18 themselves for I should have known or I wish I had known
19 about it and stopped it. When, in fact, there may not be
20 anything to see or react to in that parent's position. So we
21 go over a lot of those things in treatment when we work with
22 these kids and families.

23 Q. So, in addition to that, does your experience or
24 your studies consider any particular category of children to

1 be more at risk?

2 A. Well, it's a good question, because when you
3 think about the vulnerability of child victims, often times
4 perpetrators will seek someone who they know might trust them
5 or they're in a vulnerable spot where they're more isolated
6 or maybe not even believed for different reasons. And so
7 kids who are developmentally delayed, so lower cognitive
8 functioning, things like that, have some other emotional
9 disturbance or might be more needy or need that attention,
10 that can create a higher vulnerability for that child to be
11 abused.

12 It certainly doesn't mean they're all abused.
13 There are many kids who have developmental delays that are
14 not sexually abused. But that is a vulnerability factor that
15 can increase the risk of that child being abused under
16 different circumstances.

17 MS. MAZZA: And, your Honor, I have no further
18 questions. Thank you.

19 THE WITNESS: You're welcome.

20 THE COURT: Ms. Ristenpart, cross-examination.

21 CROSS-EXAMINATION

22 By Ms. Ristenpart:

23 Q. Mr. Carmichael, you were hired by the State about
24 30 days ago, huh?

1 A. I believe I got an e-mail about 30 days ago and
2 then I got a subpoena maybe two or three weeks ago.

3 Q. And you are hired by the prosecutor's office to
4 testify here today?

5 A. Yes. She sent me a subpoena.

6 Q. And you're being paid for your testimony today?

7 A. I get a salary, so I don't get any additional
8 payment being here. So I'm paid the same if I'm seeing a
9 client, teaching a class. So it's my general salary. The UC
10 regents get a check for the time that I spend here, but it's
11 not my personal or professional time.

12 Q. And you reside and work in California?

13 A. I do.

14 Q. You don't work in Nevada?

15 A. No.

16 Q. In fact, you never testified in Nevada?

17 A. Not until today.

18 Q. Now, Dr. Carmichael, you have not reviewed a
19 single piece of evidence in this case, have you?

20 A. I haven't been provided with any information
21 about this particular case.

22 Q. Never reviewed any reports?

23 A. I wasn't provided with any reports to review.

24 Q. You have not reviewed or looked at any videos?

1 A. No.

2 Q. You never interviewed anyone?

3 A. For this case? I have interviewed lots of
4 people. But, no, I don't believe I've talked to anybody
5 about this case.

6 Q. You don't even know what the nature of the
7 allegation is in this case, do you?

8 A. Well, I assume it has something to do with sexual
9 abuse, since we had some questions earlier about that. But I
10 don't know anything about the nature of the allegations or
11 information about the case.

12 Q. You don't even know the age of the individual who
13 is claiming an allegation; right?

14 A. No.

15 Q. Don't even know her name?

16 A. No.

17 Q. Don't know any of her history?

18 A. I do not.

19 Q. You don't know if she has any psychological
20 issues?

21 A. I don't know anything about the person that
22 you're talking about.

23 Q. You don't know if she's made an allegation, a
24 false allegation, of sexual abuse before?

1 A. I don't have any information.

2 Q. You don't know anything about her?

3 A. I don't believe I've met her.

4 Q. And, Dr. Carmichael, you don't know anything
5 about the timeline of disclosure in this case, do you?

6 A. I do not.

7 Q. You don't even know how disclosure was made, do
8 you?

9 A. I don't have any information about that.

10 Q. And you have no idea who talked to the alleged
11 victim here before her disclosure, do you?

12 A. No.

13 Q. No idea what was going on in her life at that
14 time?

15 A. Don't have any information about that.

16 Q. And you don't know Mr. Jenkins, do you?

17 MS. MAZZA: Your Honor, I'm going to object.

18 This has been asked and answered. He's indicated he knows
19 nothing about this case.

20 THE COURT: Overruled. Go ahead, Ms. Ristenpart.

21 THE WITNESS: I don't believe I know Mr. Jenkins.

22 Q. (By Ms. Ristenpart) You don't even know if he's
23 in the courtroom?

24 A. You pointed in that direction. I looked and saw

1 some faces, but I don't recognize anybody.

2 Q. Never met him?

3 A. I, again, don't know who you're talking about or
4 wouldn't be able to answer that reliably if I don't know what
5 you're talking about.

6 Q. Never talked to him, you just said?

7 A. Right.

8 Q. Never interviewed him?

9 MS. MAZZA: Objection. Asked and answered.

10 THE COURT: Sustained.

11 Q. (By Ms. Ristenpart) You don't know anything
12 about the Jenkins family, do you?

13 A. No.

14 Q. You don't know anything about Mr. Jenkins, do
15 you?

16 A. I don't believe I do.

17 MS. RISTENPART: No further questions.

18 THE COURT: Redirect.

19 REDIRECT EXAMINATION

20 By Ms. Mazza:

21 Q. Dr. Carmichael, does being in Nevada make a
22 difference for your opinion here today?

23 A. Oh, no, not at all. I qualified as a witness in
24 these cases in California 120 times, 200 times for these

1 kinds of issues. So, like I said before, the information is
2 the information. And that's what we know. And a lot of the
3 research is from people across the country. So it is widely
4 studied and that's the information that I'm aware of and that
5 we've talked about today.

6 Q. And your testimony here today is based upon your
7 experience; is that correct?

8 A. Both my professional experience and knowledge of
9 the research and the area that I've been asked about.

10 MS. MAZZA: Your Honor, I have no further
11 questions. Thank you.

12 THE COURT: Ms. Ristenpart, any recross?

13 MS. RISTENPART: Nothing based on that.

14 THE COURT: Ms. Ristenpart, may this witness be
15 excused?

16 MS. RISTENPART: Yes.

17 THE COURT: Ms. Mazza?

18 MS. MAZZA: Yes, your Honor.

19 THE COURT: Dr. Carmichael, you are excused.

20 Please do not discuss your testimony with anyone except for
21 the attorneys in this case or their investigators until the
22 jury has reached a verdict. Thank you.

23 THE WITNESS: Thank you, your Honor.

24 THE COURT: Ms. Mazza, you may call your next

1 witness.

2 MS. MAZZA: Thank you, your Honor. The State
3 calls Erica Janicki.

4 THE COURT: Ma'am, if you could just stop there
5 for a moment. Please raise your right hand and face the
6 court clerk to be sworn.

7 (The witness was sworn in)

8 THE COURT: Would you please leave your bag there
9 with Deputy Lindsay. You can come on up here to the witness
10 stand. You may have a seat. And please remove your mask.

11

12 ERICA JANICKI

13 Called as a witness on behalf of the
14 State, having been first duly sworn,
15 Was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 By Ms. Mazza:

19 Q. Ma'am, can you please state your full name and
20 spell your name for the record.

21 A. Erica, E-r-i-c-a, Janicki, J-a-n-i-c-k-i.

22 Q. And, ma'am, are you a mother?

23 A. Yes.

24 Q. How many children do you have?

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ALEXANDER JENKINS,

Appellant.

v.

STATE OF NEVADA,

Respondent.

Case No. 83465

APPELLANT'S APPENDIX
VOLUME VII

**APPEAL FROM JUDGMENT OF CONVICTION AND
SENTENCING**

NINTH JUDICIAL DISTRICT
STATE OF NEVADA

THE HONORABLE THOMAS W. GREGORY, PRESIDING

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1 A. Four.

2 Q. What are their names? If any of them are 18 or
3 under 18, if you could just give us there initials?

4 A. They're all over 18. Nicholas, Lucas, Indi, and
5 Bella.

6 (The court reporter interrupts)

7 Q. And do you have a youngest child?

8 A. Yes.

9 Q. Who is that?

10 A. Bella.

11 Q. Can you tell us a little bit about Bella? Does
12 she play any sports?

13 A. Yes. Volleyball.

14 Q. When did she play volleyball?

15 A. During her freshman and sophomore years in high
16 school.

17 Q. Of high school?

18 A. Uh-huh.

19 Q. Did she go to Douglas High School?

20 A. Yes.

21 Q. And at the time did she play for anybody by the
22 name of Richard Jenkins?

23 A. Yes.

24 Q. Did you know a Richard Jenkins?

1 A. Not before then, no.

2 Q. At the time back when she -- when she played for
3 him did you know him?

4 A. Yes.

5 Q. Do you see him here in the courtroom today?

6 A. Yes.

7 Q. Can you describe what color shirt he's wearing?

8 A. White.

9 Q. And where he's seated in relation to you?

10 A. Right there in front of me.

11 MS. MAZZA: Your Honor, the State would request
12 that the record reflect identification of the defendant.

13 THE COURT: The record will so reflect.

14 Q. (By Ms. Mazza) And when Bella was playing
15 volleyball, was there ever a time, came an occasion that you
16 observed Mr. Jenkins and it became concerning?

17 A. In regards to my daughter?

18 Q. In regards to someone other than your daughter.

19 A. Only when my daughter and my son and I were out
20 at a restaurant one evening, we had observed him come in to
21 the restaurant with his daughter and another female, young
22 female who played volleyball. And they sat in a booth. We
23 were way in the back of the restaurant around the corner
24 against the wall and they sat in a booth kind of in front of

1 us. We could see them to the right. And, yeah.

2 Q. It was concerning?

3 A. Yeah.

4 Q. And do you know the initials of the other female
5 that was with them?

6 A. G.

7 MS. MAZZA: Honor, may I approach with what's
8 been marked as State's Exhibits 7 and 6?

9 THE COURT: You may.

10 Q. (By Ms. Mazza) Ms. Janicki, I've handed you
11 Exhibit 6 and 7. Do you recognize those?

12 A. I do.

13 Q. What are they?

14 A. They're pictures that were taken -- that we took
15 at the restaurant of Mr. Jenkins with his daughter and the
16 other girl.

17 Q. The other girl, G?

18 A. Uh-huh.

19 Q. And whose phone were those taken on? Or were
20 they taken on a phone?

21 A. Yes.

22 Q. Whose phone was it?

23 A. Mine, I believe.

24 Q. Do those photos, Exhibit 6 and 7, accurately

1 reflect what you saw when you were at the restaurant on that
2 date?

3 A. Yes.

4 MS. MAZZA: Your Honor, the State would move to
5 admit Exhibit 6 and 7.

6 THE COURT: Any objection?

7 MS. RISTENPART: Prior objection, your Honor.

8 THE COURT: Objection is overruled. Exhibits 6
9 and 7 are admitted.

10 Q. (By Ms. Mazza) And, Ms. Janicki, I'm going to
11 show you what's been marked as -- admitted State's Exhibit 6.
12 Now, this is one of the photos that was taken when you were
13 at the restaurant?

14 A. Yes.

15 Q. Why was this photo taken?

16 A. Well, because we were concerned about the
17 behavior between Mr. Jenkins and G. It just didn't seem
18 appropriate. And -- Yeah.

19 Q. And concerned you enough to take a photo?

20 A. Yeah.

21 Q. And now I'm showing you what's been marked as
22 Exhibit 7. This is the same day, same time?

23 A. Yes.

24 Q. Now, you mentioned G and Mr. Jenkins were there

1 with Mr. Jenkins; daughter; is that correct?

2 A. Yes.

3 Q. We don't see her here in this photo?

4 A. She is. She is holding the menu just to the

5 left. She's behind the menu.

6 Q. Behind the menu?

7 A. Uh-huh.

8 Q. Was she sitting directly next to Mr. Jenkins like

9 we see G here?

10 A. No.

11 Q. Do you recall when this was taken?

12 A. During volleyball season.

13 Q. Would that be in the summer?

14 A. I thought it was in the summer or the end of

15 summer, early fall. I don't recall. This has been a few

16 years, so over a couple of years.

17 Q. So a couple of years ago about the summer or

18 fall?

19 A. Uh-huh.

20 Q. And then was there ever a time, another time,

21 that you observed Mr. Jenkins and G together?

22 A. Yes.

23 Q. Where was that?

24 A. That was at Silver State Volleyball Club.

1 Q. What is that?

2 A. It's -- Well, it's a club volleyball. Just not
3 high school volleyball but, you know, during the club season.
4 My daughter was playing for one of the clubs also, so there
5 was a -- they were just having, like, scrimmages and stuff.
6 So it was at Silver State and we were there.

7 Q. And Silver State, is that in -- where is that?

8 A. In Carson.

9 Q. And you saw Mr. Jenkins?

10 A. Yes.

11 Q. And you saw G?

12 A. Uh-huh.

13 Q. Did you see them together?

14 A. Yes.

15 Q. Can you describe what you saw?

16 A. Well, during the games, there are a lot of kids
17 playing and going back and forth on and off and courts. And
18 Mr. Jenkins was kind of -- I don't believe that he was
19 coaching at all because he -- I think he had his own club
20 going on. I don't recall exactly, but I believe he did. And
21 I don't think that his club was there.

22 But he was standing on the side -- on the
23 sidelines, and -- and G was playing. And, when she would
24 come off of the court, instead of going and standing with the

1 other girls, she would go over and stand with him. And they
2 were just -- my son was standing with me. And we had because
3 we had already seen them in the restaurant and we noticed
4 them again. Their behavior seemed, again, not -- well, it
5 was -- seemed inappropriate. They were kind of, I don't
6 know, flirtatious. I hate to say that. Not her necessarily
7 because she's a child. But it was -- it seemed like an
8 inappropriate relationship. They were kind of close in a way
9 that teenagers would be. And she wasn't engaged with the
10 other girls. She was engaged with him. And it just -- it
11 seemed off and it was uncomfortable to watch.

12 Q. And you noticed these things, the Katie's
13 restaurant and the Silver State Volleyball; correct?

14 A. Yes.

15 Q. But you didn't report them until you were
16 interviewed; is that correct?

17 A. Yes.

18 Q. Was that a while later?

19 A. I don't recall exactly.

20 Q. Did not reporting it initially mean that you
21 didn't have a concern about it?

22 A. No, not at all.

23 MS. MAZZA: Your Honor, I have no further
24 questions. Thank you.

1 THE COURT: Cross-examination.

2 MS. RISTENPART: Thank you.

3 CROSS-EXAMINATION

4 By Ms. Ristenpart:

5 Q. Ms. Janicki, I'm showing you what has been
6 admitted as Exhibit Number 6. And you're very clear in your
7 testimony Alyssa was there with Mr. Jenkins and G; right?

8 A. She was, yes.

9 Q. And you're claiming that Alyssa is behind the
10 menu?

11 A. Yes. She was holding up the menu.

12 Q. You're claiming Alyssa is somehow behind that?

13 A. Yes. I recall her holding up the menu.

14 Q. Do you see this other guy right here on
15 Mr. Jenkins' left?

16 A. Yes.

17 Q. He's blocking your view of Mr. Jenkins' left
18 shoulder; right?

19 MS. MAZZA: Objection. Speculation.

20 THE COURT: Overruled.

21 THE WITNESS: I can see his left shoulder.

22 Q. (By Ms. Ristenpart) And Alyssa is a teenager;
23 right?

24 A. Yeah.

1 Q. She's not particularly small; correct?

2 A. Right.

3 Q. But you're claiming she somehow is behind that

4 menu?

5 A. Well, the booth goes like this and she was

6 sitting, like, she was sitting down like this. It's a large

7 booth and she's sitting like this holding up the menu. I

8 mean, those booths are large. And, if you squat, you know,

9 bend down or slouch down like this she was there.

10 Q. And it caused you concern so you took a photo of

11 them at the booth?

12 A. Yeah.

13 Q. In fact, one of your kids took the photo; right?

14 A. Yeah.

15 Q. It wasn't you?

16 A. It wasn't me, no. I handed them the phone, I

17 believe.

18 Q. And that day at the restaurant you didn't go up

19 to talk to G, did you?

20 A. No.

21 Q. You didn't go up to check on her?

22 A. No.

23 Q. You didn't talk to anyone at the restaurant about

24 your concern?

1 A. No.

2 Q. You didn't call anyone to report your, quote,
3 concern?

4 A. No.

5 Q. And you also were called here by the State to
6 talk about a volleyball tournament that you were at that you
7 claim that you saw some interactions that made you feel
8 uncomfortable; right?

9 A. I'm sorry. Can you repeat?

10 Q. You were called here as a witness by the State to
11 testify about a volleyball tournament that you were at;
12 right?

13 A. Yes.

14 Q. And that you're testifying here today that you
15 observed some interactions that made you feel, quote,
16 uncomfortable?

17 A. Yes.

18 Q. And, this was in full view of everyone at the
19 tournament; correct?

20 A. Yes.

21 Q. There were a ton of parents around?

22 A. Yeah.

23 Q. And you state that you were concerned yet, again,
24 did you walk over to G to talk to her?

1 A. No, I did not.

2 Q. Did you talk to anyone at the tournament about
3 your, quote, concerns?

4 A. No, I didn't.

5 Q. Now, throughout your observation, Ms. Janicki,
6 you never saw Mr. Jenkins touch G's butt; right?

7 A. Touch her butt?

8 Q. Uh-huh.

9 A. No.

10 Q. You never saw Mr. Jenkins touch her vagina?

11 A. No.

12 Q. You never saw Mr. Jenkins touch her private
13 areas?

14 A. No.

15 Q. You never saw Mr. Jenkins touch GW in a sexual
16 manner?

17 A. No.

18 Q. Now, Ms. Janicki, you're not friends with the
19 Jenkins family, are you?

20 A. No.

21 Q. And at the time did you have any idea who G was
22 to the Jenkins family?

23 A. No.

24 Q. Did you know how close G was to the Jenkins

1 family?

2 A. No.

3 Q. Did you know that Alyssa and G were best friends?

4 A. No.

5 Q. You had no idea what the relationship between G
6 and the Jenkins family was, did you?

7 A. No.

8 Q. And you weren't interview by police until
9 November of 2018; right?

10 A. I don't recall exactly when it was.

11 Q. It was after you had seen some press release
12 about Mr. Jenkins, wasn't it?

13 MS. MAZZA: Objection. Relevance.

14 THE COURT: Overruled.

15 THE WITNESS: Okay.

16 Q. (By Ms. Ristenpart) Correct?

17 A. Okay. Yes.

18 MS. RISTENPART: No further questions. Thank
19 you.

20 THE COURT: Redirect.

21 MS. MAZZA: Thank you, your Honor.

22 REDIRECT EXAMINATION

23 By Ms. Mazza:

24 Q. Ms. Janicki, did you personally know G? Did you

1 have a relationship with her?

2 A. No.

3 MS. MAZZA: Your Honor, I have no further
4 questions. Thank you.

5 THE COURT: Recross?

6 MS. RISTENPART: With the Court's indulgence.
7 Nothing.

8 THE COURT: Ms. Ristenpart, may this witness be
9 excused?

10 MS. RISTENPART: Yes.

11 THE COURT: Ms. Mazza?

12 MS. MAZZA: Yes, your Honor.

13 THE COURT: Ms. Janicki, you are excused. Please
14 do not discuss your testimony with anyone except for the
15 attorneys in this case or their investigators until such time
16 as the jury has reached its verdict. You are excused. Thank
17 you.

18 THE WITNESS: Thank you.

19 THE COURT: Ms. Mazza, you may call your next
20 witness.

21 MS. MAZZA: Thank you, your Honor. The State
22 calls Bella Guerrazzi.

23 THE COURT: Please raise your right hand. Face
24 the court clerk to be sworn.

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(The witness was sworn in)

THE COURT: Thank you. Please come on up to the witness stand.

THE WITNESS: Yes, sir.

THE COURT: Please be seated and remove your mask.

BELLA GUERRAZZI

Called as a witness on behalf of the State, having been first duly sworn, Was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Mazza:

Q. All right. Ma'am, are you 18?

A. Yes, ma'am.

Q. All right. Can you please give us your full name and spell your last name for the record?

A. Including my middle name?

Q. Sure.

A. Okay. Bella Cassidy Guerrazzi,
G-u-e-r-r-a-z-z-i.

Q. And, Ms. Guerrazzi; is that correct?

A. Guerrazzi.

1 Q. Do you play any sports?

2 A. Yes, ma'am. I play volleyball and cheer.

3 Q. And when did you play volleyball or do you still

4 play volleyball?

5 A. I've been playing volleyball since 2017.

6 Q. And what sort of teams have you played on?

7 A. I've been with Douglas High School and N and J

8 and Silver State.

9 Q. And throughout your teams have you ever had a

10 coach by the name of Richard Jenkins?

11 A. Yes, ma'am.

12 Q. When was he your coach?

13 A. My freshman year of volleyball, so 2017, 2018.

14 Q. Freshman for the high school?

15 A. Yes, ma'am.

16 Q. Would that be Douglas High School?

17 A. Yes, ma'am.

18 Q. And throughout Mr. Jenkins coaching you -- Well,

19 let me ask you. Do you see Mr. Jenkins here in court today?

20 A. Yes, ma'am.

21 Q. What color shirt is he wearing?

22 A. White.

23 Q. Where is he seated in relation to you?

24 A. Across from me.

1 MS. MAZZA: Your Honor, the State would request
2 that the record reflect identification of the defendant.

3 THE COURT: The record will so reflect.

4 Q. (By Ms. Mazza) And did you ever know another
5 volleyball player by the initials GW?

6 A. Yes, ma'am.

7 Q. Did -- Can you describe how you knew her?

8 A. I just knew her through volleyball and through
9 his -- Rick's daughter because they were friends.

10 Q. And who is Rick's daughter?

11 A. Alyssa Jenkins.

12 Q. And when you would watch, would you ever see GW
13 playing volleyball?

14 A. Yeah.

15 Q. Where would that be?

16 A. Just on the court or during, like, practices
17 and -- not volunteering. I guess -- No, not volunteering.
18 But helping out with younger kids for volleyball.

19 Q. When you say volunteering, would you do that?

20 A. Yes.

21 Q. What do you mean by that?

22 A. Just helping out the younger kids, like, going to
23 his -- Rick's -- Can I call him Rick?

24 Q. Uh-huh.

1 A. Rick's -- Because he coached for Job's Peak
2 Volleyball. And so he would always ask for help from the
3 other volleyball players. And so I would often go down or he
4 would ask help with Pau Wa Lu and I would help out with that
5 too.

6 Q. So in some capacity through that you knew GW?

7 A. Yes, ma'am.

8 Q. Did you ever see her practicing with Mr. Jenkins?

9 A. Yes, ma'am.

10 Q. Was there ever a time that you saw the practicing
11 between them and they were touching each other?

12 A. Yes, ma'am.

13 Q. Can you describe what you saw?

14 A. Rick would often get very close to GW and just
15 speak very close to her face and touch her arm and hug her
16 and just put his arm around her and, yeah.

17 Q. Did you ever see him doing anything with her
18 hands?

19 A. He would -- not her hands. But he would, like,
20 use his hands to touch her, if that makes sense.

21 Q. And when you say they would talk really close, is
22 that what you said?

23 A. Yes, ma'am.

24 Q. What do you mean by that?

1 A. She just -- I remember this one time I was
2 sitting down drinking water and she was standing, waiting for
3 the next directive. And she was talking to Rick and he just
4 leaned really close to her face and was, like -- seemed not
5 normal for -- How do I say this? Not normal for a coach to
6 be talking to a, however old she is, to a girl like that. It
7 was just very uncomfortable.

8 Q. And at that point had you already played on a
9 volleyball team for Mr. Jenkins?

10 A. Yes, ma'am.

11 Q. Had he ever done any of this contact or made any
12 contact the way he was with GW with you?

13 A. No, not physical contact.

14 Q. And was there a time ever that you were at a
15 restaurant and saw Mr. Jenkins?

16 A. Yes, ma'am.

17 Q. Who were you with?

18 A. I was with my mom and I'm pretty sure one or both
19 of my brothers.

20 Q. So, I'm going to show you what's been previously
21 admitted State's Exhibit 6. Is that what you saw when you
22 saw Mr. Jenkins at a restaurant?

23 A. Yes, ma'am.

24 Q. Where was that?

1 A. Katie's.

2 Q. And who was with them?

3 A. I don't remember if his daughter was sitting

4 across from them, but I'm pretty sure it was just them.

5 Q. Was this a while ago?

6 A. Yes, ma'am.

7 Q. Is that what you observed at Katie's restaurant?

8 A. Yes, ma'am.

9 MS. MAZZA: Your Honor, I have no further

10 questions.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 By Ms. Ristenpart:

14 Q. Bella, just to clear this up, Erica Janicki is

15 your mother; right?

16 A. Yes, ma'am.

17 Q. And you stated that you saw one time Mr. Jenkins

18 talking close to G; right?

19 A. Yes, ma'am.

20 Q. But you don't know what they were talking about?

21 A. No, ma'am.

22 Q. You don't know if it was a private conversation?

23 A. No, ma'am.

24 Q. You, in all of your times watching and observing

1 Mr. Jenkins and G, you never saw Mr. Jenkins touch G's butt;
2 right?

3 A. No, ma'am.

4 Q. Never saw Mr. Jenkins touch her vagina?

5 A. No, ma'am.

6 Q. Never saw Mr. Jenkins touch GW's private area?

7 A. No, ma'am.

8 Q. And you know Mr. Jenkins through volleyball;
9 right?

10 A. Yes, ma'am.

11 Q. But you've only really hung out with the Jenkins
12 family, like, once outside of volleyball; right?

13 A. Once or twice, yes, ma'am.

14 Q. You went with the Jenkins family, a whole group
15 of you guys went to go swimming in the pot holes?

16 A. It wasn't a whole group. It was me and one other
17 volleyball player and his daughter and I think his
18 girlfriends at the time -- his girlfriend at the time and her
19 son, I think.

20 Q. He being Rick, Rick's girlfriend?

21 A. Oh, yes. Yes. I'm sorry.

22 Q. No. That's fine. And you just hung out, went
23 swimming, ate some food?

24 A. Yes, ma'am.

1 Q. But you really don't have any idea of G's
2 relationship with the Jenkins family, do you?
3 A. No, ma'am.
4 Q. You don't know how close G is to the Jenkins
5 family or was?
6 A. No, ma'am.
7 Q. And you have no idea how close G and Alyssa were?
8 A. I have a general idea.
9 Q. Kind of knew they were really good friends?
10 A. Yes, ma'am.
11 Q. But no idea of how often G would be over at the
12 house?
13 A. No, ma'am.
14 Q. And this picture, what's already been admitted as
15 Exhibit Number 6, this right here, that's a little square
16 that's, like, standing up on the table; right?
17 A. Yes, ma'am.
18 Q. It just kind of has, like, the daily specials?
19 A. Yes, ma'am.
20 Q. And you just don't remember if Alyssa was there
21 or not?
22 A. No, ma'am.
23 Q. And did you take this picture?
24 A. I don't remember.

1 MS. RISTENPART: No further questions. Thank
2 you.

3 THE COURT: Redirect.

4 REDIRECT EXAMINATION

5 By Ms. Mazza:

6 Q. Bella, so you know Alyssa; is that correct?

7 A. Yes, ma'am.

8 Q. Did Alyssa have any other close friends or has
9 she had any other close friends?

10 A. Not that I know of, no.

11 Q. Who else went on the pot holes trip with you all?

12 A. I don't know if she's 18. I don't know if I can
13 say her name.

14 Q. What are her initials?

15 A. SH.

16 Q. Is she friends with Alyssa?

17 A. As of now I'm not sure. But she was at the time.

18 Q. Back in 2018?

19 A. Yes, ma'am.

20 Q. Did you ever observe Mr. Jenkins acting the way
21 he acted with GW with SH or yourself?

22 A. Not with me. He was close with SH but not as
23 close as he was with GW.

24 MS. MAZZA: Your Honor, I have no further

1 questions.

2 THE COURT: Recross.

3 RECROSS-EXAMINATION

4 By Ms. Ristenpart:

5 Q. S's dad, you referred to her as SH, her dad is a
6 police officer; right?

7 A. Yes, ma'am.

8 Q. In fact, it's Deputy Hubkey?

9 A. Yes, ma'am.

10 MS. RISTENPART: No further questions. Thank
11 you.

12 THE COURT: Ms. Ristenpart, may this witness be
13 excused?

14 MS. RISTENPART: Yes, your Honor.

15 THE COURT: Ms. Mazza?

16 MS. MAZZA: Yes, your Honor.

17 THE COURT: Ms. Guerrazzi, you are excused.

18 Please do not discuss your testimony with anyone except for
19 the attorneys in this case or their investigators until such
20 time as the jury has reached a verdict.

21 THE WITNESS: Yes, sir. Thank you.

22 THE COURT: Thank you.

23 We are going to take a 15-minute recess. During
24 the course of this recess, jurors, you will be allowed to go

1 outside if you would like. I remind you to please have your
2 badges on.

3 Also, you are admonished it is your duty not to
4 converse amongst yourselves or with anyone else on any
5 subject connected with the trial either by phone, e-mail,
6 text, internet, or any other means. Do not read, watch, or
7 listen to any report of or commentary on the trial or any
8 person connected with the trial by any medium of information,
9 including, without limitation, newspapers, television, and
10 radio. Do not form or express any opinion on any subject
11 connected with the trial until the cause is finally submitted
12 to you. Do not do any research such as consulting
13 dictionaries, using the internet, or using other reference
14 materials. Do not make any investigation, test the theory of
15 the case, recreate any aspect of the case, or in any other
16 way investigate or learn about the case on your own. We will
17 be in recess until 10:55. Thank you.

18 We're back in session outside the presence of the
19 jury on Case Number 19-CR-188. Show the appearance of
20 counsel for both parties as well as the defendant.

21 Ms. Ristenpart, go ahead.

22 MS. RISTENPART: Thank you, your Honor. I just
23 want to go through timing. I apologize for bringing the
24 Court back from break.

1 THE COURT: It's quite all right.

2 MS. RISTENPART: I am sensing that the State is
3 getting close to ending their case in chief. My
4 understanding is that they have one more witness to call.
5 My -- I have a few witnesses lined up for this afternoon, but
6 the brunt of them I had expected for Wednesday morning. I
7 know we also have to settle jury instructions. So I am
8 contemplating if I should scramble and try to get more people
9 here or have the witnesses I have set for 2:00 o'clock try to
10 get here a little bit earlier for maybe 1:30, call who I can,
11 and then we break for the night.

12 THE COURT: Okay. Ms. Ristenpart, thank you for
13 asking now. It's good to have these conversations at this
14 time.

15 Ms. Mazza, where are we at with the State's case
16 in chief?

17 MS. MAZZA: Your Honor, at this time the State
18 has one witness left, Nadine Chrzanowski. I believe that
19 will, if we were to start around 11, get us to the lunch
20 hour. And, otherwise, that would be the State's extent of
21 witnesses for today.

22 THE COURT: Okay. So, if that plays out that
23 way -- And, of course, it doesn't always play out the way we
24 expect. But if it plays out that the State would be resting

1 here before the lunch hour, it would be my thought then we
2 would take a lunch recess and get in some testimony this
3 afternoon.

4 Ms. Ristenpart, if you need, as far as your
5 witnesses go, if you need a little additional time during the
6 lunch hour to make sure that happens, we can give more time.
7 What are your thoughts about that? So if we break around
8 noon, how much time would you think you would need to have
9 some witnesses ready to go?

10 MS. RISTENPART: Your Honor, I do have witnesses
11 ready to go for this afternoon.

12 THE COURT: Okay.

13 MS. RISTENPART: The problem is that most of my
14 witnesses took tomorrow off in anticipation. So a lot of
15 them are at work. And so I will have some witnesses. But I
16 would anticipate that we may break fairly early this
17 afternoon. There's no way we're going to be able to go to
18 4:30.

19 THE COURT: Okay. Well, I would just ask -- And
20 I understand scheduling can be tricky. Just do your best to
21 get enough witnesses here to fill up the afternoon and we'll
22 take it as we go. So I think what I'm saying is if there are
23 witnesses who took tomorrow off and expected to be here
24 tomorrow but they can get here today, then I would prefer

1 that course. But we'll take it as we go. And I thank you
2 for raising this at this time. So, when we come back from
3 the recess, the State will call what most likely will be the
4 State's last witness. We will then recess for lunch and
5 we'll see how things play out. It sounds like you would have
6 witnesses ready to go right after lunch. Normally I break
7 for an hour and a half. But we can --

8 MS. RISTENPART: I do.

9 THE COURT: Okay. All right.

10 MS. RISTENPART: It's more about making it all
11 the way until five.

12 THE COURT: Got it.

13 MS. RISTENPART: Thank you.

14 THE COURT: Okay. Thanks a lot. We will be in
15 recess and we'll go ahead and take until 11:00 o'clock.
16 Thank you.

17 (Recess was taken)

18 THE COURT: Court is back in session on Case
19 Number 19-CR-188. Show the appearance of counsel for both
20 parties and also Mr. Jenkins.

21 Ms. Mazza, are you ready to have the jurors
22 brought back in?

23 MS. MAZZA: Your Honor, I am ready to have the
24 jurors brought back in. I would just like to address one

1 issue that Investigator Chrzanowski is having. As your Honor
2 is aware, she previously had a work-related injury. She has
3 been fully cleared and is restored. However, she is having a
4 sensitivity to light. I believe that was a problem she had
5 previously as well.

6 Rather than wearing sunglasses or inhibiting
7 Mr. Jenkins' right to confrontation, the State wondered if it
8 would be possible to dim possibly just the audience lights or
9 the clerk lights if that is allowable to the Court.

10 THE COURT: Ms. Ristenpart, your position.

11 MS. RISTENPART: Your Honor, I'm taking it on
12 faith here from Ms. Mazza that Investigator Chrzanowski has
13 been cleared for work but still obviously showing some or
14 exhibiting or experiencing some residual issues. I do -- To
15 make a very concrete record and also the right to
16 confrontation in case there's some future I don't remember
17 or this was a long time ago, maybe the Court needs to inquire
18 of Investigator Chrzanowski to make a record that she has
19 been cleared. I'm at a little bit of a loss, because if
20 she's cleared then she's still having sensitivities.

21 THE COURT: Let's have her brought in outside the
22 presence and the parties can canvass her on what her
23 circumstances are. And, for that purpose, I would like to go
24 ahead and dim the lights. Go ahead and let's dim first

1 the -- Ms. Mazza, you were suggesting which lights go off?

2 MS. MAZZA: Your Honor, I simply was speaking
3 with the bailiff and I believe the audience lights can go off
4 as well as the clerk's lights, or can be dimmed. I don't
5 believe we want to dim counsel tables or the jury.

6 THE COURT: Okay. So let's start with dimming or
7 turning off the audience lights and try the clerk's lights
8 next. Okay. So let's start with that. And, for the record,
9 the lights in the well are fully on. And so let's go ahead
10 and bring in Investigator Chrzanowski out of the presence of
11 the jury for the purpose of assessing her situation.

12 Investigator Chrzanowski, please raise your right
13 hand and face the court clerk to be sworn.

14 (The witness was sworn in)

15 THE COURT: If you have something with you, if
16 you can just leave it there on the -- on that chair. Come on
17 up to the witness stand. Please have a seat and remove your
18 mask. We are convened outside the presence of the jury for
19 the purpose of assessing any medical issues that you might be
20 having or any need to dim the lights. For this purpose we
21 have dimmed the lights in the back of the courtroom and the
22 attorneys are going to ask you some questions now. Go ahead,
23 Ms. Mazza.

24 MS. MAZZA: Thank you, your Honor.

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NADINE CHRZANOWSKI

Called as a witness on behalf of the
State, having been first duly sworn,
Was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Mazza:

Q. Ma'am, can you put your name on the record,
please?

A. Yes. Nadine Chrzanowski, C-h-r-z-a-n-o-w-s-k-i.

Q. And you previously had a work-related injury; is
that correct?

A. Yes, ma'am.

Q. But you've been cleared to return to work?

A. I'm currently on light duty with restricted work
hours.

Q. And that return to work, restricted work hours,
but you've been able to work; correct?

A. Yes.

Q. And are you able to work?

A. Yes.

Q. Are you cleared to testify here today?

A. Not specifically, but...

Q. You're cleared to work; correct?

1 A. My work restrictions are I'm allowed to work for
2 six hours a day, not be in front of any type of computer
3 screen, cell phones, any electronic devices for longer than
4 45 minutes at a time. I'm supposed to take a ten-minute
5 break every 45 minutes while I'm working. Things along those
6 lines. Nothing specific to court. But no field work.

7 Q. And specifically we dimmed the lights for you.
8 Is that just because you're having a sensitivity to light?

9 A. Yes.

10 Q. And you didn't want to squint here in court
11 today?

12 A. That's correct.

13 Q. And are you able to testify here today?

14 A. Yes.

15 Q. On the alternative, would you have requested to
16 wear sunglasses if the lights weren't dimmed?

17 A. I would prefer not to wear sunglasses in court.

18 MS. MAZZA: Your Honor, I don't have any further
19 questions on that topic.

20 THE COURT: Ms. Ristenpart.

21 CROSS-EXAMINATION

22 By Ms. Ristenpart:

23 Q. Detective, you don't have any cognitive issues
24 today?

1 A. Not that I'm aware of.

2 Q. No memory issues?

3 A. No. The only thing that I sometimes have
4 difficulty is putting sentences together sometimes. They
5 said it's part of the healing process. But I don't think
6 I'll have any difficulty.

7 Q. And you stated you were back on restricted work
8 duty?

9 A. Yes, ma'am. I'm a detective, so primarily it's
10 desk duty. So the majority of my work is in the office at a
11 computer at a desk. Currently my work has me working from
12 home on a computer. So, as I explained, every 45 minutes I
13 can take a break, rest my eyes, and six hours at a time.

14 MS. RISTENPART: No further questions, your
15 Honor.

16 THE COURT: Investigator Chrzanowski, are the
17 lights sufficiently dimmed right now?

18 THE WITNESS: I think so, your Honor.

19 THE COURT: In the event you are shown something
20 on the computer monitor in front of you, would be able to do
21 that?

22 THE WITNESS: Yes.

23 THE COURT: Okay. Ms. Mazza, any other
24 questions?

1 MS. MAZZA: Your Honor, just to clarify.
2 Investigator Chrzanowski, is the big issue that you have just
3 the light sensitivity at this point?
4 THE WITNESS: Yeah. It's sensitivity to light
5 and dizziness if I move my head too fast. And I don't think
6 I'll be doing that today.
7 MS. MAZZA: Okay. So, otherwise, cognitive
8 ability, have you been able to have the ability to prepare
9 for today?
10 THE WITNESS: Yes.
11 MS. MAZZA: Nothing further, your Honor.
12 THE COURT: Ms. Mazza, can you see Investigator
13 Chrzanowski well enough?
14 MS. MAZZA: Yes.
15 THE COURT: Ms. Ristenpart, do you have other
16 questions and can you see Investigator Chrzanowski well
17 enough?
18 MS. RISTENPART: I can, yes.
19 THE COURT: Any other questions?
20 MS. RISTENPART: No, your Honor. Thank you.
21 THE COURT: Okay. Is there any objection to
22 keeping the lights dimmed in the manner that we have done so
23 already, Ms. Mazza?
24 MS. MAZZA: No, your Honor, not from the State.

1 THE COURT: Ms. Ristenpart?

2 MS. RISTENPART: No, your Honor. If we can just
3 make possibly an explanation to the jury because that has not
4 been the way this has been the entire jury, so I don't want
5 them thinking this is some -- Without drawing attention, of
6 course, to her health.

7 THE COURT: Would counsel ask that the Court
8 inform the jury of the reasons why the lights are dimmed or
9 would you prefer to do that through questioning? I took it
10 from Ms. Ristenpart she would prefer the Court to comment on
11 it. Ms. Ristenpart, do I have that correct? Or which do you
12 prefer?

13 MS. RISTENPART: Your Honor, I'm actually just
14 thinking this through for purposes of this witness. I'm
15 actually asking the Court not to comment on why the room is
16 dark.

17 THE COURT: Okay.

18 MS. RISTENPART: And no questions about it.

19 THE COURT: Okay. Ms. Mazza, are you comfortable
20 with that as well?

21 MS. MAZZA: Your Honor, I would ask that the
22 Court instruct the jury or to comment on it to the jury. I'm
23 in agreement with no questions about it. But I do believe
24 that it would be appropriate to let them know it's for a

1 light sensitivity reason, no reason otherwise.

2 THE COURT: Okay. Based on the request of the
3 defense, the Court is not going to make any specific comment.
4 If the parties desire to ask questions of the investigator
5 that are relative to her current cognitive or medical issues,
6 you may do so. If you wish to ask questions about the
7 lighting, you may do that also. But, based upon the
8 defense's position, I'm not going to make any specific
9 comment.

10 Ms. Mazza, are you ready to bring in the jury?

11 MS. MAZZA: Yes, your Honor.

12 THE COURT: Ms. Ristenpart?

13 MS. RISTENPART: Yes, your Honor.

14 THE COURT: All right. Deputy Lindsay, please
15 bring in the jury.

16 Ms. Mazza, do you stipulate to the presence of
17 the jury?

18 MS. MAZZA: I do, your Honor.

19 THE COURT: Ms. Ristenpart, do you as well?

20 MS. RISTENPART: Yes, your Honor.

21 THE COURT: Everybody but the witness please go
22 ahead and have a seat. I would ask the witness please face
23 the court clerk, raise your right hand to be sworn.

24 (The witness was sworn in)

1 THE COURT: Thank you. Please be seated.

2 Ms. Mazza, you may proceed.

3 MS. MAZZA: Thank you, your Honor. May I
4 approach the clerk?

5 THE COURT: You may.

6

7 NADINE CHRZANOWSKI

8 Called as a witness on behalf of the

9 State, having been first duly sworn,

10 Was examined and testified as follows:

11

12 DIRECT EXAMINATION

13 By Ms. Mazza:

14 Q. Ma'am, can you please state your full name.

15 A. Yes. Nadine, N-a-d-i-n-e, Chrzanowski,

16 C-h-r-z-a-n-o-w-s-k-i.

17 Q. And, Ms. Chrzanowski, how are you employed?

18 A. An investigator for the Douglas County Sheriff's
19 Office.

20 Q. And how long have you worked for the Douglas
21 County Sheriff's Office?

22 A. Since November 25th of 2002, so 18 years.

23 Q. And how long have you been an investigator for
24 the Douglas County Sheriff's Office?

1 A. Since 2009.

2 Q. And can you just briefly describe for the jury
3 what sort of duties or responsibilities you have as an
4 investigator?

5 A. Primarily investigations we investigate what we
6 consider major crimes. For the majority of my law
7 enforcement career in detectives, I have primarily been
8 assigned cases involving child sexual crimes, crimes against
9 persons, things along those lines.

10 Q. And how does a case get assigned to you as an
11 investigator?

12 A. The sergeant of the investigations division
13 reviews every case that comes through and determines whether
14 there's follow-up needed and is necessary and then they
15 assign to the specific investigator as they so choose.

16 Q. And then does it start with a deputy and then end
17 up with you or how does that work?

18 A. Yes, generally. Sometimes not. Sometimes they
19 come directly to us through faxed reports. But, generally, a
20 patrol deputy will take a report from a reporting party. It
21 will filter through the system. It will be approved by their
22 supervisor. It will come over to the investigations division
23 and be reviewed by our supervisor. And then they will assign
24 cases out from there.

1 Q. Were you working in this same capacity in 2018?

2 A. Yes, ma'am.

3 Q. And with regard to -- You indicated you
4 specifically get assigned child sex offense cases. Do you
5 typically take the cases involving children that are assigned
6 to the investigations division?

7 A. I'm sorry. I don't understand what you're
8 asking.

9 Q. So are cases -- if a case comes in to the
10 investigation division and it involves a child, who gets it?

11 A. Generally me if my case load is not too high.

12 Q. So you have -- Back in 2018 have you had
13 experience responding or being assigned to child sex abuse
14 cases?

15 A. Yes, I have.

16 Q. And so I'd like to direct your attention to
17 September 24th of 2018. Were you assigned to investigate a
18 child lewdness case that brings you here to court today?

19 A. Yes, I was.

20 Q. And what was that case involving?

21 A. It was involving allegations of some concern
22 regarding inappropriate contact between Mr. Jenkins and one
23 of his volleyball players.

24 Q. Did you end up identifying Mr. Jenkins?

1 A. Yes, I did.

2 Q. Is that Richard Jenkins?

3 A. Yes.

4 Q. Do you see him here in the courtroom today?

5 A. Yes, ma'am, I do.

6 Q. Can you describe what color shirt he's wearing
7 and where he's seated in relation to you?

8 A. Yes. He's seated at the defense counsel table to
9 the right of Ms. Ristenpart. He's wearing a white shirt and
10 a striped tie.

11 MS. MAZZA: Your Honor, the State would request
12 that the record reflect identification of the defendant.

13 THE COURT: The record will reflect.

14 Q. (By Ms. Mazza) And so you were assigned the
15 case; is that right?

16 A. Yes.

17 Q. And what did you first do when you were assigned
18 the case?

19 A. I reviewed the originating report that was
20 generated by Deputy Justin Williams.

21 Q. And then after reviewing Deputy Williams' report
22 did you review anything else?

23 A. Yes.

24 Q. What was that?

1 A. Video surveillance that Deputy Williams had
2 collected as evidence in this case.

3 Q. And where was that video surveillance from?

4 A. The Douglas County Community Center.

5 Q. Was that the extent of all of the video
6 surveillance you reviewed in this case?

7 A. No.

8 Q. What did you additionally review?

9 A. In November of that year, 2018, I requested
10 additional video from the community center if they had it.
11 They provided me with additional video along with, like, a
12 typed timeline of what was contained on the video.

13 Q. And, so going back to that original footage you
14 reviewed, that came from Deputy Williams?

15 A. Yes.

16 Q. Or was collected by?

17 A. It was collected by Deputy Williams.

18 Q. And after reviewing that footage what did you do?

19 A. I moved forward with my investigation.

20 Q. And how did you do so?

21 A. I conducted numerous interviews of various
22 parties involved.

23 Q. Did you identify a child that was involved in the
24 case?

1 A. Yes.

2 Q. And who was that? Without giving her name, can
3 you give us her initials?

4 A. GW.

5 Q. Did you identify who she was?

6 A. Yes.

7 Q. Did you end up meeting with her?

8 A. Yes, I did.

9 Q. Did you end up meeting with anyone related to her
10 as well?

11 A. Yes.

12 Q. And who was that?

13 A. Her mother.

14 Q. Did you formally interview them?

15 A. Yes.

16 Q. And when we talk about GW, does your office give
17 pseudonyms to cover victims in certain cases?

18 A. Yes, we do.

19 Q. And did you give GW a pseudonym in this case?

20 A. Yes, I did.

21 Q. What was that pseudonym?

22 A. Corey Collins.

23 Q. And why was a pseudonym given?

24 A. Because it's required by Nevada state law that

1 any victim of a sex crime be offered the opportunity to use a
2 pseudonym or an alternate name to assist them in feeling more
3 comfortable in filing the report and moving along with court
4 proceedings such as this without their actual name being
5 used. It's required by law that it be offered.

6 Q. And did you end up speaking with Corey Collins or
7 GW?

8 A. Yes, I did.

9 Q. On how many occasions?

10 A. Three.

11 Q. And in the first time that you spoke with Mr. --
12 Ms. GW, did she indicate the kind of relationship she had
13 with Mr. Jenkins?

14 A. Yes.

15 Q. And what was that?

16 A. During my first interview with GW she indicated
17 that the relationship between her and Mr. Jenkins was more of
18 a father/daughter type of relationship. I believe she used
19 the term family love. More of a familial type relationship
20 is how she described it to me during my first interview with
21 her.

22 Q. Did she describe the relationship as touchy even
23 during that first interview?

24 A. Yes, she did.

1 Q. And did you end up interviewing GW a second time?

2 A. Yes, I did.

3 Q. And why was that?

4 A. At her request. Her and her mother reached out
5 to me and requested to meet with me again.

6 Q. And, in this interview of GW, the second
7 interview, did she give you more information on her
8 relationship with Mr. Jenkins?

9 A. Yes.

10 Q. Now, after interviewing GW these two times, you
11 say you interviewed her a third time. What was the purpose
12 of that third interview?

13 A. The purpose of the third interview was to ask
14 some clarifying questions to determine what possible crimes
15 may or may not have been committed in this case. With
16 regards to sexual types of cases, there's specific elements
17 of a crime that have to either be met or not met in order for
18 it to fit. For instance, sexual assault has to have
19 penetration, however slight. These questions were to clarify
20 if there was any type of penetration of the body to make sure
21 what exact potential crime we were looking at.

22 Q. Were you making sure GW had an understanding of
23 body parts, I guess?

24 A. Yes.

1 Q. In speaking with GW and her mother, did you speak
2 with anyone else?

3 A. I spoke with a lot of people in this case.

4 Q. Did you conduct several interviews?

5 A. Yes.

6 Q. How many would you say?

7 A. I don't know the exact number. I'm going to
8 estimate about ten maybe.

9 Q. And at some point did you arrest Mr. Jenkins?

10 A. Yes, I did.

11 Q. And where was that?

12 A. At his residence located at 1139 Centerville
13 Lane.

14 Q. Is that in Douglas County?

15 A. Yes, ma'am, it is.

16 Q. In your arrest of Mr. Jenkins did you have to --
17 did you determine identifying factors about Mr. Jenkins? Did
18 you determine his age?

19 A. Yes.

20 Q. How old was Mr. Jenkins in 2018?

21 A. I believe -- He was born in 1972, I believe. So
22 he's currently 48. I believe he would have had his birthday
23 that year. So it would have been 45.

24 Q. And so when you say that you perform or get

1 assigned to a large number of child cases in your office,
2 through those cases do you have any experience of
3 interviewing children?

4 A. Yes, I do.

5 Q. Can you guess how many times you've interviewed a
6 child?

7 A. At least 200, if not more.

8 Q. And, in doing those interviews with children, is
9 it common that they disclose what you're interviewing them
10 about or what may have happened to them on the first time you
11 talk to them?

12 A. There's really no usual way. Sometimes children
13 will disclose the first interview. Sometimes they are not
14 ready to disclose and they will not disclose during a first
15 interview. It's -- Every interview that I do is
16 child-specific, very child-centered. It's dependent upon the
17 child.

18 Q. And, in your second interview of GW, did she give
19 you more information than she gave you the first time?

20 A. Yes, she did.

21 Q. Did she give you more details than she did the
22 first time?

23 A. Yes.

24 Q. With regard to what happened between her and

1 Mr. Jenkins?

2 A. Yes, she did.

3 Q. Did you interview other volleyball players?

4 A. Yes.

5 Q. Were those a number included in your ten?

6 A. Yes.

7 MS. MAZZA: Your Honor, if I could just have the
8 Court's indulgence.

9 THE COURT: You may.

10 Q. Investigator Chrzanowski, have you had training
11 in conducting forensic interviews?

12 A. Forensic interviews?

13 Q. Yes.

14 A. Yes.

15 Q. What is a forensic interview?

16 A. It's a child-specific interview that's
17 forensically sound and it's tailored to fit the child.

18 MS. MAZZA: Your Honor, I have no further
19 questions.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 By Ms. Ristenpart:

23 Q. Detective, back in 2018, you had about, what, 11
24 years of detective experience?

1 A. Total, yeah.

2 Q. And we talked about that you interviewed GW
3 several times; right?

4 A. Yes, I did.

5 Q. The first on September 28th of 2018?

6 A. I believe it was the 27th actually.

7 Q. Thank you. September 27th?

8 A. I believe so. I believe the second time was
9 November 1st. And then November 6th was the third time.

10 Q. And, in that first interview on September 27th of
11 2018, GW told you that Rick never touched her
12 inappropriately?

13 A. She never disclosed any sexualized touching of
14 what we would consider sensitive areas. She did describe the
15 relationship as touchy, very huggy, touchy, but nothing
16 sexualized.

17 Q. Or inappropriate?

18 A. Inappropriate I think would be relative to if you
19 felt a touchy-feely relationship was okay.

20 Q. Detective, you specifically asked GW in that
21 first interview whether or not Rick ever touched her
22 inappropriately; right?

23 A. Yes. I asked her if she felt it was
24 inappropriate.

1 Q. And her answer was no?

2 A. Correct.

3 Q. And you asked her specifically if Rick had ever

4 touched her in her private area; right?

5 A. I don't know if that's how I phrased it. But

6 those are the general questions, yes.

7 Q. And GW said no?

8 A. Yes.

9 MS. MAZZA: Objection. Hearsay.

10 THE COURT: Ms. Ristenpart.

11 MS. RISTENPART: Your Honor, it's a prior

12 inconsistent statement by GW.

13 THE COURT: Overruled.

14 MS. MAZZA: Your Honor, just to make a record. I

15 don't believe her statement was inconsistent on testimony.

16 MS. RISTENPART: Your Honor --

17 THE COURT: Go ahead, Ms. Ristenpart.

18 MS. RISTENPART: With questioning?

19 THE COURT: Yes.

20 MS. RISTENPART: Thank you, your Honor.

21 Q. (By Ms. Ristenpart) And also in that interview

22 GW explained that her -- the touching between her and Rick

23 was just like her stepfather Wayne; right?

24 A. No.

1 Q. You're claiming that GW did not compare the
2 touching to her stepfather like Wayne?

3 A. She did. She said that they were also very
4 huggy-touchy, but she also said that Wayne never touched her
5 butt and Mr. Jenkins did.

6 Q. In the first interview?

7 A. I apologize. I missed that part. Can you
8 rephrase?

9 Q. In the first interview GW compared her
10 relationship and the touching between her and Rick just like
11 her stepfather, Wayne?

12 A. Yes. I apologize.

13 Q. So then you interviewed her approximately a month
14 later on November 1st of 2018; right?

15 A. Yes.

16 Q. And, during that first interview and the second
17 interview, did you know that GW did not make the high school
18 volleyball team?

19 A. No.

20 Q. Did you know that GW and Alyssa Jenkins had a
21 falling out during that time?

22 A. No.

23 Q. Did you know that GW could not afford the private
24 club team NNJ?

1 A. No.

2 Q. Did you know that GW had asked about a
3 scholarship to play on Coach Marie's club team?

4 A. No, I did not.

5 Q. And you stated that GW's mother called asking to
6 bring GW back in; right?

7 A. I don't know if -- I believe she called. I don't
8 recall how -- It would have probably been a phone call.
9 Maybe a text. I don't remember. It was a long time ago.

10 Q. And that was the very end of October, if not
11 early November?

12 A. It would have -- Somewhere around then. I know
13 the interviewed occurred on the 1st. I don't know if she
14 called that day and we met the same day or she called the day
15 before and we met. I don't recall exactly when that phone
16 call took place.

17 Q. And you also interviewed Marie Foster on November
18 1st of 2018; right?

19 A. That's correct.

20 Q. And Marie Foster was interviewed on that day also
21 because she was the one that claimed GW first initially
22 disclosed some kind of inappropriate touching; right?

23 MS. MAZZA: Objection. Speculation.

24 THE COURT: Sustained.

1 Q. (By Ms. Ristenpart) You interviewed Coach Marie
2 because she had some knowledge about what GW was claiming?

3 A. I interviewed Coach Marie because she said that
4 she had information she felt was relevant to the
5 investigation.

6 Q. And, this interview, your first interview on
7 September 27th, 2018, that was video recorded; right?

8 A. Yes.

9 Q. With GW?

10 A. Yes.

11 Q. And was audio recorded?

12 A. That's correct.

13 Q. Your second interview on November 1st, 2018, that
14 was video recorded?

15 A. Yes.

16 Q. Had audio also?

17 A. Correct.

18 Q. I'm showing you what has been marked as UUU.

19 A. Oh, for me? Thank you.

20 Q. You're looking at UUU. Do you recognize what is
21 depicted in that picture?

22 A. Yes.

23 Q. And what is it?

24 A. It is the Douglas County Sheriff's Office

1 investigations -- I'm sorry. I had a question, but then I
2 just answered my own. I apologize. This is the Douglas
3 County Sheriff's Office investigation interview room.

4 Q. And are you in that picture?

5 A. Yes.

6 Q. Is someone else in that picture?

7 A. Yes.

8 Q. And is there a date and time on that?

9 A. Yes.

10 Q. Does it fairly and accurately portray the second
11 November 1st, 2018, interview as to how GW appeared and you?

12 A. I'm sorry. Can you say that one more time?

13 Q. Does it accurately and fairly depict how GW and
14 you appeared during that interview on November 1st, 2018?

15 A. Yes.

16 MS. RISTENPART: Move for admission, your Honor.

17 THE COURT: Any objection?

18 MS. MAZZA: Yes, your Honor. If I could also
19 voir dire the witness with regard to this exhibit?

20 THE COURT: You may.

21 VOIR DIRE EXAMINATION

22 By Ms. Mazza:

23 Q. Investigator, do you know that that's the
24 interview from the date given by Ms. Ristenpart because of

1 that date just on the screen shot?

2 A. Correct, that's the only way.

3 Q. Did you take that screen shot?

4 A. No, I did not.

5 MS. MAZZA: Your Honor, based upon a lack of
6 foundation, I would object, as well as I would object to that
7 not being the best evidence. If that is to judge the
8 demeanor of GW from that photo, the entire interview would be
9 more appropriate.

10 THE COURT: Ms. Ristenpart, your response.

11 MS. RISTENPART: Your Honor, it is for
12 identification purposes.

13 THE COURT: Okay. Thank you both. The Court
14 finds that there has been sufficient foundation and the best
15 evidence objection is overruled. Exhibit UUU is admitted.

16 Q. (By Ms. Ristenpart) Showing UUU, and is this the
17 picture we were just looking at, Investigator?

18 A. Yes.

19 Q. Now, in that second interview, you just told the
20 jury that GW gave details of her allegations; right?

21 A. Yes, she did.

22 Q. In that second interview, GW claimed that Rick
23 would put his hands down the front of her pants in the
24 squishy room; right?

1 A. Yes.

2 Q. And then she specifically motioned to the front
3 of her area, kind of by her stomach; right?

4 A. Yes.

5 Q. And in that second interview GW never claimed
6 that Rick put his hands down the pants in the back of her
7 pants in the squishy room, did she?

8 A. I don't recall if she did in this interview or a
9 different interview.

10 Q. Would looking at a transcript of the interview
11 refresh your memory?

12 A. It would.

13 MS. RISTENPART: Showing counsel page 57, lines
14 14 to 19, with the Court's indulgence.

15 THE COURT: You may.

16 MS. RISTENPART: Counsel, apologies.

17 Q. (By Ms. Ristenpart) Lines, like, one to four and
18 starting also on page four, starting on line 16. Does that
19 refresh your memory?

20 A. Of this section of the interview, yes.

21 Q. And, during that second interview, GW never
22 claimed that Mr. Jenkins put his hands down the back of her
23 pants in the squishy room; correct?

24 A. Not during that portion of the interview, no, she

1 did not.

2 Q. And you -- GW made an allegation that she was
3 touched or her butt was touched on a couch in the Jenkins
4 home during that second interview; right?

5 A. Yes.

6 Q. GW in that interview with you never claimed that
7 Rick told her or asked her, am I making you feel
8 uncomfortable, while touching her butt on the couch, did she?.

9 A. Not that I recall.

10 Q. In fact, you asked her specifically about the
11 couch, did Mr. Jenkins say anything to you; right?

12 A. I believe I asked that, yes.

13 Q. And GW's reply to you was no?

14 A. Correct.

15 Q. And, throughout that second interview, GW
16 repeatedly told you that Rick never touched her private
17 areas; correct?

18 A. Yes.

19 Q. In all three of your interviews, Investigator,
20 with GW, GW never once alleged that Rick touched her
21 underneath the stairwell at the rec center, did she?

22 A. Can you define touched her? I don't know what
23 you mean by touched her under the stairwell.

24 Q. Touched her butt.

1 A. No, not that I recall.

2 Q. In fact, GW never even mentioned going in to the
3 stairwell with Rick?

4 A. I don't think we ever specifically talked about
5 the stairwell.

6 Q. In all three of your interviews GW never claimed
7 to you that Rick would take her in to the stairwell of the
8 rec center several times, did she?

9 MS. MAZZA: Objection. Asked and answered.

10 THE COURT: Overruled.

11 THE WITNESS: I'm sorry. Can you repeat it?

12 Q. (By Ms. Ristenpart) During your three interviews
13 with GW, GW never claimed that Rick would take her in to the
14 stairwell of the rec center several different times, did she?

15 A. No. We talked about various locations of the rec
16 center, but I don't recall us ever specifically talking about
17 the stairwell over and over again.

18 Q. In fact, you never talked about the stairwell at
19 all in any of your interviews?

20 A. Not using the term stairwell. We talked about
21 the activities at the stairwell but not the stairwell.

22 Q. So, let me just clarify here, Investigator. Are
23 you claiming today that you and GW had a conversation during
24 one of your interviews about activities taking place

1 underneath the stairwell?

2 A. Not specifically. What I'm saying to you is,
3 obviously, I have viewed the video as the detective in the
4 case and so I asked her specifically about the behavior that
5 I witnessed between the two of them near the stairwell in my
6 interviews, specifically had there been any hugging, kissing,
7 touching. We discussed her saying she buried his face in his
8 shoulder or neck area. So the behaviors that I saw in the
9 stairwell I discussed with her. I do not specifically recall
10 talking to her asking her did those things happen at the
11 stairwell. I don't recall ever putting those two things
12 together.

13 Q. And you're talking about the one incident that
14 you had seen a video of?

15 A. I'm referring to the video that was collected by
16 Deputy Williams in this case, the initial video booked as
17 evidence.

18 Q. So GW never claimed to you in your interviews
19 that inappropriate touching occurred over and over again in
20 the stairwell of the rec center?

21 A. No, not specifically.

22 Q. In all three interviews GW never once claimed to
23 you that Rick would get in to bed with her in Alyssa, did
24 she?

1 A. I believe we had one conversation about him
2 getting in to bed with her. I don't recall what interview
3 that was.

4 Q. Would looking at your transcripts of all three
5 interviews refresh your memory?

6 A. I'm sure it would, Counsel.

7 MS. MAZZA: Your Honor, I'm going to object here.
8 She said -- She didn't say she doesn't recall. She's saying
9 what she believes she recalls.

10 THE COURT: You can follow up, Ms. Ristenpart.

11 Q. (By Ms. Ristenpart) So you're sitting here
12 claiming that you have some memory of that. Which interview?

13 A. I believe it was either the second or the third.
14 I know for sure it wasn't the first.

15 Q. And your memory is in regards to what?

16 A. My knowledge of the case.

17 Q. In regards to the allegation that we just talked
18 about about GW claiming that Rick would get in -- lay in bed
19 with her and Alyssa?

20 A. I don't believe my conversation was her and
21 Alyssa. I believe it was just her. I don't know if it was
22 her and Alyssa or just her.

23 Q. Approaching with five Y's. You want to just find
24 that for us in the transcript?

1 A. Sure. This is the second one?

2 Q. It's from November 1st, 2018.

3 A. Okay. Thank you. I apologize. I'm reading as
4 fast as I can.

5 MS. MAZZA: Your Honor, I again am going to
6 object. I don't think there was anything Investigator
7 Chrzanowski indicated she does not recall.

8 THE COURT: Ms. Ristenpart, is there a specific
9 area of the transcript that you would like to direct
10 attention to?

11 MS. RISTENPART: No. Because it's --

12 THE COURT: Would you respond, please, to
13 Ms. Mazza's concern?

14 MS. RISTENPART: Your Honor, it's -- there is no
15 conversation about being in the bed or laying in the bed on
16 the second interview and I'm asking Investigator Chrzanowski
17 to find that, as her memory claims.

18 THE COURT: Are you using it to refresh
19 recollection or some other purpose?

20 MS. RISTENPART: Your Honor, I'm using it -- She
21 is claiming she remembers that but she doesn't remember
22 specifically where. To refresh memory but then also for
23 inconsistent statement.

24 THE COURT: All right. You may proceed.

1 THE WITNESS: Do you have the transcript from the
2 third interview as well? Because I said either the second or
3 the third.

4 MS. MAZZA: And, again, your Honor, I don't think
5 Investigator Chrzanowski has nothing that she doesn't
6 remember. To ask her a specific minute without having any
7 location to look at, she's answered the question. She
8 believes it was in the second or third interview. I believe
9 Ms. Ristenpart should move on.

10 THE COURT: Ms. Ristenpart, if you are -- if the
11 second part of your response a moment ago was perhaps prior
12 inconsistent statement, if you're using it for that purpose,
13 you may. But then you need to direct the witness to a
14 specific and ask the witness about a specific statement.
15 And, so if you can assist the witness in that respect, I'll
16 allow you to proceed.

17 MS. RISTENPART: Your Honor, the problem is there
18 is no statement in that interview about GW claiming that Rick
19 got in to the bed with her and/or Alyssa, so I can't point
20 her to anything, because it's not in that interview.

21 THE COURT: All right. We'll proceed as you
22 will.

23 THE WITNESS: Ms. Ristenpart is correct. I don't
24 see that conversation occurring with her in the second

1 interview.

2 Q. (By Ms. Ristenpart) Investigator, you stated
3 that you did some interviews in this case; right?

4 A. Several, yes.

5 Q. You interviewed Tamera Woodbridge only once;
6 correct?

7 A. That's correct.

8 Q. And that was on September 26th of 2018?

9 A. I believe it was the 27th, the same day as G, if
10 not the day before. I don't recall what day I interviewed
11 Ms. Woodbridge.

12 MS. MAZZA: Your Honor, I'm going to ask that we
13 strike the name and insert initial for G.

14 THE COURT: That request is granted.

15 Q. (By Ms. Ristenpart) Investigator, you never
16 interviewed Gage Marcyes, did you?

17 A. No, I did not.

18 Q. And who is Gage Marcyes?

19 A. At the time -- I don't know his current status.
20 At the time he was GW's mom's boyfriend.

21 Q. Now, when you received your report, Investigator,
22 on September 24th of 2018, when you received your
23 assignment --

24 A. Right.

1 Q. -- you did not go to the community center, did
2 you?

3 A. No.

4 Q. You never investigated how the community center
5 looked or appeared during September of 2018, did you?

6 A. I don't understand what you're asking me. I know
7 what the community center looks like.

8 Q. From previous experience. But, once you got this
9 report, did you actually ever go to the community center?

10 A. I did not physically walk in to the community
11 center for the purposes of this investigation, no.

12 Q. You never checked the equipment room to see if it
13 was organized or disorganized in fall or September of 2018?

14 A. No.

15 Q. You, in fact, never even took pictures of the
16 community center, did you?

17 A. No.

18 Q. You actually had another investigator through
19 Douglas County Sheriff's Office months later go out and take
20 some photos?

21 A. I don't recall.

22 Q. You never had anyone take photos?

23 A. Not that I recall.

24 Q. And through your investigation you personally

1 never checked the Douglas County Community Center video
2 surveillance system, did you?

3 A. No. I don't know how to work it in any way.

4 Q. You never went in and sat down with any of the
5 employees to look at video surveillance?

6 A. No.

7 Q. You never checked how many different cameras the
8 rec center has?

9 A. No.

10 Q. You never checked how many angles the rec center
11 would have?

12 A. Not specifically myself, no.

13 Q. You really never checked any other footage beyond
14 what was provided to you by the rec center employees; right?

15 A. That's correct. I made a request of them to
16 review their system for anything relevant to my investigation
17 and reviewed what they provided.

18 Q. And what they provided to you were clipped few
19 minutes of video surveillance?

20 A. Yes.

21 Q. Taken from only two days?

22 A. I believe it was two days on the one that they
23 gave me the second time.

24 Q. And, through your investigation, you never

1 requested any other video from even those two days?

2 A. No.

3 Q. Never asked for the full complete version of what
4 they had clipped these little clips out of?

5 A. No. I had no reason to believe there was
6 additional video surveillance relevant. I guess I trusted
7 what they gave me.

8 Q. Now, Investigator, you knew from your second
9 interview with GW that she was making some claims that Rick
10 touched her in the front area in the squishy room; right?

11 A. Yes.

12 Q. And the squishy room we're referring to is the
13 multi-purpose room at the rec center; right?

14 A. I don't know if it's called the multi-purpose
15 room. It's an area where I once taught a falling class for
16 the elderly. It's a squishy room, kind of goes like this. I
17 don't know what they called it then. They call it the
18 squishy room.

19 Q. And she claimed the event happened every time
20 that Rick saw her every other time in the squishy room;
21 right?

22 A. I believe she did. I don't recall her specific
23 words.

24 Q. But, despite your knowledge on November 1st of

1 2018, you never went to the rec center to try to see if there
2 was any kind of video surveillance of the squishy room;
3 right?

4 A. No, I did not.

5 Q. And you also -- And, just to clarify the
6 timeline, even after your second interview with GW, you did
7 ask the rec center people to just go look at some more video
8 surveillance on your behalf?

9 A. In November of 2018 I made the secondary request.
10 I don't know what day in November I made that request. All I
11 know is that I made the request.

12 Q. But you personally never went to look at video
13 surveillance?

14 A. No.

15 Q. And you also knew from your interview on November
16 1st of 2018 that GW claimed that Rick would touch her in the
17 equipment room closet; right?

18 A. Yes.

19 Q. But, despite that, you never went to go
20 investigate the equipment room; right?

21 A. No. And I was aware of the fact that inside the
22 equipment room there is no video surveillance.

23 Q. You never did any investigation as to how far you
24 can see in to the equipment room if the door is open at a

1 certain angle?

2 A. No.

3 Q. And, again, even after that knowledge you never
4 went to go take pictures of the equipment room; right?

5 A. No, I did not.

6 Q. Investigator, in your second interview, you also
7 knew that GW claimed that Mr. Jenkins had touched her butt on
8 the couch at his house; right?

9 A. Yes.

10 Q. And GW actually never described the couch, did
11 she?

12 A. No.

13 Q. In fact, in all of her allegations she never
14 described her clothing, like, what she was wearing during the
15 time?

16 A. That's -- The allegations, like all the
17 allegations, yes, we did talk clothing. Specific to the
18 couch I don't believe that we did.

19 Q. But generally she would just answer as wearing
20 leggings?

21 A. Yeah.

22 Q. And you've never once gone inside the Jenkins
23 home; correct?

24 A. I don't recall going there during my contact with

1 him when I arrested him.

2 Q. And you never took photos of the Jenkins home?

3 A. No, I did not.

4 Q. And you never interviewed Kim Copeland in this
5 case, did you?

6 A. I don't know who that is.

7 Q. You never interviewed Christopher Fields in this
8 case, did you?

9 A. No.

10 Q. You never interviewed Ryan Copeland, did you?

11 A. No.

12 Q. Do you know who was living in the Jenkins family
13 home during summer and fall of 2018?

14 A. My knowledge is Mr. Jenkins and his daughter
15 Alyssa.

16 Q. So you're aware that Mr. Jenkins does have a
17 daughter Alyssa; right?

18 A. Yes.

19 Q. And Alyssa was 16 at the time in 2018; right?

20 A. I don't recall how old she was.

21 Q. But you knew she was a minor?

22 A. She was under age, yes.

23 Q. And you also knew that Rick had full custody of
24 Alyssa; right?

1 MS. MAZZA: Objection. Relevance.

2 MS. RISTENPART: It goes to investigation and
3 state of mind, your Honor.

4 THE COURT: Go ahead.

5 THE WITNESS: No, I don't know what the custody
6 status between him and her mother was.

7 Q. (By Ms. Ristenpart) As you did just testify, you
8 were aware that Alyssa lived with Mr. Jenkins; right?

9 A. That was my understanding of it based on my
10 conversations with GW and other people in this case, yes.

11 Q. You never interviewed Alyssa, did you?

12 A. No, I did not.

13 Q. You did not ever check on Alyssa, did you?

14 A. I don't know what you mean by check on Alyssa.

15 Q. Well, there's a minor female living at the home
16 of someone you suspect to be sexually abusing an individual.
17 You never checked on Alyssa?

18 A. I never spoke with Alyssa, no, I did not.

19 Q. You never called Child Protective Services to
20 check on Alyssa?

21 A. I don't recall calling them. I'm pretty sure my
22 report got sent over to them.

23 Q. And you never interviewed anyone who lived in the
24 Jenkins home?

1 A. Other than Mr. Jenkins, no. I'm sorry. That was
2 incorrect. I attempted to speak with Mr. Jenkins. I did not
3 speak with him either. So, no, nobody in the Jenkins home.

4 Q. And through your investigation, Investigator
5 Chrzanowski, you're aware that GW made an allegation against
6 her mom's boyfriend, Gage Marcyes; right?

7 A. Yes.

8 MS. MAZZA: Objection. Relevance.

9 MS. RISTENPART: It goes to the entire
10 investigation, your Honor.

11 THE COURT: Overruled.

12 Q. (By Ms. Ristenpart) And that allegation was back
13 in 2016?

14 A. Yes.

15 Q. And, from your investigation, you're aware that
16 Douglas County community sheriff's office investigated that
17 allegation?

18 A. The Douglas County Sheriff's Office investigated
19 that and I believe the lead detective was Investigator Love.

20 Q. And you're aware that the conclusion of that
21 investigation was that the allegation was --

22 MS. MAZZA: Objection. Hearsay, your Honor.

23 THE COURT: Sustained.

24 Q. (By Ms. Ristenpart) Through your interviews with

1 GW, Investigator, you never questioned her about Gage, did
2 you?

3 A. No, I did not.

4 Q. You never questioned GW about how similar her
5 allegation to Gage was to her allegation against Rick, did
6 you?

7 A. No.

8 Q. You never questioned her about her prior
9 allegation against Gage about rubbing her butt while watching
10 a video?

11 MS. MAZZA: Objection. Hearsay.

12 THE COURT: Sustained.

13 MS. RISTENPART: Thank you, your Honor.

14 THE COURT: Redirect examination.

15 REDIRECT EXAMINATION

16 By Ms. Mazza:

17 Q. Investigator Chrzanowski, Ms. Ristenpart asked
18 you about video that you watched in this case. I'm going to
19 show you what's been admitted State's Exhibit 21. I'm going
20 to play for you September 17th, 8:39 to 8:41. Do you
21 recognize this?

22 A. It appears to be the overview view of the game
23 room stair area at the community center.

24 Q. Is this some footage that you reviewed in this

1 case?

2 A. Yes.

3 Q. Or was there footage of this area?

4 A. There was footage of this area, yes.

5 Q. And, for the record, I'm playing that video on
6 Exhibit 21. Is that footage you reviewed before speaking
7 with GW?

8 A. Yes.

9 Q. Is it part of a larger group of surveillance
10 footage that you received?

11 A. Yes.

12 Q. And, when you spoke with Ms. Ristenpart, I
13 believe you were trying to say that you didn't ask her about
14 that area, you asked about that video you saw; is that
15 correct?

16 A. I asked about the behaviors that I saw in the
17 video but not the specific area itself.

18 Q. And now Ms. Ristenpart had you review a
19 transcript because you say you do recall GW speaking with you
20 about laying in a bed with Mr. Jenkins. She had you review
21 just one transcript; is that correct?

22 A. Yes.

23 Q. What was that transcript from?

24 A. The second interview on November 1st, 2018.

1 Q. And you believe it could be from that interview
2 or what interview?

3 A. The third on November 6th.

4 Q. But you do recall talking to GW at some point
5 about that; is that correct?

6 A. I believe I did.

7 Q. Now, Ms. Ristenpart asked you a lot of questions
8 about going to the community center. Do you work for the
9 community center?

10 A. No, I don't.

11 Q. You work for what?

12 A. The Douglas County Sheriff's Office.

13 Q. And is it your understanding actually Deputy
14 Williams did go to the community center?

15 A. I believe he responded to the community center at
16 the time of the original call, yes.

17 Q. Do you know how to work the community center
18 surveillance system?

19 A. No, I don't.

20 Q. Now, I believe Ms. Ristenpart was asking you
21 about did you ask her about the clothing she was wearing
22 during these incidents. She actually answered you; is that
23 correct?

24 A. Yes.

1 Q. What did she say?

2 A. She said she was wearing leggings.

3 Q. Now, also questions about Alyssa and CPS. If a
4 case involves a child, who investigates it after the reports
5 are done? Do you do CPS's job and go out to a house and
6 check on a child?

7 A. No, I don't.

8 Q. Who does that?

9 A. A case worker, hopefully from the Nevada Division
10 of Family Services, CPS. It's actually DCFS, which is the
11 Division of Child and Family Services is the appropriate
12 name.

13 Q. Now, Investigator Chrzanowski, you indicated
14 you've done did you say hundreds of children interview?

15 A. Yes.

16 Q. In those hundreds of children interviews have
17 they told you every detail of what happened to them?

18 MS. RISTENPART: Objection. Relevance.

19 THE COURT: Sustained.

20 Q. (By Ms. Mazza) With regard to Marie Foster
21 contacting you and Tamera Woodbridge contacting you to speak
22 with you, did they contact you together?

23 A. No.

24 Q. Did they separately contact you?

1 A. Yes.

2 Q. By what means?

3 A. I believe telephone.

4 Q. And did they show up to the second interview

5 together?

6 A. No, they did not.

7 Q. Did Marie Foster in fact tell you she was

8 reporting because she's a mandatory reporter?

9 A. Yes.

10 Q. When you went to -- You did go to Mr. Jenkins'

11 home; correct?

12 A. Yes. Once.

13 Q. Did you not go inside of it?

14 A. I do not believe I went inside.

15 Q. And did you even have permission to go inside?

16 A. No, I did not.

17 Q. Have you actually been to the community center

18 though?

19 A. Yes, I have.

20 Q. On what occasions?

21 A. Numerous occasions. I used to work out there in

22 the upstairs workout area. I used to play in a rec

23 volleyball league at the community center. I've taught

24 Parkinson's boxing classes at the community center. I've

1 taught falling classes to the elderly to teach them how to
2 get back up in the squishy room if they fall down. I've been
3 there on numerous occasions.

4 Q. So, when you received the report in this case and
5 the video surveillance, did you recognize these areas that
6 were being described?

7 A. Yes, I did.

8 MS. MAZZA: Your Honor, I have no further
9 questions. I apologize. I have one more.

10 THE COURT: Go ahead.

11 Q. (By Ms. Mazza) Investigator Chrzanowski, defense
12 showed you Exhibit UUU. I'm going to put that back up on the
13 screen. Now, that depicts GW; correct?

14 A. Yes.

15 Q. Does that depict her demeanor through the entire
16 interview?

17 A. No.

18 Q. Why?

19 A. It's just one snapshot in time. I don't know
20 what we're talking about here. I don't know where we are in
21 the conversation. The conversation was fluid and her
22 emotions and demeanor and body language and structure changed
23 throughout the entire interview. So it would be an accurate
24 representation of this snapshot in time.

1 MS. MAZZA: Thank you, your Honor. I have no
2 further questions.

3 THE COURT: All right. Recross.

4 MS. RISTENPART: Thank you, your Honor.

5 RECROSS-EXAMINATION

6 By Ms. Ristenpart:

7 Q. Investigator, we just looked at the video clip
8 that -- of the stairwell; right?

9 A. Yes.

10 Q. During your interview, you actually never showed
11 that video to GW, did you?

12 A. No, I did not.

13 Q. And you never asked her about details about that?

14 A. About the video? No.

15 Q. You never asked her what had happened before the
16 hug; right?

17 A. No.

18 Q. You never asked her was it anything he said
19 during the hug; right?

20 A. I don't recall asking about what was said during
21 the hug. Often I will ask about was anything said during the
22 contact. I don't recall if I asked her that or not.

23 Q. And even after seeing that clip and you never
24 went back to see if there were other angles showing that

1 area; correct?

2 A. From my understanding of my conversation with the
3 community center, that was the best angle of that area.

4 Q. And you never went back to try to get a fuller
5 clip to see if something had happened before that hug?

6 A. No.

7 Q. Now, in regards to you personally know and are
8 familiar with the rec center; right?

9 A. Yes.

10 Q. And from your personal experience -- I'm showing
11 you what's already been admitted as B. You know that as soon
12 as you walk in there's a whole bank of monitors with
13 different screens showing surveillance; right?

14 A. I believe those are currently there now. I don't
15 recall if those were there in 2018 or not. And I don't work
16 out at the community center anymore. I have not been in in
17 quite some time, other than for an honorary detail on the
18 opposite side of the building.

19 Q. Did you watch Deputy Williams or Deputy Duffy's
20 body cameras?

21 MS. MAZZA: Objection. Relevance.

22 THE COURT: What is the relevance?

23 MS. RISTENPART: Your Honor, it's relevant
24 because they walk right by these monitors.

1 THE COURT: It appears that you're going to ask
2 yes or no did you watch it?

3 MS. RISTENPART: Or see it.

4 THE COURT: You can ask that and we'll see what
5 follow-up questions come from that.

6 Q. (By Ms. Ristenpart) Did you watch Deputy Duffy's
7 or Deputy Williams' body camera?

8 A. No, ma'am, I did not.

9 Q. Now, you stated that you never had permission to
10 go inside the Jenkins' home; right?

11 A. That's correct.

12 Q. But as an investigator you can go seek a search
13 warrant to go in to someone's home; right?

14 A. If there's probable cause for that, I believe a
15 judge would agree with that, yes.

16 Q. And you did not go get a search warrant in this
17 case?

18 A. No, I did not.

19 Q. And we talked about clothing. And specifically
20 you asked GW what you were wearing?

21 A. I specifically recall the conversation we were
22 talking about the squishy room. And I remember asking her
23 what she was wearing in that situation and her answer was
24 leggings. I believe we talked about other instances and

1 clothing. I don't know. I don't recall anything specific.
2 I do recall that one specifically.

3 Q. GW's actual answer was, I think leggings; right?

4 A. I don't know. You'll have to show me my
5 transcript. I remember leggings.

6 Q. Thank you. Showing five Y's, page five, line 11.

7 A. Would you like me to read it out loud?

8 Q. No. Does that refresh your memory?

9 A. Yes.

10 Q. And GW's exact answer was, I think leggings?

11 A. Correct.

12 Q. Now, also, you stated that you have some memory
13 of GW making a claim about Rick being on the bed or laying in
14 the bed with her; right?

15 A. I believe we had a brief conversation about that,
16 yes.

17 Q. And it wasn't in your second interview?

18 A. No.

19 Q. And you stated, well, it could have been in your
20 third interview; right?

21 A. It's possible.

22 Q. On November 6th of 2018?

23 A. Yes.

24 Q. I'm approaching. Would looking at your

1 transcript of that interview refresh your memory?

2 A. Sure.

3 Q. 6-A, your Honor.

4 Did that refresh your memory?

5 A. Yes, ma'am.

6 Q. At no time during your third interview with GW
7 did she make a claim that Rick would be on the bed with her
8 or lay on the bed with her?

9 A. No, ma'am, she did not.

10 MS. RISTENPART: No further questions.

11 THE COURT: All right. Thank you.

12 Ms. Ristenpart, may this witness be excused?

13 MS. RISTENPART: Your Honor, we would ask to keep
14 her under subpoena. Thank you.

15 THE COURT: Investigator Chrzanowski, you remain
16 under subpoena in this case subject to recall. Please do not
17 discuss your testimony with anyone except for the attorneys
18 in this case or the investigators until such time as the jury
19 has reached its verdict. You are excused for now.

20 THE WITNESS: Thank you, your Honor. Thank you.

21 THE COURT: Madam Clerk, have the exhibits been
22 returned?

23 THE CLERK: I'm missing two, B and 5.

24 THE COURT: Now have they been returned.

1 Ms. Mazza, you may call your next witness.

2 MS. MAZZA: Thank you, your Honor. May I just
3 have a brief moment?

4 THE COURT: You may.

5 MS. MAZZA: Your Honor, may I approach the clerk?

6 THE COURT: You may.

7 MS. MAZZA: Thank you.

8 Your Honor, at this time, the State will rest
9 subject to rebuttal.

10 THE COURT: Okay. Ladies and gentlemen, we are
11 going to take our lunch recess. We'll reconvene at 1:30.
12 During the recess, it is your duty not to converse amongst
13 yourselves or with anyone else on any subject connected with
14 the trial either by phone, e-mail, text, internet, or any
15 other means. Do not read, watch, or listen to any report of
16 or commentary on the trial or any person connected with the
17 trial by any medium of information, including, without
18 limitation, newspapers, television, and radio. Do not form
19 or express any opinion on any subject connected with the
20 trial until the cause is finally submitted to you. Do not do
21 any research such as consulting dictionaries, using the
22 internet, or using other reference materials or make any
23 investigation, test the theory of the case, recreate any
24 aspect of the case, or in any other way investigate or learn

1 about the case on your own.

2 Again, we will be back in session at 1:30. The
3 court is in recess.

4 (Lunch recess was taken)

5 THE COURT: Court is back in session on Case
6 Number 19-CR-188. Show the appearance of counsel for both
7 parties as well as Mr. Jenkins.

8 Ms. Mazza, are you prepared to have the jury come
9 in?

10 MS. MAZZA: Yes, your Honor.

11 THE COURT: Ms. Ristenpart?

12 MS. RISTENPART: Yes, your Honor.

13 THE COURT: All right. Thank you. Let's bring
14 in the jurors.

15 Ms. Mazza, do you stipulate to the presence of
16 the jury?

17 MS. MAZZA: Yes, your Honor.

18 THE COURT: Ms. Ristenpart?

19 MS. RISTENPART: I do, your Honor.

20 THE COURT: All right. Go ahead and have a seat,
21 folks. Thank you.

22 Ms. Ristenpart, does the defense desire to call
23 any witnesses or put on any evidence?

24 MS. RISTENPART: We do, your Honor.

1 THE COURT: All right. You may call your first
2 witness.

3 MS. RISTENPART: The defense calls Mr. Richard
4 Jenkins.

5 THE COURT: All right. Mr. Jenkins, please
6 stand. Raise your right hand and face the clerk to be sworn.

7 (The witness was sworn in)

8 THE COURT: Mr. Jenkins, I'm going to have you
9 take a seat there just for a moment.

10 Ladies and Gentlemen, a legal issue has come up
11 that requires me to have a conversation outside your
12 presence. Sorry for that inconvenience. I told you that
13 that would happen during the course of trial. I'm going to
14 have you remain back in the jury deliberation room. This
15 should be a brief recess.

16 It is your duty not to converse amongst
17 yourselves or with anyone else on any subject connected
18 with the trial, either by phone, e-mail, text, internet, or
19 any other means. Do not read, watch, or listen to any report
20 of or commentary on the trial or any person connected with
21 the trial by any medium of information, including, without
22 limitation, newspapers, television, and radio. Do not form
23 or express any opinion on any subject connected with the
24 trial until the cause is finally submitted to you. Do not do

1 any research, such as consulting dictionaries, using the
2 internet, or using other reference materials. Do not make
3 any investigation, test the theory of the case, recreate any
4 aspect of the case, or in any other way investigate or learn
5 about the case on your own. Thank you, folks.

6 We are convened outside the presence of the jury.
7 Ms. Ristenpart, it is my practice to canvass defendants
8 regarding their constitutional rights. I was not made aware
9 that Mr. Jenkins had made the decision whether to testify or
10 not. Obviously he's made that decision to testify and I
11 would like at this time to canvass him. Is he prepared for
12 that?

13 MS. RISTENPART: He is, your Honor.

14 THE COURT: All right. Mr. Jenkins, what I'm
15 saying is this, you have a constitutional right in this case
16 to remain silent. Anytime a constitutional right is given
17 up, it is the obligation of the Court to canvass the person,
18 meaning ask him questions to make sure they understand their
19 right and that they're making a free and voluntary choice to
20 waive that right. So that's the purpose of my questioning.

21 Mr. Jenkins, it matters not to the Court whether
22 you invoke your right to remain silent or whether you instead
23 desire to take the witness stand. So I don't want you to
24 take it from my questioning that I'm urging you or trying to

1 sway you to do one thing or the other. Again, my role is
2 simply to make sure that you understand your rights.

3 In a criminal case, you have a constitutional
4 right to remain silent. And, as that applies here at the
5 time of trial, that means that nobody, including me, can
6 force you to come up here and take the witness stand. You
7 get to decide that. That is your right. So you get to
8 decide whether to remain silent, in which case you would not
9 testify, or whether to take the witness stand. Do you
10 understand that right?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: And, Mr. Jenkins, if you made a
13 decision to not testify, in other words to remain silent, if
14 you invoked that right, the Court and the jury could not in
15 any way hold that against you. Do you understand that?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: Also, in that circumstance, if you
18 and your counsel desired, the Court would instruct the jury
19 that they couldn't hold that against you in any way that you
20 didn't testify. Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: The converse to the right to remain
23 silent is the right to testify in your own defense. And
24 you've made it clear through Ms. Ristenpart that you wish to

1 testify in this case; is that correct?

2 THE DEFENDANT: Absolutely.

3 THE COURT: By doing so, Mr. Jenkins, you would
4 be waiving or giving up your right to remain silent. Do you
5 understand?

6 THE DEFENDANT: Yes.

7 THE COURT: And, if you do take the witness
8 stand, of course, Ms. Ristenpart is going to ask you
9 questions. But then you will also be subject to
10 cross-examination by the State. Do you understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Have you had a discussion, without
13 telling me what the discussion details were, have you had a
14 discussion with Ms. Ristenpart about your right to remain
15 silent and the converse right to testify in your own defense?

16 THE DEFENDANT: Yes, we have.

17 THE COURT: Do you believe you fully understand
18 that right?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: Do you have any questions for myself
21 or Ms. Ristenpart regarding the right?

22 THE DEFENDANT: No, I don't believe so.

23 THE COURT: Okay. Ms. Ristenpart, have you in
24 fact had a conversation with the defendant about his rights?

1 MS. RISTENPART: I have, your Honor.

2 THE COURT: And are you confident that he
3 understand those rights?

4 MS. RISTENPART: Absolutely.

5 THE COURT: And has he made a free and
6 voluntarily decision in this case to testify?

7 MS. RISTENPART: Yes.

8 THE COURT: Okay. Mr. Jenkins, again, any other
9 questions for myself or Ms. Ristenpart?

10 THE DEFENDANT: No, thank you, your Honor.

11 THE COURT: Okay. The Court makes the finding
12 that Mr. Ristenpart -- Not Mr. Ristenpart -- Mr. Jenkins
13 understands his right to remain silent. He understands that
14 right and he has made a decision here with the advice of
15 counsel to waive the right to remain silent and take the
16 witness stand. So we are now ready to proceed.

17 Ms. Ristenpart, anything else on that, that you
18 would like to state?

19 MS. RISTENPART: No, your Honor.

20 THE COURT: Okay. Ms. Mazza?

21 MS. MAZZA: Your Honor, nothing on that. But, I
22 would like to state, however, I do have -- I did receive
23 information regarding a juror over the break, if this would
24 be the appropriate time if we're done canvassing Mr. Jenkins.

1 THE COURT: Yes, I'm done with the canvass and
2 now would be an appropriate time.

3 MS. MAZZA: Thank you, your Honor. During the
4 break -- And I apologize. I was just made aware of this,
5 investigator Steve Schultz from the Douglas County Sheriff's
6 Office called one of the attorneys in our office and
7 indicated that Juror Bo Northcutt had called him and informed
8 him that she was a juror in this case. That was the extent
9 of their conversation. But she called Investigator Schultz
10 because she has been working with him on a case she's
11 involved in. However, that was the extent of their
12 conversation.

13 THE COURT: Is the case that she's involved with
14 Investigator Schultz, does it have any relationship to this
15 case?

16 MS. MAZZA: No, your Honor. I believe it is a
17 theft from a casino is what Investigator Schultz informed the
18 attorney in our office.

19 THE COURT: And the information you've provided
20 is the extent of the information you've received?

21 MS. MAZZA: Yes. It's my understanding she told
22 Investigator Schultz she is a juror in this case and that was
23 pretty much about it.

24 THE COURT: Okay. Ms. Mazza, are you requesting

1 the Court take any action in regard to that information?

2 MS. MAZZA: No, your Honor. I wanted to place
3 the information on the record though.

4 THE COURT: Thank you.

5 Ms. Ristenpart, do you have any questions for
6 Ms. Mazza?

7 MS. RISTENPART: I just inquire if Ms. Northcutt
8 was returning a phone call to Investigator Schultz.

9 MS. MAZZA: Your Honor, I apologize. I don't
10 know that information. I wasn't the person that spoke to
11 Investigator Schultz. It could be that she was returning a
12 phone call. It appears that the case that she's involved in
13 is pretty recent from February -- April 17th. So it very
14 likely could be part of the investigation.

15 THE COURT: Okay. Thank you.

16 Ms. Ristenpart, other questions.

17 MS. RISTENPART: And, besides mentioning she's a
18 juror, did Investigator Schultz state anything like he had
19 knowledge of the case or, oh, I know what case you're talking
20 about?

21 MS. MAZZA: It's my understanding that he didn't
22 talk with her about it at all. She simply informed him she's
23 a juror.

24 THE COURT: Okay. Ms. Ristenpart, any other

1 questions?

2 MS. RISTENPART: No other questions.

3 THE COURT: And do you desire the Court to take
4 any action based on that information?

5 MS. RISTENPART: Your Honor, Investigator Schultz
6 is not an investigator on this case. He has not had any part
7 of it. Ms. Northcutt is juror number 13, so she is actually
8 still technically our alternate at this time. And I don't
9 think, from Ms. Mazza's representation, that it needs any
10 further inquiry.

11 THE COURT: Okay. Thank you, Counsel, for making
12 the record. I think we now are ready for the jury.

13 Ms. Mazza, you ready?

14 MS. MAZZA: Yes, your Honor.

15 THE COURT: Ms. Ristenpart?

16 MS. RISTENPART: We're ready.

17 THE COURT: Okay. Deputy Schramm, let's bring in
18 the jury.

19 Ms. Mazza, do you stipulate to the presence of
20 the jury?

21 MS. MAZZA: Yes, your Honor.

22 THE COURT: Ms. Ristenpart?

23 MS. RISTENPART: I do.

24 THE COURT: All right. Thank you, folks. Go

1 ahead and have a seat. And, Mr. Jenkins, come on up to the
2 witness stand.

3

4 RICHARD JENKINS

5 Called as a witness on behalf of the
6 Defendant, having been first duly sworn,
7 Was examined and testified as follows:

8

9 DIRECT EXAMINATION

10 By Ms. Ristenpart:

11 Q. Mr. Jenkins, would you please state and spell
12 your name for the record?

13 A. Yeah. My name is Richard Alexander Jenkins,
14 J-e-n-k-i-n-s.

15 Q. Taking you back to the summer, fall of 2018, were
16 you working?

17 A. Yes, I was.

18 Q. And how were you employed during that time?

19 A. A lot of coaching, table tennis coaching, pickle
20 ball, high school, volleyball, high school boys tennis
21 varsity, assistant coach to girls tennis varsity, carpet
22 cleaning.

23 Q. And how long have you been a coach for?

24 A. Roughly probably seven, eight years.

1 Q. How did you get in to coaching?

2 A. Well, my daughter finally got at an age that she
3 was showing some interest in volleyball that I was super
4 excited about because I come from a lot of volleyball. And
5 Dan Hannah, a volleyball coach in this area, was putting on a
6 clinic. I contacted him and said, hey, we don't really have
7 much money, but if I could help out and volunteer to help
8 coach, can my daughter help take some classes.

9 Q. And you said you kind of grew up with volleyball.
10 Did you play volleyball growing up?

11 A. Oh, my God, yeah. Started in high school. We
12 would go to Santa Cruz Beach Boardwalk and play a lot of
13 doubles. Played all my life. We played in tournaments,
14 including all the way from here to Hawaii, to leagues, to
15 just every weekend we would play grass volleyball something.

16 Q. And you just mentioned your daughter. You have a
17 daughter?

18 A. Yes, I do.

19 Q. And what is her name?

20 A. Alyssa.

21 Q. And how old is your daughter now?

22 A. She is now 18.

23 Q. So back in 2018 she was 15, 16?

24 A. Yeah, yeah.

1 Q. And where does Alyssa live?
2 A. She lives with me.
3 Q. Has Alyssa always lived with you?
4 A. Yes.
5 Q. Is Alyssa's mom in the picture?
6 A. Unfortunately not anymore.
7 Q. So while growing up Alyssa lived with you?
8 A. Well, lived with us, her mom for a while. And
9 then after our divorce just lived with me.
10 Q. Do you have full custody of Alyssa?
11 A. I do.
12 Q. Before she turned 18?
13 A. Yeah. Back when she was I think 12 or --
14 MS. MAZZA: Your Honor, I'm going to object.
15 This is not relevant.
16 THE COURT: Overruled.
17 THE WITNESS: Back when she was -- I think our
18 divorce was around 13. We went in front of a judge and I got
19 full custody of my daughter.
20 Q. How is your relationship with Alyssa?
21 A. She's my rock. She's everything. You know, and
22 especially after the divorce, I wanted to focus on just me
23 and her, you know, no dating or nothing. And we are very,
24 very close.

1 Q. I'm showing you what has been marked as Exhibits
2 EE, FF, LL, KK, RR, PP, QQ, and HH. Take a moment and look
3 at these.

4 A. That's my kid.

5 Q. Do these pictures fairly and accurately depict
6 several different photos of you and Alyssa?

7 A. Yes, they do.

8 Q. At different stages kind of in Alyssa's life?

9 A. Yes.

10 MS. RISTENPART: Move for admission, your Honor.

11 THE COURT: Any objection?

12 MS. MAZZA: Your Honor, the State is going to
13 object to the admission of all of these photos as they're not
14 relevant to this case whatsoever. I don't believe they're
15 relevant whatsoever as evidence in this case.

16 THE COURT: Ms. Ristenpart, your response.

17 MS. RISTENPART: They are relevant. The State
18 has made this argument through their witnesses that somehow
19 Mr. Jenkins is not close with Alyssa, his daughter, or as
20 close as he was with G. And these are direct evidence of the
21 difference, as well as the testimony.

22 THE COURT: All right. The objection is
23 overruled. The exhibits are admitted. And if you could
24 again just restate which exhibits they are.

1 MS. RISTENPART: Correct, your Honor. HH.

2 Permission to publish.

3 THE COURT: Granted.

4 MS. MAZZA: Your Honor, just for the record, I
5 did want to place on the record I believe these are, as I
6 stated, irrelevant but also to use the emotions of the jury
7 by Mr. Jenkins how he feels about his daughter, which is not
8 relevant to this case.

9 THE COURT: You'll get a chance to cross-examine.

10 MS. MAZZA: Thank you.

11 MS. RISTENPART: EE. Your Honor, EE.

12 THE COURT: Thank you.

13 MS. RISTENPART: FF. LL. KK. RR. QQ. And PP.

14 THE COURT: Thank you.

15 Q. (By Ms. Ristenpart) In fact, that last picture,
16 PP, that's a picture of you guys rafting?

17 A. Yeah. A while back, but yes, it is.

18 Q. You guys frequently took rafting trips together?

19 A. Absolutely.

20 Q. Now, talking about just your relationship with
21 Alyssa, do you hug Alyssa?

22 A. Every night for the last 18 years.

23 Q. Do you hug Alyssa at other times just besides at
24 night?

1 A. Oh, yeah, sure.

2 Q. Do you hold hands with Alyssa?

3 A. Yes. Used to. I mean, she's kind of outgrown
4 that now, obviously.

5 Q. Would you put your arms around Alyssa's shoulder?

6 A. Yes, I do.

7 Q. Would you poke Alyssa in the side of her stomach
8 playfully?

9 A. Yes.

10 Q. And sometimes you kick Alyssa playfully in the
11 butt?

12 A. Oh, yes.

13 Q. Now, going back directly to the summer, fall of
14 2018, who lived in the house with you then?

15 A. Summer of 2018? Pretty long-time girlfriend, Kim
16 Copeland, her son that was that year probably 17. His name
17 was Ryan -- R -- Well, he's an adult now. Ryan. My roommate
18 Chris Field, Alyssa, and myself. So there was five of us.

19 Q. Now, that winter going in to the spring and
20 summer 2018 -- Actually, let me back up. Do you remember
21 when you first met GW?

22 A. Actually that I remember would have been pretty
23 much the spring of 2018 when I started to know her. But I
24 found out from her actually I guess I was a volleyball coach

1 two years or something or three years prior to that of her
2 that I don't remember.

3 Q. So the first time you actually really interacted
4 with her and got to know her was kind of the spring of 2018?

5 A. Yeah, spring of 2018.

6 Q. And how was it that you were interacting more
7 with GW during that time?

8 A. What was that?

9 Q. During that time was GW getting closer with
10 your -- like, how was Alyssa and GW's relationship during
11 that time?

12 A. That's about where it started. And they were
13 just starting to hang out a little bit more and more at that
14 point. I don't think they were best friends then.

15 Q. Do you know how Alyssa and GW met?

16 A. I think just mainly through just different
17 volleyball programs.

18 Q. Now, as the spring went on in to summer, did GW
19 and Alyssa start hanging out more and more?

20 A. Absolutely, yes.

21 Q. How did you feel about Alyssa hanging out with GW
22 more and more?

23 A. I was very happy. Alyssa is a very shy kid, so
24 she had trouble really having good friends or friends that

1 were active versus just sitting -- You know, this generation
2 now is just constantly on their phones instead of doing
3 sports and activities. So I was very pleased to have her
4 have a good friend.

5 Q. And, as Alyssa and GW became closer and better
6 friends, did GW start hanging out with your family?

7 A. Yes. Around the summer time.

8 Q. And what kind of activities would you do as a
9 family with GW also?

10 A. Many things. Like, well, we went down the river
11 a couple of times. Go shopping up in Reno, you know, like at
12 some of the malls. We did do some -- a couple of times they
13 would go and they liked to watch us -- watch me race little
14 remote control cars. So they've done that. You know,
15 watched some movies at the house with the family.

16 Q. Would you ever play volleyball with GW and
17 Alyssa?

18 A. Yeah. That was my weakness and that's what I
19 think the girls both liked about me the most is because I
20 wasn't that lazy father. And every time they were outside
21 they wanted me to come out and play with them and pepper with
22 them, so, yes, definitely.

23 Q. For us that do not know volleyball, what is
24 pepper?

1 A. Pepper just means to pass the ball back and
2 forth.

3 Q. Now, when GW first started hanging out more with
4 Alyssa and your family, were you guys physically affectionate
5 with each other, you and GW?

6 A. No, no, not in the beginning.

7 Q. Did that change at some point?

8 A. It did. It was just one day she just started
9 getting a little closer and it just kind of grew and also, I
10 think, the passing of her stepfather.

11 Q. And you said it changed. Did her interactions or
12 her physical interactions with the other members in your
13 household, did that change over the summer also?

14 A. It did. It changed as a dynamic of everybody in
15 the family. Everybody except I would say Ryan.

16 Q. And how did it change?

17 A. She just got really clingy and started getting
18 really close to us. I think she found her second home, just
19 more fun.

20 MS. MAZZA: Objection. Speculation.

21 THE COURT: Sustained.

22 Q. (By Ms. Ristenpart) Now, you say that she kind
23 of got close to you once -- or it kind of started that way
24 and then she was also getting more physically interactive

1 with the rest of your family; right?

2 A. Yes.

3 Q. Except for Ryan?

4 A. Except for Ryan, yeah.

5 Q. Kim's son?

6 A. Yeah, yeah.

7 Q. And over that summer did GW come over to your
8 home a lot?

9 A. Yes.

10 Q. Did she have dinner with your family a lot?

11 A. She hardly ate, but yes.

12 MS. MAZZA: Objection. Relevance.

13 THE COURT: Overruled.

14 Q. (By Ms. Ristenpart) Did -- Well, we heard. Did
15 GW's mom come over to your house also?

16 A. Yes. They were invited several times over to the
17 house and down the river.

18 Q. Now, going towards the physical interactions
19 between you and GW, did you ever notice GW's interactions
20 with you in comparison to how your daughter and you interact?

21 A. Yes.

22 Q. How so?

23 A. So, it just seemed, I think -- Well, I can't say
24 it that way. Alyssa would give me a hug and then G would ask

1 for a hug as well.

2 MS. MAZZA: Your Honor, I'm going to ask that we
3 strike the name and insert the initials.

4 THE COURT: That request is granted.

5 Q. (By Ms. Ristenpart) Just sticking with G, So G
6 would ask for a hug also?

7 A. Yes.

8 Q. What about if you were sitting with Alyssa?

9 A. So they always had this weird thing that Alyssa
10 would be always on my left. She would always be on my right.
11 And, yeah, if Alyssa was tired and would rest her head on me,
12 she would rest her head. She did a lot of mimicking of my
13 daughter.

14 Q. So, by early fall of 2018, did your family
15 consider GW close to your family?

16 A. We mentally adopted her, absolutely.

17 Q. Now, that summer and fall, were you actually GW's
18 coach?

19 A. No, I was not a coach of GW.

20 Q. So besides the years prior where you don't
21 remember her, she said she played on your team but you don't
22 recall?

23 A. That was years ago, yeah.

24 Q. Explain to me -- She wasn't playing. What were

1 you doing that summer at the rec center?

2 A. So that summer at the rec center was clinics that
3 me and Coach Dan -- Coach Hannah put on. We had our own club
4 in this valley. We just launched it, like, a year before
5 then. And so he did a lot of clinics to offer prepping for
6 kids to try out for school. So we ran those classes
7 together. I always had the upper older girls. He had the
8 younger girls. And she and my daughter were just assistants
9 to help out.

10 Q. So your daughter, Alyssa, came to the clinics as
11 your assistant?

12 A. Correct.

13 Q. At some point did GW want to be an assistant like
14 Alyssa?

15 A. Yes. She reached out to Alyssa and asked if she
16 could come help.

17 Q. And did you check that with GW's mother?

18 A. Yes. She was very happy to let her come help.

19 Q. So, as assistants, what would Alyssa and GW do at
20 the practices?

21 A. So they would help with some of the plans of what
22 we were going to do for that evening. So, I'm really anal
23 about writing down everything, time, you know, 7:00 o'clock
24 start, 7:05 warm-up, 7:15. So I would have a plan. So we

1 would, you know, practice passing a ball for ten minutes. So
2 they would help to help toss the balls, right. I'm working
3 with, say, 20 girls in my group. I can't do everything by
4 myself. So they would help with tossing, shagging balls,
5 that, help set up equipment if needed, you know, grab things,
6 just anything to help out with the clinics.

7 Q. Now, going to the rec center, Mr. Jenkins, have
8 you been there a lot at the rec center?

9 A. Yeah, yes.

10 Q. And have you been a coach there for a while?

11 A. Yes, I have.

12 Q. Are you familiar with the equipment room?

13 A. Yes, I am.

14 Q. Was the equipment room always completely
15 organized?

16 A. No.

17 Q. Was it sometimes organized?

18 A. Absolutely.

19 Q. Was it sometimes disorganized?

20 A. Yes, it was.

21 Q. Did it sometimes take a while to find something?

22 A. Yes.

23 Q. Now, when you're setting up for volleyball
24 practice, Rick, what would that entail?

1 A. Mostly there they set up the nets for us. But a
2 lot of the times they didn't ever put up the poles. Those
3 are, like, markers. They didn't bring out the volleyballs.
4 Also there's a lot of different types of volleyballs that I
5 don't think people realize. There's different weights,
6 brands, feel, texture. And they had about four to five
7 different makes and models there that a lot of times were
8 just always a mess. And that had to be sorted out, as well
9 as coming from the middle school and high school, we really
10 like to keep track of the balls. So we would count them.
11 There would be X amount in a basket. So I always had 20 in a
12 basket. So, at the end of practice, we're going to put 20
13 balls back in. One didn't get kicked upstairs. If it got
14 kicked upstairs, they're all looking for where that ball went
15 until we find out.

16 Q. So, in essence, it's not as simple as you just
17 walk in and you grab a -- I don't even know what to call
18 them, a volley --

19 A. Basket.

20 Q. Thank you. Of volleyballs?

21 A. It could be. But, no, not normally.

22 Q. You would have to sort through for different
23 sizes of the volleyballs?

24 A. Different weights, sizes, and model. Some of the

1 balls are very synthetic leather and it really hurts their
2 arms, especially if I'm sitting there or my assistants are
3 sitting spiking a ball and they're passing the ball, their
4 arms would turn red. So we really avoided those balls and
5 got some of the other leather balls that were soft tear to
6 use. So they enjoyed playing with those much better.

7 Q. And during practice would there be times that
8 sometimes you would have to go in to the equipment room to
9 get additional equipment?

10 A. Yes.

11 Q. And would you have to put away the equipment
12 after practice?

13 A. Yes. Not the nets in general. The rec
14 department did that. But the balls and anything else that we
15 had tooke(n)sic out, the dots. Dots are little flat, round
16 colored things you throw on the ground and you can tell them
17 to stand on these positions.

18 Q. Did you ever go in to the equipment room with
19 Alyssa?

20 A. Oh, yeah, absolutely.

21 Q. Did you ever go in there by yourself?

22 A. Yes, I have.

23 Q. Did you go in there with other players sometimes?

24 A. Yes.

1 Q. Did you go in there with other coaches?

2 A. Dan Hannah probably the only one, but, yes.

3 Q. Now, we've heard a lot of talk, as you've heard,
4 Rick, about this squishy room or the multi-purpose room at
5 the rec center?

6 A. Yes.

7 Q. Did you ever sit there with the kids to wait for
8 practice to start?

9 A. Sometimes.

10 Q. Why sometimes?

11 A. Because, like, a year before that, I got hit in
12 the head with a dodgeball. It's not a good spot to sit
13 really. There's tons of kids always playing around. It's
14 very popular for Dodge ball. So they're just randomly
15 throwing all of these balls every where. So you're kind of
16 in a firing zone when you're sitting there. So a lot of
17 times I would like to sit on the -- there's a little bench.
18 It could be very well seeable from these pictures. Sometimes
19 two people that would sit right outside the corner of that
20 little cove or squishy room. But, yes, I have sat there in
21 the past. That was, like, GW's and Alyssa's little hang-out
22 spot.

23 Q. And would GW and Alyssa sit there without you?

24 A. Sure, yeah.

1 Q. And this area would other parents be around that
2 area?

3 A. They're always walking by for sure, grabbing
4 their kids from the squishy room, whatever.

5 Q. And this area is wide open to all the courts;
6 right?

7 A. Yeah. Just wide open room.

8 Q. So let's talk about -- We heard from Principal
9 Grider(sic) testimony; right?

10 A. Yeah.

11 Q. And do you remember that whole situation that
12 Principal Grider(sic) was talking to us about?

13 A. I do.

14 Q. What happened? What's your memory?

15 A. So what I remember is I did get that phone call
16 that made my stomach drop because I didn't know what was
17 going on, said he was putting me on suspension, looking in to
18 some investigation of something. I think he had a quick
19 conversation with me and said, hey, I noticed there was a
20 girl that --

21 MS. MAZZA: Objection. Hearsay.

22 THE COURT: Sustained.

23 Q. (By Ms. Ristenpart) Without going in to what
24 exactly Principal Grider(sic) told you, what did you do next

1 after that phone call?

2 A. Talked to him and then met up with him the very
3 next morning in person.

4 Q. And, without going in to the conversation, but
5 did Principal Grider(sic) allow you to explain your family's
6 relationship with GW?

7 A. Yes, he did.

8 Q. Now, around that time of Principal Grider(sic) --
9 Well, let me back up. Was your suspension lifted?

10 A. It was lifted the very next morning, correct.

11 Q. And did you continue to coach at the high school?

12 A. Yeah, that evening.

13 Q. So around that time did you have a conversation
14 with GW's mother Tamera?

15 A. Yes, a brief one.

16 Q. And you heard Tamera testify that she claims she
17 told you no more contact with GW?

18 A. I heard that, yes.

19 Q. Was that what you remember of the conversation?

20 A. No.

21 Q. What was your memory of the context of the
22 conversation?

23 A. Mainly saying that she didn't want this to happen
24 again, to be very cautious and especially on the school

1 grounds and really told G, hey, you need to not be that close
2 to him, he's working --

3 MS. MAZZA: Objection. Hearsay.

4 THE COURT: Sustained.

5 Q. (By Ms. Ristenpart) After your conversation with
6 Tamera did you change the way you interacted with GW at all?

7 A. I was definitely a little more cautious. But it
8 also drove her a little more clingy, because I started to try
9 to, you know, slowly push her away a little, but it kind of
10 made things even more weird.

11 Q. And what do you mean by more weird?

12 A. She didn't really respond to it very well. I
13 mean, at the school she did, absolutely. You know, I
14 definitely was very strict at the school. That's my job.
15 You know, when the principal says, hey, don't have any kids,
16 you know, super close to you like that, you know, it was
17 taken care of. And the other places, just being a little
18 more cautious, she could tell I was pushing away a little, so
19 she just seemed to be a little more clingy.

20 Q. Now, going towards your house, you stated you
21 watch movies with Alyssa and GW?

22 A. Yeah, once in a while. With Chris as well.

23 Q. Would your girlfriend, Kim, also watch movies
24 with you?

1 A. Yeah. She's always home.

2 Q. While you were watching a movie with GW and
3 Alyssa did you ever touch GW's butt?

4 A. Absolutely not.

5 Q. Did you ever ask GW if you were making her feel
6 uncomfortable?

7 A. Never.

8 Q. Now, you also heard GW claim that you would get
9 in to bed with her and Alyssa and lay on the bed with them?

10 A. Yeah, I think I heard that the last statement.
11 That's -- No.

12 Q. Did you ever do that?

13 A. Absolutely not.

14 Q. Did you and GW ever go to Burger King?

15 A. Yes. One time.

16 Q. Was it just the two of you?

17 A. It was, yeah.

18 Q. And when was that?

19 A. It would have been the summer of 2018. I
20 wouldn't have more specific dates. But the summer.

21 Q. And how was it that it was just you and GW going
22 to Burger King?

23 A. Her mom was starting to get back -- Okay. My
24 daughter's mom was starting to somewhat get back in to my

1 daughter's life and had, like, three hour a week custody.
2 She was going to pick her up. She called me and said, I'm a
3 little early, I'm picking up Alyssa. And I'm, like, well, I
4 have Alyssa's friends is here. I haven't took them back home
5 yet. But I'm, like, whatever, that's fine, I have no problem
6 taking, you know, GW home.

7 So, she came a little early, and it was lunch
8 time. So I looked at GW and said, hey, look, I can just run
9 you straight home really quick or if you want I'm going to go
10 by Burger King and grab a bite to eat. You can come with me
11 or I'll just take you home first. And she said, oh, I'll go
12 by and get a bite before. She contacted her mom and her mom
13 said, yeah, that's fine. And so we went to Burger King, sat
14 right in the restaurant, probably 15 minutes, and then I ran
15 her home and dropped her off.

16 Q. So, this allegation that you wrote her a note
17 asking her to go to Burger King, was that true?

18 A. False.

19 Q. Now, at some of the times at the rec center you
20 weren't GW's coach but would you, like, interact with her and
21 play volleyball with her?

22 A. Yeah. I interacted with both her and my daughter
23 all the time and goofed off and played around.

24 Q. Would you pepper before practice with both of

1 them?

2 A. Yes. And spike the ball as well.

3 Q. And were you also giving pointers to Alyssa and
4 GW?

5 A. Yeah. Alyssa played club for me and GW that year
6 I think was, yeah, trying out for the freshman team. So I
7 was really hoping to help her make the team.

8 Q. And you heard one of your old players claim that
9 she observed you hold on to GW's hips and actually physically
10 move her hips while trying to teach her setting. Did you do
11 that?

12 A. Yeah, probably. I've done that with a lot of
13 kids, if they're having trouble serving, they don't have
14 enough power to get it over. That incident you're talking
15 about was actually at the Douglas High School in front of 500
16 coaches -- 500? Five other coaches. And, yes, if you're not
17 turning your hip proper, you're not getting the straight
18 force to be able to hit the ball that far of a distance. So,
19 absolutely, I have helped people.

20 Q. Have you also touched Alyssa's hips or grabbed
21 them to move her in to a correct serving position?

22 A. Absolutely. That's how come she's as good as she
23 is today.

24 Q. You also heard some claims from one of your other

1 players, VS as we'll refer to her, that claiming she saw
2 you -- well, GW hugging you outside the rec center and not
3 letting you get in to the car?

4 A. Yeah, I did hear that.

5 Q. Do you remember that?

6 A. Not really, no.

7 Q. Did you ever tell GW we should not be seen
8 together like this?

9 A. Absolutely not.

10 Q. All right. Let's talk about the stairwell.

11 Showing you what has already been admitted as F. We watched
12 over and over again here a clip of the stairwell.

13 A. Yes, we have.

14 Q. And do you remember hugging GW on the stairwell?

15 A. Absolutely.

16 Q. And, besides the fact that we see it on video,
17 why do you remember that situation?

18 A. Because in another video you can kind of see us
19 out hanging -- we're wrapping up practice and everybody was
20 getting ready to go. And we were all talking and my daughter
21 was around and she was around and other volleyball players
22 around. And everything seemed okay. And then, all of a
23 sudden, G started to kind of tear up a little and walks over
24 towards me and says, hey, can I talk to you --

1 MS. MAZZA: Objection.

2 MS. RISTENPART: Effect on listener, your Honor.

3 THE COURT: Overruled.

4 THE WITNESS: Does that mean I can finish?

5 THE COURT: Go ahead.

6 THE WITNESS: So she walked over to me and said,
7 hey, can I please talk to you in private and I said, sure,
8 yeah, let's just walk towards that way. As we were starting
9 to walk that away, she also said, hey, can I also get a hug
10 and I'm, like, okay, because I'm very cautious about that
11 now. But I'm not going to hurt her feelings. I mean, she
12 was, as we were walking over there she was saying how bad she
13 was missing her stepfather, Wayne and stuff.

14 We get over there. You can actually see her
15 initiate the hug when you watch the video. About halfway
16 through, I try to disengage and she clings me in more. So
17 I'm, like, okay. And then shortly after I give her a couple
18 of pats on the back, release the hug, and we walk away and we
19 go off.

20 Q. And, to be fair, have you been -- For the past
21 two and a half years you've seen this video; right?

22 A. Yeah. I've seen it more than I would ever like
23 to see it again.

24 Q. And re-thought about that moment over and over

1 again?

2 A. I have.

3 Q. Why did you pick this area as depicted in this
4 picture?

5 A. It was just -- It's still wide open. It was just
6 the fact that it was just a little further away from the
7 other players that were on the right where the hallway as we
8 came down was something more private so, you know, kids can
9 be very evil now. And so I didn't want anybody seeing her
10 crying. So, you know, I kind of even looked around. Very
11 popular game room right there where the kids hang out, as you
12 can see where that camera was. And so, I don't know -- I
13 don't know, I just ended up over there. But just kind of a
14 little way from the majority of the group of people.

15 Q. And the other coaches and players were just mere
16 feet away from you?

17 A. Yeah. 10 to 20 feet. And in the video you can
18 see there's a volleyball player playing right on the other
19 side of the net, several of them.

20 Q. During that hug in the stairwell, did you ever
21 touch GW's butt?

22 A. Absolutely not. My arms are very high on her
23 back.

24 Q. Did you put your hands down her pants?

1 A. Never.

2 Q. Did you ever go in to the stairwell area other
3 times as GW claims?

4 A. Never have. It was just that one time when she
5 asked to talk to me in private.

6 Q. And, to put it in context, this hug took place
7 after you had already started to try to -- I'm saying the
8 words push away, but try to be more conscious of your actions
9 with GW?

10 A. Yes, it did.

11 Q. After you stopped hugging -- stopped the hug and
12 started to walk away, what happened after that?

13 A. Just grabbed our stuff. I think I finished
14 wrapping up and grabbed my bag and I think we called it a
15 night.

16 Q. Rick, did you ever touch GW's butt while watching
17 a movie at your house?

18 A. Never.

19 Q. Did you ever touch GW's butt while in the
20 equipment room?

21 A. Never.

22 Q. Did you ever hug and kiss her neck or cheek in
23 the equipment room like she claims?

24 A. Absolutely not.

1 Q. Did you ever put your hands down GW's pants in
2 the equipment room?

3 A. No.

4 Q. Did you ever do that in the squishy room?

5 A. No.

6 Q. How did you feel when you first found out that GW
7 made this allegation against you?

8 MS. MAZZA: Objection. Relevance.

9 THE COURT: Sustained.

10 MS. RISTENPART: No further questions.

11 THE COURT: Cross-examination.

12 MS. MAZZA: Thank you, your Honor.

13 CROSS-EXAMINATION

14 By Ms. Mazza:

15 Q. So, Mr. Jenkins, just to kind of go back and
16 clear things up. You indicated in 2018 you were mostly
17 employed working coaching teams; that's correct?

18 A. And carpet cleaning business.

19 Q. Okay. And you listed a pretty big number of
20 teams you were coaching at the time; correct?

21 A. Correct.

22 Q. And at some point you ended up that you were
23 selling RC car parts; correct?

24 A. Yeah. I forgot about my remote control car hobby

1 store on line, yes.

2 Q. And, with regard to your coaching, whether it be
3 tennis or volleyball, you don't have any formal training or
4 education on coaching; correct?

5 A. I -- No. Well, we had to do certifications for
6 the school, CPR certified, concussion courses, so there was
7 some certifications we had to do for the school.

8 Q. You don't have any education on how to be a coach
9 though; correct?

10 A. I'm going to say no.

11 Q. And so when Ms. Ristenpart was asking you about
12 Alyssa's mom you indicated she was not in the picture. Back
13 in 2018 she was somewhat getting visitation, however frequent
14 it may have been; correct?

15 A. Yeah. Very little.

16 Q. And that's because of issues your ex had;
17 correct?

18 A. I'm not sure exactly what you mean by that. It's
19 because I chose that I wanted to make sure she had the best
20 home.

21 Q. And, back in 2018, you were talking about the
22 roommates you had, Kim Copeland, Chris, and Ms. Copeland's
23 son; correct?

24 A. Correct.

1 Q. All of you would not fit on your couch; is that
2 correct?

3 A. It was a sectional, so, actually, it could fit
4 everyone. But Chris has his own recliner chair, one little
5 table away.

6 Q. Okay.

7 A. It was a seven-seater sectional.

8 Q. So one side of the couch three people could sit;
9 is that correct?

10 A. Yes.

11 Q. And you mentioned that you took GW on different
12 trips or would hang out and different things. And you
13 mentioned that you would take them to watch you race RC cars;
14 is that correct?

15 A. Correct.

16 Q. And that was a trip in California?

17 A. One in California when we met the mom down in
18 Stockton because we were in Modesto, California. And at
19 least once in Reno.

20 Q. And the hugging relationship that, or physical
21 relationship between you and GW, you did not act that way
22 with any of Alyssa's other friends; is that correct?

23 A. There was a few that would give a hug. They were
24 very close when she was growing up. But, not mostly, no.

1 Q. And none that anyone reported any concerns about
2 your conduct with them; correct?

3 A. Nobody reported any concerns.

4 Q. And you stated that originally in the beginning
5 GW was not physically affectionate towards you either?

6 A. That's correct.

7 Q. And she initiated touching you first but you
8 didn't stop her, is what you're saying here today; is that
9 correct?

10 A. That's correct.

11 Q. She wasn't touchy with Ryan; correct?

12 A. No.

13 Q. There were no reports of her being touchy with
14 Chris; correct?

15 A. No.

16 Q. And to clarify, she was over at your house often;
17 correct?

18 A. About every other weekend they traded which house
19 they went to.

20 Q. So Alyssa and GW were together every weekend and
21 she was with you every other weekend; is that correct?

22 A. It's not exactly correct, right, because every
23 weekend and every week changes. But, yeah, very often. You
24 could almost say every other weekend.

1 Q. And would it be correct to say that Alyssa and GW
2 spent a lot of time together that summer of 2018?

3 A. They definitely spent a lot of time together.

4 Q. And you said your family mentally adopted GW; is
5 that correct?

6 A. Yeah.

7 Q. But GW has a mom, Tamera; correct?

8 A. Yes, she does.

9 Q. She has a father too; am I correct?

10 A. I'm not sure. I think her father lives in
11 California. I don't -- She did not talk to her father very
12 often at all.

13 Q. But she does have one?

14 A. I believe so, yeah.

15 Q. And, so at the time when the clinics were
16 happening, GW would show up and Alyssa would show up to help.
17 Am I understanding that correct?

18 A. Yes. They were volunteers and they showed up on
19 their own, yes.

20 Q. And GW would help with the team that you were
21 coaching. Am I correct in that?

22 A. 80 percent correct. The other 20 she would help
23 with Dan.

24 Q. So 80 percent of the time she would be helping

1 your team, 20 percent of the time helping Dan Hannah's team?

2 A. Correct.

3 Q. And, Ms. Ristenpart asked you, you were at the
4 rec center a lot over the years; is that correct?

5 A. Sure, yeah.

6 Q. And it's true that you were at the rec center in
7 the summer of 2018 pretty often?

8 A. Well, the clinics were twice a week, and maybe I
9 would play pickle ball once and table tennis once or twice a
10 week, so five, six times a week for, you know, several hours
11 or whatever.

12 Q. And so your testimony is that it can take a long
13 time to find items in the equipment closet; is that correct?

14 A. I said sometimes, yes.

15 Q. Sometimes. And sometimes you can find things
16 pretty quick also?

17 A. Absolutely.

18 Q. And the only reason to go in to the equipment
19 closet is to get equipment out, am I understanding that
20 correct?

21 A. Yeah.

22 Q. And you've heard here today that the rec center,
23 that they organize that equipment closet pretty well to make
24 sure the sport for that season, those items are near the

1 front, and that's true; correct?

2 A. Not the balls. They are hard wooden cases built
3 in to the corner.

4 Q. And in that squishy room, I guess you could call
5 it, we've heard that there's actually more that can happen or
6 did happen in that room other than just dodgeball; correct?

7 A. Yes. They just play around. They wrestle, they
8 jump, they dodgeball, whatever. It's a very active room. If
9 you go back and go there every day you'll see people in
10 there.

11 Q. But it's not a squishy room anymore?

12 A. I have not been back. Actually I've only seen
13 the pictures that were shown to me.

14 Q. And Ms. Ristenpart was asking you about the
15 principal from Douglas High School. It's Principal Girdner;
16 correct?

17 A. Joe Girdner, yes.

18 Q. So you said that you were more cautious after
19 having the conversation with Tamera Woodbridge and that made
20 GW more clingy. But, as we can see from the video, you
21 didn't stop her; correct? You didn't want to hurt her
22 feelings?

23 A. Yeah. I didn't want to change things. She was
24 part of our family.

1 Q. And, you admitted that things were weird;
2 correct?

3 A. Yeah, correct.

4 Q. And, when you said Kim is always around, she's
5 not always watching movies with you when you're there. Am I
6 understanding that correct?

7 A. Not all the time.

8 Q. She has her own life?

9 A. In the house.

10 Q. Doing her own things in the house?

11 A. Sure, yeah.

12 Q. She has her own room, I would understand, maybe
13 with you?

14 A. Well, we shared a room, yeah.

15 Q. And it's not in the living room?

16 A. No.

17 Q. So let me get this straight. Alyssa and GW on
18 the weekends, would they sleep in pretty late?

19 A. I don't remember. Probably.

20 Q. And would you get up and go about your day and
21 maybe make them breakfast; correct?

22 A. No, I don't make breakfast. We would normally go
23 out.

24 Q. And the three of you would kind of hang out in

1 the mornings. Am I understanding that correct?

2 A. No.

3 Q. No? You never hung out with them in the morning?

4 A. Not really. I probably wasn't even there in the
5 mornings. I had a job. Especially in the summertime, carpet
6 business is pretty busy.

7 Q. But you mostly coached, am I understanding?

8 A. No. I worked carpet business as well for my
9 father, my stepfather. And in the summer we have jobs almost
10 every day. That's during the day. Coaching is at night. So
11 it worked out really well.

12 Q. But games are during the day, am I correct in
13 that?

14 A. Games when I was a coach is around -- start at
15 3:00 o'clock in the afternoons.

16 Q. On the weekends too?

17 A. No weekends.

18 Q. No weekend games ever?

19 A. Not normally.

20 Q. So, you said that you've done that with a lot of
21 kids, hold their hips when they're learning how to serve; is
22 that correct what you said?

23 A. I did not say hold. You just kind of will adjust
24 them and tell them, look, when you're serving the ball, turn

1 your hips to get that extra momentum. And, yes, I have done
2 that in the past, especially in the clinics.

3 Q. But, the three players that we've heard from this
4 week, they weren't special enough for you to touch their hips
5 and help them serve?

6 A. If you don't need help and if you are a strong
7 server, I'm not going to help adjust what you don't need help
8 with.

9 Q. And that -- What Kaylyn saw actually got reported
10 to Suzy Townsell; correct?

11 A. I have no idea. That was the first time I heard
12 who reported it. So I didn't know who reported it up until
13 just now, two and a half years later.

14 Q. But Suzy Townsell is the head coach for Douglas
15 High School?

16 A. She is the head varsity coach.

17 Q. And she talked to you about what someone reported
18 about helping GW serve; correct?

19 A. I don't recall Suzy ever talking to me.

20 Q. And so we see from the video surveillance in this
21 case your relationship with GW was close, close enough that
22 you would stroke her hair; is that correct?

23 A. No, not normally.

24 Q. And you talked about on the video you can see

1 that you two are off on the court and then you come over to
2 have a conversation in what is exhibited on the projector
3 right now?

4 A. Yep.

5 Q. Exhibit E -- F. I apologize. That was a pretty
6 quick conversation then; am I correct?

7 A. Yeah. She said a few words, you can see her kind
8 of lean in to me a little bit and just says, I'm having a
9 really hard time with my step dad, you know, this evening.
10 And, I said, hey, look, my family is here if you need to talk
11 with anyone.

12 Q. You said all of that during that hug?

13 A. Yeah, absolutely.

14 Q. And you said we can see other volleyball players
15 on the other side of that. Is Ashley Gosney one of the
16 players that night?

17 A. Yes. It was, like, Ashley was there and Alex.

18 Q. And you know Alex, who Ashley was playing with?

19 A. I do know Alex from volleyball.

20 Q. And so you're claiming here you never touched her
21 butt?

22 A. I never touched her butt.

23 Q. And after this all happened even before G was --
24 Excuse me. I would ask that we strike that and insert GW.

1 THE COURT: That's granted.

2 MS. MAZZA: I apologize.

3 Q. (By Ms. Mazza) So, even after or before GW was
4 interviewed in this case, Alyssa immediately stopped being
5 her friend; is that correct?

6 A. No, that is not correct.

7 Q. Okay. They stopped being friends when this was
8 reported; is that correct?

9 A. The first report?

10 Q. Yes.

11 A. No. They were still talking.

12 Q. And they stopped being friends at what point?

13 A. I'm not sure exactly. But it was not right away
14 for sure.

15 Q. And in a conversation with Kim Copeland you
16 actually told her you were worried about accidentally having
17 touched GW; is that correct?

18 A. I don't recall ever telling Kim Copeland that.

19 MS. MAZZA: Your Honor, I have no further
20 questions. Thank you.

21 THE COURT: Redirect examination.

22 REDIRECT EXAMINATION

23 By Ms. Ristenpart:

24 Q. Rick, when you first heard the allegations that

1 GW was making against you, did you think back to every
2 interaction you could remember with GW?

3 A. Yeah. It was like living a nightmare.

4 Q. And did you go back to try to think did I do
5 something that could have been perceived incorrectly?

6 MS. MAZZA: Objection. Relevance.

7 THE WITNESS: Absolutely.

8 THE COURT: Sustained.

9 Q. (By Ms. Ristenpart) And in your -- that summer
10 and fall, was GW close with Kim, your girlfriend?

11 A. Yeah, yeah, she definitely started getting close
12 with Kimberley.

13 Q. Was she also, quote, touchy with Kim?

14 A. Yeah. They would wrestle.

15 Q. And would GW hug Kim?

16 A. Absolutely. Every night that she was there.

17 Q. And would also GW be touchy with Alyssa?

18 A. Very.

19 Q. Hug Alyssa?

20 A. Yes.

21 Q. In fact, would GW hug Chris?

22 A. Yeah. Towards the end they started having a fun
23 family relationship too.

24 Q. Rick, after you were summarily banned from the

1 rec center on September 20th of 2018, did you have any kind
2 of contact with GW after that?

3 A. After being banned, no.

4 Q. And then it was just Alyssa and GW, you knew that
5 they were communicating --

6 A. Definitely. Alyssa told me a few things and
7 stuff, yeah.

8 MS. RISTENPART: No further questions. Thank
9 you.

10 THE COURT: Recross.

11 RECROSS-EXAMINATION

12 By Ms. Mazza:

13 Q. So, Mr. Jenkins, just to confirm, you've
14 indicated you didn't touch GW's butt?

15 A. I never touched GW's butt.

16 Q. You wouldn't touch a child's butt?

17 A. Absolutely not.

18 Q. And if another man touched Alyssa's butt would
19 that be inappropriate?

20 A. Yes, it would.

21 MS. MAZZA: No further questions, your Honor.

22 THE COURT: All right. Thank you, Mr. Jenkins.

23 MS. RISTENPART: Your Honor, I'm sorry. Can I
24 have a re-redirect?

1 THE COURT: Yes.

2 MS. RISTENPART: Thank you.

3 Mr. Jenkins, do you wish that we had all the

4 video to show every single angle of what we're watching?

5 THE WITNESS: I sure do.

6 MS. RISTENPART: No further questions.

7 MS. MAZZA: Your Honor, I'm going to object to

8 that as being outside the scope of the recross.

9 THE COURT: Granted.

10 Ms. Ristenpart, any other questions?

11 MS. RISTENPART: No further questions.

12 THE COURT: Ms. Mazza?

13 MS. MAZZA: No. Thank you, your Honor.

14 THE COURT: All right. Mr. Jenkins, you can go

15 ahead and have a seat back down at counsel table.

16 Counsel, please return the exhibits to the clerk.

17 Ms. Ristenpart, you may call your next witness.

18 MS. RISTENPART: Thank you. Defense calls Dan

19 Hannah.

20 THE COURT: Sir, please raise your right hand and

21 face the court clerk to be sworn.

22 (The witness was sworn in)

23 THE COURT: All right. Thank you, sir. Come on

24 over here to the witness stand please. Please have a seat

1 and remove your mask.

2

3

DANIEL HANNAH

4

Called as a witness on behalf of the

5

Defendant, having been first duly sworn,

6

Was examined and testified as follows:

7

8

DIRECT EXAMINATION

9

By Ms. Ristenpart:

10

Q. Mr. Hannah, would you please state and spell your

11

name for the record.

12

A. Daniel, D-a-n-i-e-l, Hannah, H-a-n-n-a-h.

13

Q. And, just generally, not the specific address but

14

where do you live?

15

A. Gardnerville Ranchos.

16

Q. And how long have you lived in Gardnerville?

17

A. 27 years.

18

Q. Do you have any children?

19

A. Yes.

20

Q. And how many children do you have?

21

A. Two children.

22

Q. And are they --

23

A. They're adults.

24

Q. They're adults now?

1 A. Yes.

2 Q. Is it a son, a daughter?

3 A. One of each.

4 Q. Mr. Hannah, do you work?

5 A. Not directly right now. Mostly retired.

6 Q. Mostly retired. Oh, congratulations. Before you

7 got mostly retired did you work before that?

8 A. Yes.

9 Q. And what do you do for work?

10 A. The majority of my career was working at a

11 pharmaceutical company in the bay area.

12 Q. At some point did you start coaching?

13 A. Yes.

14 Q. And when did you start coaching?

15 A. About 25 years ago.

16 Q. What types of sports do you coach?

17 A. Right now I coach tennis and volleyball.

18 Q. And how long have you coached tennis for?

19 A. Tennis, about seven years.

20 Q. And how long have you coached volleyball for?

21 A. 12, 13, something like that. I don't know. It's

22 been a while.

23 Q. Do you have any certifications to be a coach?

24 A. Yeah. I'm certified as a volleyball coach

1 through NFHS, National Federation of High Schools, and
2 generically as a high school coach also.

3 Q. Do you want to just speak up a little bit. It's
4 a big courtroom.

5 A. Yeah, yeah. I'm used to having to moderate my
6 voice. I have a loud voice.

7 Q. Fair enough. As a coach. Do you know Mr. Rick
8 Jenkins?

9 A. I do.

10 Q. And how do you know Rick?

11 A. Through volleyball mostly.

12 Q. When did you first meet Rick?

13 A. 15, 20 years ago, playing volleyball.

14 Q. Do you see Rick in the courtroom today?

15 A. Yes.

16 Q. Would you just identify what color shirt he's
17 wearing?

18 A. White.

19 Q. And you also pointed to him?

20 A. Yeah.

21 MS. RISTENPART: Will the record reflect
22 identification?

23 THE COURT: It will so reflect.

24 Q. (By Ms. Ristenpart) At some point did Rick start

1 coaching with you?

2 A. Yes.

3 Q. And when was that approximately?

4 A. 2013, I believe.

5 Q. And, going directly towards just volleyball, you
6 coached high school, correct, you said?

7 A. No.

8 Q. I'm sorry.

9 A. High school tennis. Volleyball only at the
10 middle school level as far as school volleyball.

11 Q. And at some point did you ask Rick to assist you
12 in coaching with him -- with you?

13 A. Yes. That was through my classes.

14 Q. And would those be referred to as clinics?

15 A. Clinics, classes. Yeah, I call them either one
16 depending on how the timing of how they were structured.

17 Q. Now, taking you directly to the summer of 2018,
18 how many clinics did you have that summer, if you remember?

19 A. If it's a normal summer, I probably had three.

20 Q. And approximately how many players would be in
21 each clinic?

22 A. That was a good year. So -- On the two courts
23 that we coached, 40-ish.

24 Q. And, your clinics, how often would they meet

1 while you were having the clinic?

2 A. Summer clinics are four days a week for a
3 four-day period. And I would have them about once a month.

4 Q. And approximately how long would each practice
5 last for?

6 A. Between an hour and hour and a half.

7 Q. Now, you stated that you've known Rick for almost
8 15 years. Do you know his daughter Alyssa?

9 A. Yes.

10 Q. Over those 15 years have you had an opportunity
11 to observe Alyssa and Rick interact?

12 A. Yes.

13 Q. How would you describe Alyssa's relationship with
14 her dad?

15 A. A good father/daughter relationship.

16 Q. Would you consider them to be close?

17 A. Yeah.

18 Q. Have you observed them be physically affectionate
19 with each other?

20 A. Yes.

21 Q. Would you consider Rick a hugger?

22 A. Around his daughter, yeah.

23 Q. You would see Rick and Alyssa hug?

24 A. Yeah.

1 Q. Would you see Rick and Alyssa hold hands?
2 A. Occasionally.
3 Q. And would you see Rick playfully wrestle or poke
4 Alyssa on the side?
5 A. Yeah.
6 Q. Now, going to that summer of 2018, Mr. Hannah,
7 you stated you and Rick were teaching the clinics at the rec
8 center. And do you happen to know someone with the initials
9 GW?
10 A. Yes.
11 Q. And how do you know GW?
12 A. I coached her on a club team.
13 Q. And when was that?
14 A. My first exposure tour.
15 Q. I'm sorry. What did you say?
16 A. My first exposure tour.
17 Q. And when was that?
18 A. Probably 2017, 2018, I think. The teams kind of
19 start going together after a while.
20 Q. Merging?
21 A. Yeah.
22 Q. So, before the summer of 2018, you remember that
23 you had GW on your team once before?
24 A. Yes.

1 Q. And, it was on your team, not Rick's team?

2 A. Yes.

3 Q. And, generally, how did you split up the players
4 at the clinic? Who would Rick teach and who would you teach?

5 A. Clinics would be divided by basically skill level
6 and desire to really take over the sport and improve.

7 Q. So, that summer of 2018, Mr. Hannah, was GW an
8 actual paying player of your clinic?

9 A. I do not believe so.

10 Q. Was she there as a coach's assistant?

11 A. Yeah, as a helper.

12 Q. As you helper you call them?

13 A. Yeah.

14 Q. And is that similar to how Rick's daughter Alyssa
15 was also at the clinics?

16 A. Yes.

17 Q. Now, over that summer of 2018, did you see GW
18 frequently?

19 A. At the clinics mostly, yeah.

20 Q. And how would you describe GW?

21 A. Fairly quiet for -- around her peers. In some
22 respects -- This was about her eighth grade year, I think
23 eighth grade going in to high school. So a little awkward.

24 Q. Did you ever observe GW being clingy?

1 A. Yes.

2 Q. How so?

3 A. She was close to Rick. Would often times touch

4 him.

5 Q. Was GW clingy to Alyssa?

6 A. They hung around a lot, but I don't think they

7 were physically clingy.

8 Q. Would you see GW hug Alyssa though?

9 A. Occasionally, yeah.

10 Q. Now, based upon your observations and being a

11 coach -- Well, let me back up. As a coach are you a

12 mandatory reporter?

13 A. Yes.

14 Q. And what does that mean?

15 A. It means if I saw anything or heard anything from

16 a player or saw anything around a player or involving a

17 player I would have to report to the authorities.

18 Q. Now, during this summer, did you know personally

19 the relationship of GW to the Jenkins family?

20 A. Yes.

21 Q. Were you aware of how close GW was to the Jenkins

22 family?

23 A. Yes.

24 Q. Were you aware that GW and Alyssa were best

1 friends?

2 A. Yes.

3 Q. Now, throughout that summer and going in to the
4 fall, did you ever observe anything that you felt was
5 inappropriate contact or conduct between GW and Mr. Jenkins?

6 A. No.

7 Q. If you had would you have immediately reported
8 it?

9 A. Yes.

10 Q. Going back to that summer, you stated that Alyssa
11 and GW were kind of helping out or helpers for the clinics.
12 Let's talk about volleyball equipment.

13 A. Okay.

14 Q. Where was the volleyball equipment stored?

15 A. Okay. The vast majority of it was in a big
16 storage room that was adjacent to the court on the far side
17 of the gym.

18 Q. And when you arrived for your clinic would you
19 have to get some equipment out of the equipment room to set
20 up?

21 A. Yes.

22 Q. And what would that be?

23 A. Baskets of balls. And you would have to sort
24 through the balls because there are other users of the

1 equipment. So they got mixed up a lot. So we would have to
2 sort through the balls. There was a couple of pieces of
3 equipment that I felt that were in there that were
4 occasionally used as well. Volleyball is not really
5 equipment-intensive. But there are a handful of things that
6 you would have to get to organize for class.

7 Q. Would there be, like, poles for the lines or the
8 nets?

9 A. Yes.

10 Q. And what are dots?

11 A. Dots are just rubber circles used to indicate
12 places that you want players to be or to move around.

13 Q. To run drills at practice?

14 A. Yeah.

15 Q. Now, the equipment room in general, was it always
16 super organized?

17 A. Not really. I mean, it was organized, but there
18 was some chaos involved as well.

19 Q. Would it always be as simple as walking in and
20 you would immediately find what you were looking for?

21 A. Not always. I knew about where it was, but
22 sometimes you would have to move things around to get to it.

23 Q. Did you go in to the equipment room?

24 A. Yes.

1 Q. Would players sometimes follow you in to the
2 equipment room?

3 A. Yeah.

4 Q. Would you see Rick and Alyssa go in to the
5 equipment room?

6 A. I know Rick went in. I don't know if Alyssa went
7 in. I don't remember.

8 Q. But you did know that Alyssa would help set up
9 for practice?

10 A. Sometimes, yeah.

11 Q. And as their job as helpers would they also help
12 put away the equipment?

13 A. Yeah.

14 Q. During your time observing the interactions of
15 just GW and Rick, did you ever see anything that was sexual
16 in nature?

17 A. No.

18 Q. Mr. Hannah, if a player came up to you and asked
19 to speak with you privately, would you try to take that
20 player away from the other players or to a more private area?

21 MS. MAZZA: Objection. Relevance.

22 THE COURT: Sustained.

23 Q. (By Ms. Ristenpart) Is Rick still coaching with
24 you?

1 A. No.

2 Q. And that's because the rec center banned him?

3 A. Yes.

4 MS. MAZZA: Objection. Relevance.

5 THE COURT: Sustained.

6 MS. RISTENPART: Was Rick a good coach?

7 MS. MAZZA: Objection. Relevance.

8 THE COURT: Sustained.

9 MS. RISTENPART: No further questions.

10 THE COURT: Cross-examination.

11 MS. MAZZA: Thank you, your Honor. Your Honor, I

12 actually have no questions for this witness. Thank you.

13 THE COURT: Ms. Mazza, may this witness be

14 excused?

15 MS. MAZZA: Yes, your Honor.

16 THE COURT: Ms. Ristenpart?

17 MS. RISTENPART: Yes, your Honor.

18 THE COURT: All right. Mr. Hannah, you are

19 excused. Please do not discuss your testimony with anyone

20 except for the attorneys in this case or their investigators

21 until such time as the jury has returned its verdict. Thank

22 you. You may exit the courtroom.

23 THE WITNESS: All right. Thank you.

24 THE COURT: Ms. Ristenpart, you may call your

1 next witness.

2 MS. RISTENPART: Your Honor, if we can take our
3 afternoon break right now.

4 THE COURT: Absolutely.

5 MS. RISTENPART: Thank you.

6 THE COURT: Ladies and Gentlemen, we are going to
7 take a 15-minute recess. During the course of the recess,
8 you will be allowed to walk about outside if you desire. I'm
9 going to have you remain in the jury deliberation room just
10 for a moment while I cover something with counsel. But then
11 you will be released.

12 During the course of the recess, I remind you
13 that it is your duty not to converse amongst yourselves or
14 with anyone else on any subject connected with the trial
15 either by phone, e-mail, text, internet, or any other means.
16 Do not read, watch, or listen to any report of or commentary
17 on the trial or any person connected with the trial by any
18 medium of information, including, without limitation,
19 television, newspaper, radio. Do not form or express any
20 opinion on any subject connected with the trial until the
21 cause is finally submitted to you. Do not do any research
22 such as consulting dictionaries, using the internet, or using
23 other reference materials or make any investigation, test the
24 theory of the case, recreate any aspects of the case or in

1 any other way investigate or learn about the case on your
2 own.

3 So, again, I'm going to have you go back to the
4 jury deliberation room for a few moments and then we'll let
5 you know when you are free to walk about.

6 I would ask counsel to remain.

7 While the jury is exiting, Counsel, would you
8 please return any exhibits.

9 We are convened outside the presence of the jury.
10 Counsel, just an opportunity for me to talk to you a little
11 bit about the physical limitations of this court house and
12 some of the issues that are presented. As you folks know
13 from this afternoon, there's a lot going on in the court
14 house, not just this case. In particular, right after lunch,
15 quite a bit going on in the court house. It is important in
16 this case and in any case that the jurors be able to go
17 freely to and from the jury deliberation out to a room or
18 space where they have some freedom.

19 Counsel, you can assist by making sure that folks
20 aren't camping out right at the top of the stairwell. Please
21 give jurors an opportunity to come in and out. And, again, I
22 understand the court house isn't set up the best for that.

23 Folks who are appearing, you can help out as
24 well. Jurors need to feel comfortable going in and out of

1 the courtroom. So, please leave that area open, move down
2 the hallway. You're welcome to be here also, all of you.
3 But just give the jurors a little bit of breathing room. So,
4 Counsel, thank you for that. I know you will heed that and
5 assist in any way that you can.

6 Court will be in recess until -- Well, we'll go
7 until ten after three. Thank you.

8 (Recess was taken)

9 THE COURT: We are back in session on Case Number
10 19-CR-188. Show the appearance of counsel for both parties,
11 as well as Mr. Jenkins.

12 Ms. Mazza, are you ready to have the jurors join
13 us?

14 MS. MAZZA: Yes, your Honor.

15 THE COURT: Ms. Ristenpart?

16 MS. RISTENPART: I am, your Honor.

17 THE COURT: Okay. Thank you.

18 Deputy Schramm, let's bring in the jurors.

19 Ms. Mazza, do you stipulate to the presence of
20 the jury?

21 MS. MAZZA: Yes, your Honor.

22 THE COURT: Ms. Ristenpart?

23 MS. RISTENPART: I do, your Honor.

24 THE COURT: Thank you, folks. Please be seated.

1 Ms. Ristenpart, you may call your next witness.

2 MS. RISTENPART: Thank you. The defense calls
3 Alyssa Jenkins.

4 THE COURT: All right. Ms. Jenkins, please raise
5 your right hand, face the court clerk to be sworn.

6 (The witness was sworn in)

7 THE COURT: All right. Thank you. Please come
8 on up to the witness stand and please remove your mask.
9 Thank you.

10 Ms. Ristenpart, you may proceed.

11

12 ALYSSA JENKINS

13 Called as a witness on behalf of the
14 Defendant, having been first duly sworn,
15 Was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 By Ms. Ristenpart:

19 Q. Alyssa, would you please state and spell your
20 name for the record.

21 A. Alyssa Jenkins, A-l-y-s-s-a J-e-n-k-i-n-s.

22 Q. And how old are you?

23 A. 18.

24 Q. Do you go to school?

1 A. Yes.

2 Q. And what school do you go to?

3 A. I'm on line school.

4 Q. What grade are you in right now?

5 A. Senior.

6 Q. I'm taking you back to January, February of 2018.

7 How old were you then?

8 A. 15, 16.

9 Q. Do you know someone with the initials GW?

10 A. Yes.

11 Q. And how do you know GW?

12 A. We met through volleyball.

13 Q. Back in 2018 were you friends with GW?

14 A. Yes.

15 Q. When did you guys start hanging out?

16 A. January, February. We got closer during summer

17 time.

18 Q. And what do you mean by closer?

19 A. We just every, like, other weekend we went to my

20 house and then her house. And we just stayed with each

21 other, like, 24/7.

22 Q. And GW would come hang at your house a lot?

23 A. Yes.

24 Q. And you said you would hang out at their house a

1 lot?

2 A. Yes.

3 Q. And there being GW's family?

4 A. Yes.

5 Q. Now, over the summer, did GW spend more time with
6 your family?

7 A. Yes.

8 Q. At that time who did you live with in the summer,
9 fall of 2018?

10 A. My dad.

11 Q. Was there anyone else in the house?

12 A. Yes. His girlfriend Kim, her son, our roommate
13 Chris, and my dad and me.

14 Q. And is Kim's son's name Ryan?

15 A. Yes.

16 Q. Would you consider yourself close with your dad?

17 A. Yes.

18 Q. Do you guys do a lot of things together?

19 A. Yes.

20 Q. For most of your life you lived with your dad;
21 right?

22 A. Yes.

23 Q. He had full custody of you?

24 A. Yes.

1 Q. Would you consider that your dad raised you?
2 A. Yes.
3 Q. So we talked about you did cool things together
4 or you did things together. Like, what kind of things would
5 you guys do?
6 A. We have, like, a balance game, it's a hand game.
7 We do river rafting. We -- If he goes in the car, I usually
8 just go with for, like, the ride just to be with him. So we
9 just hang out a lot.
10 Q. Do you go eat at restaurants together a lot?
11 A. Yes.
12 Q. Do you guys have some favorite restaurants?
13 A. Yes.
14 Q. That you go to over and over?
15 A. Yes.
16 Q. I'm showing you what has already been admitted as
17 6. It's a picture. Do you recognize the restaurant that's
18 depicted in this picture?
19 A. Yes.
20 Q. What restaurant is it?
21 A. CVI.
22 Q. Is that one of your favorite restaurants?
23 A. Yeah.
24 Q. Is it your favorite restaurant?

1 A. Yes.

2 Q. Is it someone else's favorite restaurant?

3 A. Yes.

4 Q. Do you guys go to that restaurant a lot?

5 A. Not really anymore.

6 Q. Now, would you and GW and your dad go to

7 restaurants sometimes?

8 A. Yes.

9 Q. Now, looking at this picture, do you remember

10 specifically you guys eating at the restaurant that's

11 depicted in this picture?

12 A. Yes.

13 Q. And do you remember when it was?

14 A. No, I actually don't.

15 Q. But do you remember that you were there eating

16 dinner with them?

17 A. Yes.

18 Q. Do you remember where you sat, Alyssa?

19 A. On the left side of my dad.

20 Q. And why do you remember that so distinctly?

21 A. Because I was always on the left side of him. GW

22 was always on the right side.

23 Q. So, looking at this picture, Exhibit 6, your

24 dad's left side would be behind this guy; right?

1 A. Yes.

2 Q. Alyssa, were you over here?

3 A. No.

4 Q. Behind a menu?

5 A. No.

6 Q. Slouching down?

7 A. No.

8 Q. And, when you went out with your dad even without

9 GW to restaurants or sat, would you commonly be on his left

10 side?

11 A. Yes.

12 Q. Is your dad a hugger?

13 A. Yes.

14 Q. Does your dad hug you?

15 A. Yes.

16 Q. Do you hug your dad?

17 A. Yes.

18 Q. Do you guys hug often?

19 A. Yes.

20 Q. Do you hold hands with your dad?

21 A. I used to. Not anymore.

22 Q. Kind of grew out of it?

23 A. Yeah. I'm 18 now, you know.

24 Q. Does your dad ever kind of affectionately squeeze

1 your shoulders or your neck?

2 A. Yes.

3 Q. Does your dad ever put his arms around your
4 shoulder?

5 A. Yes.

6 Q. Do you ever lean in to your dad?

7 A. Yes.

8 Q. Does your dad sometimes, I don't know, wrestle
9 with you or play with you?

10 A. Yes.

11 Q. Okay. Poke you in the side sometimes?

12 A. Yes.

13 Q. Now, going towards that summer of 2018 -- Before
14 I get there, Alyssa, you kind of said that you would always
15 be on Rick's left or your dad's --

16 A. No, you're good.

17 Q. -- left and GW would always be on his right. Did
18 you have an opportunity to watch GW's interactions with your
19 dad?

20 A. Yes.

21 Q. Did you feel that GW would sometimes copy you?

22 A. Yes.

23 Q. How so?

24 A. So, if I would go hold his hand, she would hold

1 his hand. If I gave him a hug, she had to give him a hug.

2 Q. Did GW ever tell you that she was jealous of your
3 relationship with your dad?

4 A. Yes.

5 MS. MAZZA: Objection. Relevance.

6 MS. RISTENPART: Your Honor, it's prior
7 inconsistent statement.

8 THE COURT: Sustained.

9 Q. (By Ms. Ristenpart) Now, that summer, you and GW
10 were very close, hanging out all the time, did you help your
11 dad at some volleyball camps?

12 A. Yes.

13 Q. Did GW also help?

14 A. Yes.

15 Q. And what was your job as your dad's helper?

16 A. We had to, like, help the kids, like, you know,
17 serve and stuff, get balls for the class, and set up nets,
18 take it down, help plan the lessons.

19 Q. Part of your job as an assistant was to help set
20 up the equipment?

21 A. Yes.

22 Q. Would it be also to put away the equipment?

23 A. Yes.

24 Q. At the end of practice? Sometimes did you go get

1 additional equipment during practice?

2 A. Yes.

3 Q. And would GW also do the same?

4 A. Yes.

5 Q. Would sometimes you be the one setting up -- I
6 mean, did you guys always have defined jobs every single time
7 you went there or it just depended on the practice and the
8 day?

9 A. It depended on the practice and the day.

10 Q. So would sometimes you be the one in charge of
11 setting up and she would be the one in charge of putting it
12 away?

13 A. No. Yes. We both did it together.

14 Q. And would your dad help you and GW with getting
15 the equipment?

16 A. Yes.

17 Q. Did you and GW ever watch movies at your house?

18 A. Yes.

19 Q. All together?

20 A. Yes.

21 Q. Would there be other people also watching a
22 movie?

23 A. Yes.

24 Q. Would it be every time or just sometimes?

1 A. Pretty much all the time usually.

2 Q. During any of those times that you were all
3 watching movies did you ever hear your dad ask GW am I making
4 you feel uncomfortable?

5 A. No.

6 Q. During that time that you and GW were very close,
7 did you ever -- did your dad ever come in to your room and
8 lay on your bed with you and GW?

9 A. No.

10 Q. Now, in October of 2018 -- Well, let me back up.
11 At the end of September, did something happen where your dad
12 was no longer allowed to go to the rec center?

13 A. Yes.

14 Q. And were you aware that he was banned from the
15 rec center?

16 A. Yes.

17 Q. During this time did you -- Between that to when
18 your dad was arrested, did you keep talking to GW?

19 MS. MAZZA: Objection. Relevance.

20 THE COURT: Hold on one second. What is the
21 relevance, Ms. Ristenpart?

22 MS. RISTENPART: Your Honor, it's part of the
23 motive for GW to turn against and make up the allegation on
24 November 1st.

1 THE COURT: All right. Go ahead.

2 MS. RISTENPART: Thank you.

3 THE WITNESS: What was the question again?

4 Q. (By Ms. Ristenpart) Of course. Let me go back.
5 So, between the end of September to when your dad got
6 arrested, do you -- were you still talking to GW during that
7 time?

8 A. We were falling off. I was getting really,
9 really annoyed with her. So we weren't really as close. We
10 talked still, just not a lot.

11 Q. You said you were getting annoyed with her. Why?

12 MS. MAZZA: Objection. Relevance.

13 THE COURT: Sustained.

14 Q. (By Ms. Ristenpart) Would GW try to call you a
15 lot during this time?

16 A. Yes.

17 Q. Would you answer all of her phone calls?

18 A. No.

19 Q. If you didn't answer the phone call how would GW
20 react?

21 A. She would call my dad.

22 MS. MAZZA: Objection. Relevance.

23 THE COURT: Sustained.

24 MS. RISTENPART: No further questions. Thank

1 you.

2 THE COURT: Cross-examination.

3 MS. MAZZA: Thank you, your Honor. Your Honor,
4 may I approach the clerk?

5 THE COURT: You may.

6 CROSS-EXAMINATION

7 By Ms. Mazza:

8 Q. Ms. Jenkins, do you love your dad, I'm guessing?

9 A. Yes.

10 Q. You don't want to see him get in trouble for
11 anything with this case; is that correct?

12 A. Yes.

13 Q. And would it be true that you would get jealous
14 of the relationship GW had with your dad?

15 A. No.

16 Q. And in that photo Ms. Ristenpart showed you,
17 Exhibit 6, we don't see your head on your dad's shoulder;
18 correct?

19 A. Yes.

20 Q. And GW had to be on his right side; is that
21 correct?

22 A. Yes.

23 Q. And that would be the same at movie time watching
24 a movie on the couch; correct?

1 A. Yes.

2 Q. She would have to be on one side and you would
3 have to be on the other?

4 A. Yes.

5 Q. The left side is your side; right?

6 A. Yes.

7 Q. So that's how it would be during a movie?

8 A. Yes.

9 Q. And if he came in to your room when you guys had
10 a sleep-over, if he would come sit with you guys in the bed,
11 would that be the same scenario, one on the left, one on the
12 right?

13 A. Yeah.

14 Q. And when you and GW and your dad would do the
15 clinics or -- The two of you were helping your dad with the
16 clinic; correct?

17 A. Yes.

18 Q. You guys would get equipment; correct?

19 A. Yes.

20 Q. From the equipment closet?

21 A. Yes.

22 Q. And you wouldn't be with your dad and GW
23 sometimes when they would get equipment; is that correct?

24 A. Yes.

1 Q. You wouldn't be with your dad sometimes when they
2 would go to other areas of the gym; is that correct?

3 A. Yes.

4 Q. Other areas including the squishy room?

5 A. I was always with them in the squishy room.

6 Q. Always with them. And so if I showed you a video
7 of the two of them outside the squishy room playing, touching
8 each other, and you're not there, does that mean you were
9 always with them?

10 A. Yeah. No. Yes.

11 Q. So were you always with them every time they were
12 together near the squishy room, in the squishy room?

13 A. No.

14 Q. And there's other areas in the gym as well where
15 people could go that you might not have been; right?

16 A. Yeah.

17 Q. Because you were playing volleyball; is that
18 correct?

19 A. Yes.

20 Q. Trying to get pretty good at the sport. Am I
21 correct in that?

22 A. Yes.

23 Q. So did you really have the time to sit and watch
24 them the whole time if you were working on your skill?

1 A. No.

2 Q. And, is it true that when your dad got banned
3 from the rec center, you were kind of upset with GW; correct?

4 A. I don't think I was upset with her. I was upset
5 with the rec center.

6 Q. Okay. But upset that you guys -- well, he
7 couldn't go there anymore; correct?

8 A. Yeah.

9 Q. So you wouldn't go there without your dad, am I
10 understanding that right?

11 A. Yes.

12 Q. Because the two of you played volleyball
13 together?

14 A. Yes.

15 Q. With GW?

16 A. Yes.

17 Q. And so you described you and your dad used to
18 hold hands when you were younger?

19 A. Oh, yes.

20 Q. Not now, you're a grown-up?

21 A. Yeah.

22 Q. But back then when your dad and you would hold
23 hands or you would hug, he's your dad; correct?

24 A. Yes.

1 Q. Not GW's dad?

2 A. Yes.

3 MS. MAZZA: I have no further questions. Thank
4 you, your Honor.

5 THE COURT: Redirect?

6 MS. RISTENPART: Nothing based on that.

7 THE COURT: Okay. Ms. Mazza, may this witness be
8 excused?

9 MS. MAZZA: Yes, your Honor.

10 THE COURT: Ms. Ristenpart?

11 MS. RISTENPART: Yes, your Honor.

12 THE COURT: All right.

13 Ms. Jenkins, thank you. You are excused. Please
14 do not discuss your testimony with anyone except for the
15 attorneys in this case or their investigators until the jury
16 has reached a verdict. Thank you.

17 Ms. Ristenpart, would you like to call another
18 witness?

19 MS. RISTENPART: Thank you, your Honor. Defense
20 calls Christopher Field.

21 THE COURT: Mr. Field, please raise your right
22 hand and face the court clerk to be sworn.

23 (The witness was sworn in)

24 THE COURT: Thank you, sir. Please come on up

1 here to the witness stand. Have a seat and remove your mask,
2 please.

3

4

CHRISTOPHER FIELD

5

Called as a witness on behalf of the

6

Defendant, having been first duly sworn,

7

Was examined and testified as follows:

8

9

DIRECT EXAMINATION

10 By Ms. Ristenpart:

11 Q. Mr. Field, would you please state and spell your
12 name for the record?

13 A. Christopher Field, C-h-r-i-s-t-o-p-h-e-r
14 F-i-e-l-d.

15 Q. Do you work, Mr. Field?

16 A. I do.

17 Q. And where do you work?

18 A. Western Tool and Supply.

19 Q. And how long have you worked there for?

20 A. Since 2006.

21 Q. Do you know Mr. Jenkins?

22 A. I do.

23 Q. And how long have you known Rick Jenkins for?

24 A. In the neighborhood of 20 years.

1 Q. Do you see Rick in the courtroom today?

2 A. I do.

3 Q. Would you just describe a color of the shirt he's

4 wearing?

5 A. White.

6 MS. RISTENPART: May the record reflect

7 identification?

8 THE COURT: It will so reflect.

9 Q. (By Ms. Ristenpart) Mr. Field, just generally

10 without the specific address, where do you live?

11 A. Gardnerville.

12 Q. And who do you live with there?

13 A. Rick Jenkins and his daughter, Alyssa.

14 Q. Back in the summer, fall of 2018, where were you

15 living?

16 A. Same house.

17 Q. And who else lived in the house?

18 A. Kim Copeland and Ryan Copeland, as well as the

19 other two, Rick and Alyssa.

20 Q. And who is Kim Copeland?

21 A. That was Rick's girlfriend.

22 Q. Now, during the summer of 2018, did Alyssa,

23 Rick's daughter, have a best friend?

24 A. Yes.

1 Q. Do you know that individual by the name or the
2 initials GW?

3 A. Yes.

4 Q. Did GW come over to the house a lot?

5 A. Yes.

6 Q. Would GW hang out with the family a lot?

7 A. She would.

8 Q. And, to clarify, are you close with the Jenkins
9 family?

10 A. I am.

11 Q. Now, that summer and in to the fall 2018, did GW
12 start joining the family outings?

13 A. She did.

14 Q. What would you guys all do together?

15 A. We would hang out at the house, sometimes watch
16 TV or we went different places, went RC racing at one point,
17 which is remote control cars. We went shopping, went to a
18 movie. Just do different things.

19 Q. Would you guys go out to eat sometimes together?

20 A. We would.

21 Q. Did you guys go on a rafting trip together?

22 A. We did.

23 Q. Now, you said you went and watched movies. Did
24 you guys ever watch movies at the house?

1 A. We did.

2 Q. Would GW be there sometimes?

3 A. Yeah.

4 Q. Now, during that time, the summer of 2018,
5 Mr. Field, did you have the opportunity to observe GW's
6 interactions with Alyssa?

7 A. I did.

8 Q. Did you have the opportunity to observe GW's
9 interactions with Kim Copeland?

10 A. I did.

11 Q. With Rick?

12 A. Yes.

13 Q. Would you consider GW to be a physically
14 affectionate person?

15 A. Yes.

16 Q. Why?

17 A. She just seems to want to be near someone
18 whether --

19 MS. MAZZA: Objection. Speculation.

20 MS. RISTENPART: It's his observation.

21 THE COURT: Sustained. You can re-ask the
22 question please.

23 Q. (By Ms. Ristenpart) What did you observe about
24 GW that made you believe that she was a physically

1 affectionate person?

2 A. She would sit next to somebody. It didn't really
3 matter too much who it was or she would, you know, come up
4 and give people hugs. She just would interact with everybody
5 there.

6 Q. Would she hug Kim?

7 A. Yes.

8 Q. Would she hug Alyssa?

9 A. Yes.

10 Q. Would she hug Rick?

11 A. Yes.

12 Q. Would she hug you?

13 A. Yes.

14 Q. Would she hug Ryan?

15 A. I have never seen her hug Ryan. But Ryan kind of
16 kept to himself.

17 Q. So that summer Ryan didn't really hang out with
18 you guys as a family unit?

19 A. No.

20 Q. Now, you said GW would hug you; right?

21 A. Yes.

22 Q. It didn't start out that way; right?

23 A. No, not right off the bat.

24 Q. As you guys all hung out more over the summer and

1 she became closer with the family, did GW become more
2 physically affectionate?

3 A. Yes.

4 Q. Did GW ever try to hold your hand?

5 A. She did.

6 Q. When was that?

7 A. One time we went to Scheels. It was Rick,
8 Alyssa, GW, and myself. We went shopping to pick up an item
9 for Alyssa. And she wanted to hold hands. Whether it was --
10 It didn't matter. At one point she held hands with Rick and
11 then he kind of pulled away from her at one point. She went
12 to Alyssa and wanted to hold her hand. And then she also
13 held my hand as well at the same time she was holding
14 Alyssa's hand on the way in to Scheels.

15 Q. And what was your reaction when GW tried to hold
16 your hand?

17 A. I thought it was kind of odd. At one point I --
18 It wasn't too long after she held on that I actually walked
19 away and pulled my hand off and walked away because I thought
20 it was kind of strange.

21 Q. What did GW do in reaction to you pulling away?

22 A. She kind of let go of Alyssa's hand as well and
23 then she ran up and bumped in to me and then she bumped in to
24 Rick. And then she bumped back in to me and kind of -- She

1 was doing this bouncing back and forth, bumping in to both of
2 us for whatever reason. And then Alyssa joined in the game
3 as well after she stopped and bumped in to her.

4 Q. And bumping in to -- Describe -- What are you --

5 A. Just like walk up and bump shoulder to shoulder
6 kind of thing.

7 Q. Would GW do that also with Kim?

8 A. No. Because Kim was not there.

9 Q. Just generally in your observation would you see
10 GW lean on Kim?

11 A. A time or two.

12 Q. And, Mr. Field, you were never interviewed by law
13 enforcement, were you?

14 A. I was not.

15 Q. And, in your observation of interactions between
16 GW, Alyssa, and Rick, did you ever feel that GW would copy
17 Alyssa?

18 A. Yes.

19 MS. MAZZA: Objection. Speculation.

20 MS. RISTENPART: It's his observation, your
21 Honor.

22 THE COURT: Go ahead.

23 THE WITNESS: Yes.

24 Q. (By Ms. Ristenpart) How so?

1 A. If Alyssa went and sat next to somebody, she
2 would walk over and had to sit on the other side. If Alyssa
3 was playing a game, like, she had a Nintendo at the time,
4 Nintendo Switch, if she played, then GW would like to play as
5 well.

6 Q. Now, did you ever hear GW telling Alyssa that she
7 was jealous of Alyssa's relationship with her dad?

8 MS. MAZZA: Objection. Hearsay.

9 MS. RISTENPART: Your Honor, it's a prior
10 inconsistent statement. If I can get the Court's indulgence,
11 I can find the exact page number on the transcript.

12 THE COURT: You may proceed.

13 MS. RISTENPART: Thank you.

14 Q. (By Ms. Ristenpart) Did you ever hear GW tell
15 Alyssa that she was jealous of Alyssa's relationship with her
16 dad?

17 A. I did.

18 Q. When do you remember hearing that?

19 A. I was on a trip that we went to California to go
20 RC racing. And the four of us, Rick, Alyssa, and myself --

21 Q. I'm sorry. I'm having a problem hearing you.

22 A. Rick, Alyssa, GW, and myself were on -- were
23 going to California to an RC track and she mentioned it at
24 that point. She said, well, I'm jealous of what you and your

1 dad have as far as a relationship. I am not really that
2 close to my dad. She said, when I go to his house, he
3 doesn't really have that much to do with me. And she was
4 pretty upset about it.

5 Q. During that summer and fall out of the all the
6 times that you saw and observed interactions between Rick and
7 GW, Mr. Field, did you ever see anything that you thought was
8 inappropriate?

9 A. Can you repeat that?

10 Q. During that time that you saw and observed
11 interactions between Rick and GW, did you ever see anything
12 that you thought was inappropriate?

13 A. As far as something that she would do or --

14 Q. Let me clarify because inappropriate is a vague
15 term. Did you see anything that appeared sexual?

16 A. Absolutely not.

17 Q. Did you ever see Rick touch GW's butt?

18 A. Never.

19 Q. Did you ever see Rick touch GW's private areas?

20 A. Never.

21 Q. Did you ever see Rick put his hands down GW's
22 pants?

23 A. Never.

24 MS. RISTENPART: No further questions. Thank

1 you.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 By Ms. Mazza:

5 Q. Good afternoon, Mr. Field. Just kind of going
6 back through your testimony. When Ms. Ristenpart asked you
7 some questions, you indicated that you did enjoy movie nights
8 with Mr. Jenkins, GW, and Alyssa; is that correct?

9 A. Yes.

10 Q. Were you there every time they watched a movie?

11 A. Yes.

12 Q. Every single time?

13 A. Every time.

14 Q. So you said you work for Western; is that
15 correct?

16 A. I do.

17 Q. What kind of hours do you work?

18 A. Eight to four.

19 Q. Okay. So during --

20 A. Excuse me. Eight to 4:30.

21 Q. During the week; is that correct?

22 A. Uh-huh.

23 Q. So, in the summer months when school is not in,
24 if a movie is being watched during the week during eight to

1 4:30 when you're at work -- at work, do you know?

2 A. I would not.

3 Q. So you wouldn't have been there if that were to
4 have occurred; correct?

5 A. Correct.

6 Q. Did you -- Do you also play volleyball with
7 Mr. Jenkins and GW and Alyssa?

8 A. I do not. But I've been, you know, playing --
9 not really playing but just playing around with a little bit
10 of volleyball, bumping the ball back and forth a little bit.

11 Q. Because it's a big passion for Mr. Jenkins;
12 correct?

13 A. Correct.

14 Q. So would you do that at your house with
15 Mr. Jenkins sometimes?

16 A. Yeah, in the backyard.

17 Q. And then when they would go practice, do the
18 clinics or just hang out at the rec center, you wouldn't go;
19 correct?

20 A. I went a couple of times.

21 Q. Okay. So the entire summer of 2018 you went a
22 couple of times?

23 A. Yeah.

24 Q. A handful?

1 A. Uh-huh.

2 Q. So have you ever gone in the equipment closet
3 with Mr. Jenkins and GW?

4 A. Not with them in particular. But I have been in
5 there.

6 Q. You've been in the closet?

7 A. Uh-huh.

8 Q. But you didn't go with Mr. Jenkins and GW;
9 correct?

10 A. Actually there was one time when -- that we did
11 go in there one time.

12 Q. In the handful of times you went with them over
13 the entire summer you went one time?

14 A. One time. I went in with I believe Mr. Dan
15 Hannah was also there.

16 Q. Okay. So the four or five of you went in
17 together?

18 A. Yeah.

19 Q. Okay. So it sounds kind of like you are like
20 family to the Jenkins family; is that correct?

21 A. Yes.

22 Q. You've known him 20 years?

23 A. Yes.

24 Q. You don't want to see him get in any trouble; is

1 that correct?

2 A. I would -- If I felt that he had done this, I
3 would have been gone. I would not have stuck around.

4 Q. Okay. And when you talked about the family
5 outings you went on, you weren't with them every single time;
6 correct?

7 A. I don't know if they went anywhere while I was at
8 work. But, the rest of the times, yes, I was there.

9 Q. So when you were having a life outside of your
10 house, outside of your roommates, you don't know what they
11 were doing; correct?

12 A. I generally don't go anywhere with anyone else.
13 Usually just home.

14 Q. But you said you have a job?

15 A. Yes.

16 Q. And you don't play volleyball really; correct?

17 A. Not really.

18 Q. You indicated that GW would be physically
19 affectionate towards you; correct?

20 A. Yes.

21 Q. It actually took her a while to warm up to you
22 though; is that correct?

23 A. Not a whole lot of time.

24 Q. So if I told you Mr. Jenkins said it took a while

1 for her to warm up to you, would that be correct?

2 MS. RISTENPART: Objection. Mischaracterization
3 of testimony.

4 THE COURT: Overruled.

5 Q. (By Ms. Mazza) Would that be incorrect then?

6 A. If you're saying a month, that would probably be
7 about right.

8 Q. And, in this case you've seen the surveillance
9 footage; correct?

10 A. I have.

11 Q. So I'm going to show you what's been marked and
12 admitted State's Exhibit 20. I'm going to show you clip six
13 from Exhibit 20. Now, Mr. Field, I'm just going to start
14 playing clip six and I'll zoom in to a lit portion of that
15 exhibit. And, you've seen this before; correct?

16 A. I have.

17 Q. Let me go back to 8:40:32. Now, when you
18 describe the hugs between you and GW, it's like that?

19 A. Yes.

20 Q. You kiss her neck?

21 A. That didn't appear to be a kiss to me.

22 Q. Okay. She kissed your neck?

23 A. She has.

24 Q. Okay. And you said that though when she tried to

1 hold your hand though you pulled away?

2 A. I did.

3 Q. And yet you let her kiss your neck?

4 A. I thought it was kind of odd and it only happened
5 once.

6 Q. Okay. And so you hugged her like that and let
7 her kiss your neck and she was 13 years old at the time?

8 A. I didn't do it on purpose. It was just a regular
9 hug as far as I understood it.

10 Q. And, when you pulled away from holding her hand,
11 she didn't collapse on the ground in distress or anything
12 like that?

13 A. No.

14 Q. She actually went on to have fun with you guys?

15 A. She did.

16 Q. I'm going to show you on the same exhibit video
17 three and four.

18 A. And I'm going to say it was less of a kiss than
19 just, like, a face touch that, you know, I could feel lips.
20 But it wasn't like a kind of kiss.

21 Q. Okay. So I'm playing video four on Exhibit 20.
22 And, again, you've seen this video?

23 A. Yes.

24 Q. Did you ever have that kind of physical contact

1 with GW?

2 A. No.

3 MS. MAZZA: Your Honor, I have no further
4 questions. Thank you.

5 REDIRECT EXAMINATION

6 By Ms. Ristenpart:

7 Q. Mr. Field, that incident that you remember at
8 Scheels with GW trying to hold your hand, was that earlier in
9 the summer?

10 A. Yeah.

11 Q. So, when Ms. Mazza is asking you, like, oh, would
12 you hug -- or would GW hug you like you see in this video,
13 was that later in the summer?

14 A. It was.

15 Q. As you guys all hung out more and more?

16 A. Correct.

17 Q. And would she also hug Kim like what we saw in
18 the video?

19 A. She did.

20 MS. RISTENPART: No further questions. Thank
21 you.

22 THE COURT: Recross.

23 ///

24 ///

RECROSS-EXAMINATION

By Ms. Mazza:

Q. So, when you were originally questioned by Ms. Ristenpart, you actually said that you only saw her lean on Kim twice. But now you're saying that she actually hugged Kim the way that we're seeing in that exhibit; is that correct?

A. There was one time that she did.

Q. Okay. So now that's different than what you originally said; correct?

A. I guess so. But there was one time.

MS. MAZZA: Okay. Thank you, your Honor.

THE COURT: Ms. Mazza, may this witness be excused?

MS. MAZZA: Yes, your Honor.

THE COURT: Ms. Ristenpart?

MS. RISTENPART: Yes, your Honor.

THE COURT: All right. Sir, you are excused. Please do not discuss your testimony with anyone except for the attorneys in this case or their investigators until the jury has reached its verdict. Thank you. You are excused.

Ms. Ristenpart, you may call your next witness.

MS. RISTENPART: Thank you. Defense calls Steven Noble.

1 THE COURT: Sir, please raise your right hand.
2 Face the court clerk to be sworn.

3 (The witness was sworn in)

4 THE COURT: All right. Sir, please come over to
5 the witness stand and have a seat. Please remove your mask.

6 THE WITNESS: Thank you.

7

8 STEVE NOBLE

9 Called as a witness on behalf of the
10 Defendant, having been first duly sworn,
11 Was examined and testified as follows:

12

13 DIRECT EXAMINATION

14 By Ms. Ristenpart:

15 Q. Mr. Noble, would you please state and spell your
16 name for the record.

17 A. Steve Noble, N-o-b-l-e.

18 Q. And Mr. Noble, without going in to the specifics,
19 where do you live generally?

20 A. Gardnerville.

21 Q. And how long have you lived in the area?

22 A. 2004.

23 Q. And do you currently work?

24 A. I'm retired.

1 Q. Before retirement what kind of work did you do?

2 A. I received my certified investment management
3 certification through The Wharton School and I was a senior
4 portfolio manager at UBS Financial.

5 Q. Now, do you have occasion to go to the Douglas
6 County Community Center or rec center?

7 A. Often.

8 Q. And why do you go to the rec center?

9 A. I'm president of the Carmel Valley Table Tennis
10 Club and I've conducted a number of different athletic
11 tournaments for the rec center. And I probably go to the
12 recreation center four times a week on average just to
13 participate in athletic events.

14 Q. Do you know Mr. Rick Jenkins?

15 A. Yes.

16 Q. And do you -- how do you know Mr. Jenkins?

17 A. Rick and I met through table tennis many years
18 ago.

19 Q. Do you see Mr. Jenkins in the courtroom today?

20 A. I do.

21 Q. And what color shirt is he wearing?

22 A. White.

23 MS. RISTENPART: May the record reflect
24 identification?

1 THE COURT: It will reflect.

2 Q. (By Ms. Ristenpart) Now, you said you have known
3 him for many, many years. Approximately how many?

4 A. I'm going to guess 15.

5 Q. And you also play sports with Rick?

6 A. Yes.

7 Q. Now, taking you directly to the rec center
8 itself, have you had the opportunity to go in to what is
9 known as the equipment room at the rec center?

10 A. Yes.

11 Q. How many times would you say you've been in the
12 equipment room at the rec center in your career?

13 A. Dozens of times.

14 Q. In your opinion, is the equipment room always
15 very, very organized?

16 A. I would say never very, very organized.

17 Q. Let me requalify that. How does the equipment
18 room appear generally?

19 A. It's a mish-mash of equipment from table tennis
20 to pickle ball to volleyball to archery to a host of
21 different activities. And there's not an organization
22 structure to have things go in different areas. So commonly
23 things are placed in there wherever you can find a spot.
24 It's very crowded and very congested.

1 Q. So there's a lot of stuff in there?

2 A. A lot of stuff.

3 Q. And just depending on the season also?

4 A. Yes, yes.

5 Q. During your trips to the equipment room was it to
6 retrieve equipment?

7 A. Yes.

8 Q. Or to look for equipment?

9 A. Yes.

10 Q. During your times in the equipment room was it
11 always that it was really easy to find something right off
12 the bat?

13 A. I could identify where the equipment that I would
14 need was right away. But getting it out was cumbersome
15 because you would have to remove things that were in the way.
16 So it was maybe a five to ten-minute ordeal to extract a
17 pickle ball net or a table tennis table.

18 Q. And were you at the rec center pretty frequently
19 during the summer and fall of 2018?

20 A. Yes.

21 Q. And did you have opportunity to go in the
22 equipment room during that time?

23 A. Yes.

24 Q. Back then in 2018 was it similar to how you

1 described today?

2 A. Yes, similar.

3 Q. Now, while you were at the rec center, did you
4 ever see Rick coaching volleyball clinics?

5 A. I did.

6 Q. During that summer did you see Rick in
7 interactions with a teenager whose first initial is G?

8 A. Yes.

9 Q. How often would you be able to observe their
10 interactions?

11 A. Oh, at least a dozen times.

12 Q. At that time did you know who G was?

13 A. Yes, I did.

14 Q. Did you know G's relationship to the Jenkins
15 family?

16 A. I did.

17 Q. Did you know if G was close to the Jenkins
18 family?

19 A. Yes, she was. She appeared to be.

20 Q. Back then did you have knowledge that G was over
21 at the Jenkins home a lot?

22 A. Quite often.

23 Q. And did you know that whether G and Rick's
24 daughter, Alyssa, were best friends?

1 A. They were best friends. They hung out together
2 all the time. When we would play table tennis, which was
3 predominantly just all guys, they would commonly come in
4 there and just kind of hang out.

5 Q. Now, you had the opportunity to observe
6 interactions. Did you see GW's interactions with Rick?

7 A. Yes, I did.

8 Q. What did you think about those interactions?

9 MS. MAZZA: Objection. Relevance.

10 MS. RISTENPART: Your Honor, we've had multiple
11 people for the State come in and testify that they believe it
12 was deemed, quote, inappropriate. We have a chance to refute
13 that.

14 THE COURT: He can give his opinion if it's based
15 on a rational perception of what he's observed.

16 MS. RISTENPART: Thank you.

17 THE WITNESS: Can you repeat the question,
18 please?

19 Q. (By Ms. Ristenpart) During the times that you
20 observed GW and Rick, what did you observe about their
21 interactions?

22 A. Rick would be conducting teaching his volleyball
23 class, and there would be approximately a dozen students
24 there predominantly on the other side of the net. Rick and

1 Dan might be on the opposite side. And so they're going
2 through drills and training and retrieving balls and moving
3 all over the court. G would commonly follow Rick as he was
4 moving around the court performing his teacher functions and
5 just kind of right by his side the majority of the time.

6 Q. Did you ever see GW touch Rick?

7 A. Yes. She would come up to Rick and kind of
8 either hold his arm or interlace her arm with his arm as he
9 was teaching.

10 Q. And would you see how Rick reacted in those
11 situations?

12 A. I sensed a degree of discomfort. I mean, he's
13 moving around. He's doing things. And I thought he was
14 walking a fine line between not wanting to hurt GW's feelings
15 and --

16 MS. MAZZA: Objection.

17 THE COURT: Hold on. Sustained.

18 Q. (By Ms. Ristenpart) Without going in to what
19 other people may have thought --

20 A. Sorry.

21 Q. -- would you observe any behavior? You said that
22 you would -- sometimes Rick would walk away; right?

23 A. Yes. It was sometimes, not a shrug, you know,
24 but he would do something to relinquish her holding of his

1 arm so that he could conduct his teaching.

2 Q. And did you also sometimes see Rick initiate
3 contact with GW?

4 A. In the manner that I just described, it was a
5 hundred percent GW's initiation of that contact.

6 Q. Did you ever see Rick be physically affectionate
7 with GW?

8 A. I would say yes.

9 Q. Did you ever see Rick and GW hug?

10 A. Yes.

11 Q. And were you able to observe Rick's interactions
12 with his daughter Alyssa also at these clinics?

13 A. Yes.

14 Q. And also over the time that you've known Rick?

15 A. Yes, uh-huh.

16 Q. Is Rick physically affectionate with Alyssa?

17 A. Yes.

18 Q. Would hug Alyssa?

19 A. Yes.

20 Q. And of the interactions that you saw, Mr. Noble,
21 did you feel anything was inappropriate between GW and Rick?

22 A. I did not. I understand that a staff member of
23 the recreation department probably witnessed exactly what
24 I've described here today. And, we're both seeing exactly

1 the same scene, but we come to very, very different
2 conclusions.

3 Q. And was your conclusion based upon the fact that
4 you knew GW's relationship with the Jenkins family?

5 A. Yes. She was best friends with his daughter.
6 Because of that relationship, participated in family
7 activities, rafting and Disneyland and things of that nature.
8 So, yes, she was part of the family I think from everyone's
9 perspective.

10 Q. If you had seen something inappropriate you would
11 have reported it?

12 A. I raised two daughters. The answer is yes.

13 MS. RISTENPART: No further questions. Thank
14 you.

15 THE COURT: All right. Cross-examination.

16 MS. MAZZA: Thank you, your Honor. If I just may
17 approach the clerk.

18 THE COURT: You may.

19 CROSS-EXAMINATION

20 By Ms. Mazza:

21 Q. Mr. Noble; is that correct?

22 A. Yes.

23 Q. So you indicated you do have children?

24 A. I do.

1 Q. You have two daughters?
2 A. I do.
3 Q. How old are they?
4 A. They are now 39 and 41.
5 Q. All right. And so you're a retired portfolio
6 manager but you're also a photographer; is that correct?
7 A. Yes.
8 Q. And so in this case have you reviewed any of the
9 evidence?
10 A. I have not, no.
11 Q. Okay. So, let's just go over, I would like to
12 discuss with you the equipment closet you discussed. I'm
13 going to show you what's been marked as State's Exhibit 10.
14 Do you recognize Exhibit 10?
15 A. It appears to be the equipment room.
16 Q. I apologize. So the equipment room you just
17 discussed with Ms. Ristenpart?
18 A. Yes.
19 Q. Is that how it typically looks?
20 A. No, ma'am.
21 Q. Why not?
22 A. There's a large corridor right down the middle
23 here, which is -- I have never seen it looking quite like
24 that.

1 Q. What do you mean?

2 A. I mean that this appears to be a thoroughfare to
3 grab equipment from the left or the right. And that's just
4 not how it is.

5 Q. So if the employees of the rec center indicated
6 this is how it looks on a daily basis, you're saying
7 different?

8 A. I'm saying I go in there to retrieve equipment
9 and that's not how it looks on a daily basis.

10 Q. Do you go in there to retrieve volleyball
11 equipment?

12 A. No.

13 Q. You go in there to retrieve table tennis
14 equipment?

15 A. Table tennis tables and pickle ball nets.

16 Q. So, tables, those probably take a little time to
17 get out of there; correct?

18 A. Yes.

19 Q. So you said five to ten minutes?

20 A. Sometimes.

21 Q. If you're getting a table; is that correct?

22 A. Repeat that please.

23 Q. If you're getting a table; is that correct?

24 A. That's how long it might take, is what you're

1 asking?

2 Q. Yes.

3 A. It could be, yes.

4 Q. Have you timed it?

5 A. No, ma'am.

6 Q. Is there any reason to go in to the equipment
7 closet other than to get equipment?

8 A. I couldn't answer that.

9 Q. Have you gone in there just to hang out?

10 A. I have not.

11 Q. And I'm now going to show you what's been
12 admitted as State's Exhibit 20. Did you make observations of
13 GW and Mr. Jenkins in the equipment closet together?

14 A. No.

15 Q. Have you enjoyed -- or joined them for a movie
16 night at Mr. Jenkins' house?

17 A. Yeah. Well, movie night, no. But, different
18 sporting events, yes.

19 Q. Okay. So you've gone to his house is what you're
20 saying?

21 A. Yes, I have.

22 Q. But you've never sat and watched a movie with
23 him, Alyssa, and GW?

24 A. Not a movie.

1 Q. Did you ever observe the two of them in kind of
2 an area outside of the arcade covered by the stairwell?

3 A. Not that I can recall.

4 Q. I'm going to play video six of Exhibit 20. So
5 when you say there was nothing you observed that was
6 inappropriate, looking at video six, is this what you're
7 saying you saw?

8 A. I'm not seeing a video thus far.

9 Q. I apologize, your Honor. If I could display.
10 That would be my fault.

11 Do you know what area this is at the rec center?

12 A. Let me -- Yes, I do know exactly where it is.

13 Q. Where is that?

14 A. There is a common community room, and a lot of
15 the kids, small kids, will hang out in that community room.
16 And we're now looking through an open area on to the gym
17 floor.

18 Q. Is this the kind of conduct that you observed on
19 the field or court?

20 A. No. I never quite saw -- Mostly what I saw on
21 the court was GW holding Rick's arm or intertwining her arms
22 with his.

23 Q. So, when you say you didn't see anything
24 inappropriate, that's because that's what you saw, correct,

1 the intertwining of the arms?

2 A. Correct.

3 Q. I'm going to show you Exhibit 4 or video four on
4 Exhibit 20.

5 And, now, again, is that Rick and the child that
6 you saw him with?

7 A. Yes. I can't -- I can certainly identify Rick
8 and I assume that's GW.

9 Q. Is that the kind of conduct that you observed
10 that you said is not inappropriate?

11 A. I did not observe that on the floor, no.

12 Q. You're not a volleyball coach; correct?

13 A. I'm not.

14 Q. You've never set up a for a volleyball practice I
15 would assume?

16 A. I have not.

17 Q. Do you personally know GW?

18 A. I -- Only through observation. I don't know that
19 I've actually ever spoken with her. But I have been in her
20 proximity dozens and dozens of times.

21 Q. By proximity you mean at the rec center at the
22 same time?

23 A. As I said, Alyssa and GW would come to table
24 tennis and they would hang out with us for hours. So

1 that's -- that proximity there. I would see her at Rick's
2 house during sporting events and barbecues. I would see them
3 interacting on the volleyball court. Oh, and I believe
4 that -- I hope I have this right -- that there was a large
5 rafting trip that we all participated in.

6 Q. And she was there?

7 A. I think so.

8 Q. You think so?

9 A. I think so.

10 Q. But you've never talked to her?

11 A. I don't think I ever had an occasion to speak
12 with her, no.

13 Q. And you said on testimony that you've seen -- you
14 saw the two of them together at the rec center a dozen times
15 over an entire summer; correct?

16 A. I would say at least a dozen times, yes.

17 Q. And, again, you never went in to the equipment
18 room with the two of them, just the two of them?

19 A. No.

20 Q. You never sat on a couch and watched a movie with
21 the two of them; correct?

22 A. No.

23 Q. So, when Ms. Ristenpart asked you if Mr. Jenkins
24 is physically affectionate with Alyssa, you kind of paused

1 before you gave us your answer. What is that answer to that
2 question?

3 A. I was just trying to recall any recollections I
4 have of the nature of the question that was being asked of
5 me.

6 Q. And so the affection you saw Mr. Jenkins give
7 Alyssa was the same as you saw him give GW?

8 A. Very similar.

9 Q. And what I just showed you on the video was the
10 same too?

11 A. No. That's different.

12 Q. And am I correct in saying GW is not Mr. Jenkins'
13 daughter?

14 A. Yes.

15 Q. And can you remind me again how long you've known
16 Mr. Jenkins?

17 A. About 15 years.

18 Q. So through all of that time would you say you're
19 friends with Mr. Jenkins?

20 A. Yes.

21 MS. MAZZA: Thank you, your Honor. I have no
22 further questions.

23 THE COURT: Okay. Redirect.

24 ///

1 REDIRECT EXAMINATION

2 By Ms. Ristenpart:

3 Q. Mr. Noble, you testified previously that you had
4 heard that some of the rec center had seen a hug and that
5 they didn't know the relationship like you did?

6 A. Yes.

7 Q. Watching that video could you see how someone who
8 did not know Mr. Jenkins or GW or their family relationship
9 may have, like, misperceived what they're seeing?

10 A. I think they did the right thing in reporting
11 what they saw. It is not common, in my opinion, that a coach
12 and a student have that sort of relationship. So, just with
13 that information alone, I think they did the right thing.

14 But knowing the family dynamics, as I'm familiar
15 with them, I did not see anything wrong with the contact that
16 they had. It was -- It was playful and it was -- it was just
17 a show of affection, I think.

18 MS. RISTENPART: No further questions. Thank
19 you.

20 THE COURT: Recross.

21 RECROSS-EXAMINATION

22 By Ms. Mazza:

23 Q. So, in that exhibit I just showed you, those
24 videos, you see nothing wrong with that in the context of

1 their relationship; correct.

2 A. If you're asking me do I see any misbehavior in
3 what I see, the answer is no. And my reasoning is I have
4 known Rick for 15 years and he is a --

5 MS. MAZZA: Your Honor, I'm going to object to
6 any statement regarding Mr. Jenkins' character.

7 Q. (By Ms. Mazza) Now, I want to ask you, you have
8 two daughters?

9 A. I do.

10 Q. Seeing that video, seeing someone use the disc as
11 Mr. Jenkins was with your own daughters, would you find that
12 inappropriate?

13 A. Perhaps. If I didn't know the circumstances, I
14 might.

15 Q. Oh, under the circumstances it would have been
16 okay with your daughters?

17 A. I don't know the circumstances in which that took
18 place, what was going on, what their conversation was.
19 Typically that's not acceptable in our society today. But,
20 in my opinion, is that something horrific? I'm going to say
21 no.

22 MS. MAZZA: Okay. Thank you.

23 THE COURT: Ms. Mazza, do you have any reason to
24 hold this witness?

1 MS. MAZZA: No, your Honor. Thank you.

2 THE COURT: Ms. Ristenpart.

3 MS. RISTENPART: No, your Honor. Thank you.

4 THE COURT: All right. Sir, you are excused.

5 Please do not discuss your testimony with anyone except for
6 the attorneys in this case or their investigators until such
7 time as the jury has reached a verdict. Thank you. You are
8 excused.

9 THE WITNESS: Thank you.

10 THE COURT: Ms. Ristenpart, you may call your
11 next witness.

12 MS. RISTENPART: Your Honor, as I had warned the
13 Court earlier, unfortunately, my other witnesses are ready
14 for tomorrow.

15 THE COURT: Okay. Ladies and Gentlemen, we are
16 going to take our evening recess. We will reconvene tomorrow
17 at 8:30 again. You can leave your notebooks where you're at
18 there and they will be collected and held for you for
19 tomorrow. And the admonishment that I read to you before
20 continue to apply. It is your duty not to converse amongst
21 yourselves or with anyone else on any subject connected with
22 the trial either by phone, e-mail, text, internet, or any
23 other means. Do not read, watch, or listen to any report of
24 or commentary on the trial or any person connected with the

1 trial by any medium of information, including, without
2 limitation, newspapers, television, and radio. Do not form
3 or express any opinion on any subject connected with the
4 trial until the cause is finally submitted to you. Do not do
5 any research such as consulting dictionaries, using the
6 internet, or using other reference materials. And do not
7 make any investigation, test the theory of the case, recreate
8 any aspect of the case, or in any other way investigate or
9 learn about the case on your own.

10 I'm going to go ahead and excuse you. If you
11 need anything out of the back, you can go ahead and get it.
12 Otherwise, I'm going to have you go ahead and exit. I would
13 ask that counsel remain.

14 All right. Go ahead and have a seat. I wanted
15 to have -- We are convened outside the presence of the jury.
16 I just wanted to have a conversation with counsel regarding
17 scheduling. Ms. Ristenpart, whereabouts are we with the
18 defense? Your best estimation.

19 MS. RISTENPART: Your Honor, I would anticipate
20 that we would finish by tomorrow morning.

21 THE COURT: Okay.

22 MS. MAZZA: Your Honor.

23 THE BAILIFF: Your Honor, I apologize. There is
24 one more juror.

1 THE COURT: All right. Hold on. Hold on. For
2 the record, the witness -- or the jury deliberation room has
3 been shut. It's double-doored, meaning there's another door.
4 Deputy Schramm, is the other door shut as well?

5 THE BAILIFF: It is not.

6 THE COURT: Okay. We're going to go ahead --
7 Apparently there's one other juror still back there, so we're
8 going to go ahead and have that juror come through, so,
9 everybody, please no comments. Go ahead. Deputy Schramm,
10 any other jurors in the back?

11 THE BAILIFF: All 14 are gone.

12 THE COURT: Okay. Go ahead and have of a seat.
13 Ms. Ristenpart, you believe most likely the defense will be
14 done tomorrow morning at some point in time. So it is not
15 too early for us to have a discussion regarding jury
16 instructions. The Court has received some proffered
17 instructions from both parties. And it was the Court's
18 request that the parties meet and confer prior to providing
19 those to the Court. And I wasn't sure what to make of how
20 they were presented to me in terms of whether there is
21 agreement on them or not.

22 So there is the Court's stock instructions. I
23 would notice or make the observation that some of the
24 proffered instructions offered by the State are similar to

1 the stock but not all that different. Same might be said of
2 the defendant's.

3 What I would like to know is does counsel believe
4 there's going to be any discussion or argument about the
5 stock instructions. And then I'm going to ask the same
6 questions for the State's proffered instructions and the same
7 for the defendant's proffered instructions. I'm just trying
8 to get a sense of how much time we need to set aside to
9 devote to instructions.

10 In answering that, Ms. Mazza, have you and
11 Ms. Ristenpart met and confirmed as you assured the Court you
12 would?

13 MS. MAZZA: Your Honor, what I believe happened
14 in this case is Ms. Ristenpart and I exchanged instructions,
15 proposed instructions. Ms. Ristenpart provided what I
16 believe is -- has been formatted by Ms. Plante, several
17 instructions. I provided my instructions to Ms. Ristenpart.
18 I am not aware of which Ms. Ristenpart will have an objection
19 to. I do have objection to some of hers. I believe with the
20 timing we attempted to get in touch regarding conferring on
21 them, but we did not, your Honor.

22 THE COURT: So counsel did not meet and confer?

23 MS. MAZZA: By confer, I believe we did by
24 exchanging them with each other ahead of time prior to

1 exchanging with the Court. We discussed them during the
2 exhibit marking, yes.

3 THE COURT: So it was the Court's specific
4 request and order that the parties meet and confer. That
5 means getting together, looking at the instructions, deciding
6 on which ones you're okay with and which ones you are not
7 okay with. The giving of the instructions to the Court was
8 delayed at the request of the parties. I granted that delay
9 because I was assured the parties would meet and confer. It
10 sounds like that didn't.

11 Ms. Ristenpart, am I correct in saying that?

12 MS. RISTENPART: Your Honor, I just want to make
13 sure what the Court has is a edited version of the proposed
14 stock instructions and that defense has proposed some changes
15 in red.

16 And, you're absolutely correct, your Honor, we
17 did not confer pursuant to the Court's order. I'm happy to
18 do that right now with Ms. Mazza.

19 THE COURT: Thank you. We will do that right
20 now. So we are going recess. We will not be going back on
21 the record today.

22 Counsel, I want you to take this time to meet and
23 confer regarding the instructions. We will then have an
24 informal conversation about the instructions. Mr. Jenkins,

1 you are welcome to be here throughout that process. I really
2 view that as being a decision for you and your counsel to
3 make. But you are welcome to be here.

4 Ms. Ristenpart, I would like to know if he plans
5 on being part of that process or not. And, if not, to make a
6 record that that's his decision. What we are doing now is
7 simply informal. It's an opportunity to see what arguments
8 will need to be made on the record. We won't be doing that
9 today. And, of course, when we get to that part, Mr. Jenkins
10 does need to be here for that.

11 Ms. Ristenpart, if you would like to take a
12 moment with Mr. Jenkins and make a decision whether he'll be
13 staying today or not, and then let me know where you stand
14 with that. Go ahead.

15 MS. RISTENPART: Mr. Jenkins opted to if he does
16 not need to be here he will leave.

17 THE COURT: He does not. And, Mr. Jenkins, there
18 will be nothing taken at all from your not being here or
19 being here. Either way is fine with the Court. It sounds
20 like your preference is to be excused; is that right?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. That is, of course, okay. So,
23 at this stage, again, nothing formal will be done on the
24 record. I'm going to go ahead and recess. I'm going to give

1 counsel some time to meet and confer. You can do that in the
2 courtroom if you would like or somewhere else. If you would
3 like to go anywhere else, you can do that. I will have my
4 staff check on you in a bit and see how things are going.
5 And, when you're ready to have a conversation with the Court,
6 I'll be ready for that conversation. Court is in recess.

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1 STATE OF NEVADA)
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I, CHRISTY Y. JOYCE, Nevada Certified Court
Reporter Number 625, do hereby certify:

That I was present in the District Court of
Minden Township, in and for the State of Nevada, on Tuesday,
the 27th day of April, 2021, for the purposes of reporting in
verbatim stenotype notes the within-entitled hearing;

That the foregoing transcript, consisting of
pages 782 through 1045, is a full, true, and correct
transcript of said hearing.

Dated at Reno, Nevada, this 15th day of
October, 2021.


CHRISTY Y. JOYCE, CCR #625

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ALEXANDER JENKINS,

Appellant.

v.

STATE OF NEVADA,

Respondent.

Case No. 83465

APPELLANT'S APPENDIX
VOLUME VIII

**APPEAL FROM JUDGMENT OF CONVICTION AND
SENTENCING**

NINTH JUDICIAL DISTRICT
STATE OF NEVADA

THE HONORABLE THOMAS W. GREGORY, PRESIDING

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No. 83465

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CERTIFIED
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Case No. 19-CR-0188

Dept. No. 2

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS
BEFORE THE HONORABLE DISTRICT COURT JUDGE THOMAS GREGORY

---oOo---

THE STATE OF NEVADA,

Plaintiff,

vs.

RICHARD ALEXANDER JENKINS,

Defendant.

_____/

TRANSCRIPT OF PROCEEDINGS

VOLUME V

JURY TRIAL

WEDNESDAY, APRIL 28, 2021

MINDEN, NEVADA

APPEARANCES:

For the Plaintiff: CHELSEA MAZZA, ESQ.
Deputy District Attorney

For the Defendant: THERESA RISTENPART, ESQ.
Attorney at Law

REPORTED BY: CHRISTY Y. JOYCE, CCR #625
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WEDNESDAY, APRIL 28, 2021

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THE COURT: Court is in session on Case Number 19-CR-188, State of Nevada versus Richard Alexander Jenkins. Show the appearance of Chelsea Mazza on behalf of the State. Good morning, Ms. Mazza.

MS. MAZZA: Good morning, your Honor.

THE COURT: Teresa Ristenpart is appearing on behalf of the defendant. Good morning, Ms. Ristenpart.

MS. RISTENPART: Good morning, your Honor.

THE COURT: And also appearing is the defendant, Mr. Jenkins. Good morning, Mr. Jenkins.

THE DEFENDANT: Good morning, your Honor.

THE COURT: Ms. Ristenpart requested a conversation about scheduling outside the presence of the jury. We are outside the presence. Go ahead, Ms. Ristenpart.

MS. RISTENPART: Thank you, your Honor. Based upon our conversation last night regarding jury instructions and settling, I have gone back through and made some decisions on things so hopefully to simplify the matter going forward. I explain that to the Court because I don't anticipate my witnesses taking that long this morning. And so I know the Court is concerned about having a big gap while

1 we're settling jury instructions. But I wanted to advise the
2 Court that I don't think it will take the full morning.

3 THE COURT: Okay. Thank you for all of that.

4 Ms. Mazza, anything scheduling wise you would
5 like to add?

6 MS. MAZZA: Not with regard to scheduling, your
7 Honor. Well, your Honor, I would ask that we have a little
8 time once we do settle jury instructions to finalize anything
9 with our closing. At this time I'm not quite sure what
10 instructions will actually be used. So I will need to edit
11 some of my closing depending upon those.

12 THE COURT: Okay. Very good. So we'll find out
13 what time we wrap up with the evidence taking. And then the
14 Court will decide upon a path for -- I appreciate the input.
15 I think we're ready to bring the jurors in.

16 Ms. Mazza, are you ready?

17 MS. MAZZA: Your Honor, I would actually like to
18 address a witness that I've seen out in the waiting area. I
19 believe Investigator Love has been called by defense. And I
20 would object to him testifying here today because the Court's
21 order was very clear that if GW admitted the false
22 allegation, which she did, then no extrinsic evidence would
23 be allowed. So I'm not sure that he can offer anything that
24 is not that.

1 THE COURT: All right. Thank you.

2 Ms. Ristenpart, what is the purpose of calling
3 Investigator Love?

4 MS. RISTENPART: Your Honor, when I asked
5 Investigator Nadine Chrzanowski as to whether she had
6 reviewed the 2016 prior false allegation by GW and what was
7 the conclusion of that, if you remember, the State objected
8 as to hearsay. And so, therefore, I am bringing Detective
9 Love in not to talk about what GW claimed in her interview,
10 because she did admit that all of it was false and that she
11 did say that. But for that he did an investigation and that
12 he did talk to her.

13 THE COURT: So what about the -- You're just
14 going to have him say that he talked to her.

15 MS. RISTENPART: And that he did an investigation
16 and that it was unfounded.

17 THE COURT: Okay. So, Ms. Mazza's objection is
18 based upon the Court's prior ruling that if GW admitted that
19 it was a false allegation that that would be the extent. And
20 I believe Ms. Mazza is correct in that.

21 MS. RISTENPART: Your Honor, on Ms. -- in GW's
22 testimony, she kept trying to claim that it was a
23 misunderstanding, that it was just a misunderstanding what
24 happened with GW -- or with Gage. Detective Love, based upon

1 his investigation, there was no -- it was a misunderstanding,
2 that's been a new concept that was thought up by GW. And we
3 have the right to rebut that.

4 THE COURT: Right.

5 MS. MAZZA: Your response.

6 MS. MAZZA: Your Honor, when GW was specifically
7 impeached on statements she made in that interview regarding
8 the prior allegations from when she was 11 years old, she
9 admitted every single one of those. And the Court's order
10 was very clear that there had to be proper impeachment. In
11 this case there was. She admitted every single thing
12 Ms. Ristenpart asked her about and every single thing
13 Ms. Ristenpart impeached her with as far as watching the
14 interview. I don't believe there's anything that she did not
15 admit. So it would be inappropriate to use this extrinsic
16 evidence.

17 Also, it's irrelevant what his decision was on
18 that case. If she's admitted it, I think the Court's order
19 was very clear. And, specifically, the Court's order was on
20 par with the case law in Nevada as to when false allegations
21 can be used and how they can be used.

22 THE COURT: The Court agrees here with the State.

23 MS. RISTENPART: Your Honor, if I can make more
24 of a record.

1 THE COURT: You may.

2 MS. RISTENPART: Thank you. I do have a partial
3 transcript of GW, on page 69, line three to line nine. The
4 question was: Now, GW, that allegation you made against Gage
5 about rubbing your butt, that was not true; right?

6 Answer: That was a misunderstanding.

7 Question: He actually never rubbed your butt;
8 right?

9 Answer: I don't think so.

10 Question: So what you told the police was not
11 true?

12 Answer: That was a misunderstanding.

13 She never claimed that in 2016 that it was a
14 misunderstanding. And the investigation was that a crime,
15 specifically, that Investigator Love after investigating
16 determined that it was unfounded.

17 THE COURT: Do you have the full partial
18 transcript of GW's testimony?

19 MS. RISTENPART: I do, your Honor.

20 THE COURT: Because you're citing just one part
21 of it. I believe she was asked on other occasions about the
22 prior report.

23 Ms. Mazza, have you had a chance to see that
24 transcript?

1 MS. MAZZA: No, your Honor. I didn't even know
2 that we had the transcripts available.

3 Also, I agree with your Honor. I believe what
4 Ms. Ristenpart then did is also played the interview for her
5 with the headphones I believe two or three times. I recall
6 because that had a different backdrop on Ms. Ristenpart's
7 screen than the other interviews. So I know she played it
8 several times. And GW admitted what she said in the
9 interviews.

10 THE COURT: Ms. Ristenpart.

11 MS. RISTENPART: Your Honor, that was used to
12 refresh her memory. And then she stated that it was
13 refreshed and that was her earlier testimony. And then her
14 later testimony was, oh, no, it was just a misunderstanding,
15 the one I just read to you.

16 THE COURT: Again, the Court agrees with the
17 State here. The defense had an opportunity to impeach the
18 witness. I gave you that opportunity. The witness admitted
19 the prior false allegations and admitted the falsity of
20 those. The only piece of that that remains, from the Court's
21 perspective, is that GW denied having ever stated her claim
22 that Gage had raped her. She denied that -- She denied that
23 he had raped her, but she denied that she had made that
24 claim. So the defense still can offer extrinsic evidence as

1 to the rape.

2 As to the 2016 allegation, the Court's prior
3 order stands. The Court agrees with Ms. Mazza. So if that's
4 the purpose of offering Investigator Love and the only
5 purpose, then I'm not going to allow that. Is there other
6 reasons you were going to call him?

7 MS. RISTENPART: Yes, your Honor. Because
8 Investigator Chrzanowski testified that she was aware of the
9 2016 prior allegation and that when I asked her what her
10 knowledge of that was as to the conclusion of it, I was cut
11 off by Ms. Mazza and the Court sustained it as to objection
12 hearsay.

13 That goes in to my argument what DCSO did or did
14 not do properly in this case. And part of my argument is
15 that Investigator Chrzanowski did not properly really even
16 look in to the 2016 prior false allegation or take that in to
17 consideration when making her assessment of this case.

18 THE COURT: So you already had her on the stand
19 and cross-examined her on that. So, the Court is, again, I'm
20 standing by what I've stated.

21 MS. RISTENPART: And also, of course, the
22 timeliness of the motion. Obviously, Ms. Mazza knew that we
23 were calling Detective Love, and this is last minute.

24 THE COURT: Well, the Court's order regarding the

1 impeachment evidence, written order, was well before the
2 trial and everybody knew what the Court's ruling was and
3 we've heard the evidence here today. My ruling today is
4 consistent with that prior order.

5 Let's go ahead and call in the jury.

6 Ms. Mazza, do you stipulate to the presence of
7 the jury?

8 MS. MAZZA: I do.

9 THE COURT: Ms. Ristenpart?

10 MS. RISTENPART: Yes, your Honor.

11 THE COURT: Thank you, folks. Please be seated.
12 And good morning.

13 Ms. Ristenpart, you may call your next witness.

14 MS. RISTENPART: Defense calls Kimberley
15 Copeland.

16 THE COURT: Ms. Copeland, if you could just stop
17 there for a moment. Go ahead and raise your right hand, face
18 the court clerk to be sworn.

19 (The witness was sworn in)

20 THE COURT: All right. Thank you. Ms. Copeland,
21 come on up here to the witness stand, please. Please remove
22 your mask. Thank you.

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KIM COPELAND

Called as a witness on behalf of the
Defendant, having been first duly sworn,
Was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Ristenpart:

Q. Ms. Copeland, would you please state and spell
your name for the record.

A. Kim Copeland. Kim, K-i-m. Copeland,
C-o-p-e-l-a-n-d.

Q. And, Ms. Copeland, do you know Rick Jenkins?

A. Yes, I do.

Q. And how do you know Rick?

A. We dated for four and a half years.

Q. And how long have you known Rick overall?

A. Four and a half years.

Q. And do you see Rick in the courtroom today?

A. Yes.

Q. And what color shirt is he wearing?

A. Blue.

MS. RISTENPART: May the record reflect
identification?

THE COURT: It will reflect.

1 Q. (By Ms. Ristenpart) Now, did you live with Rick?
2 A. Yes.
3 Q. And, taking you back to 2018, the summer and fall
4 of that, were you living in Rick's home?
5 A. Yes.
6 Q. And who else lived there with you and Rick?
7 A. His daughter Alyssa, our roommate Chris, and my
8 son Ryan.
9 Q. And at that time how old was your son Ryan?
10 A. 14.
11 Q. So you stated that you dated for four and a half
12 years. Over the years were you a big part of Alyssa's life?
13 A. Yes, I was.
14 Q. And Alyssa is Rick's daughter?
15 A. Yes.
16 Q. You've known her since she was, like, 13?
17 A. Uh-huh.
18 Q. You have to answer out loud.
19 A. Yes.
20 Q. And how would you describe Alyssa's relationship
21 with Rick?
22 A. They are very close. They have a very close,
23 loving relationship.
24 Q. How would you describe Rick as a dad?

1 A. He is very attentive, very concerned about her
2 overall well-being, always there for her. He's a good dad.

3 Q. Would you consider your family to be a physically
4 affectionate family?

5 A. Yes.

6 Q. How so?

7 A. Hugging, sitting close to each other, just always
8 around each other.

9 Q. Would you guys kind of lean on each other
10 watching movies --

11 A. Yes, yes.

12 Q. -- or out at a restaurant?

13 A. Uh-huh.

14 Q. Did you observe interactions between Alyssa and
15 Rick physically affectionate?

16 A. Yes, yes.

17 Q. Would they hold hands?

18 A. I think when Alyssa was younger I remember them,
19 you know, walking through the store or something and she
20 would grab his hand. And she really thinks highly of her
21 dad.

22 Q. And would you see Alyssa sitting and leaning
23 against Rick?

24 A. All the time.

1 Q. And are you physically affectionate with Alyssa?
2 Do you hug her?

3 A. Not as much as Rick, but yes.

4 Q. Do you know someone with the initials GW?

5 A. Yes.

6 Q. And when did you first meet GW roughly?

7 A. I believe it was in the spring of 2018.

8 Q. I'm showing you what has been marked as JJ. Take
9 a look at that. Do you recognize what is depicted in that
10 picture?

11 A. Yes. I believe it was mine and Alyssa's
12 birthday. I think that's when that was taken.

13 Q. Does it fairly and accurately depict your party
14 at a restaurant for what you remember being yours and
15 Alyssa's joint birthday?

16 A. I think so, yes.

17 Q. And do you remember roughly when that was from?

18 A. In February is when our birthdays are. So maybe
19 this wasn't for our birthday. But we were celebrating
20 something. I'm just guessing that because my two kids are
21 there.

22 Q. Does it accurately reflect your memory of who was
23 at that restaurant with you for that celebration?

24 A. Yes, yes.

1 MS. RISTENPART: Move for admission, your Honor.

2 THE COURT: Any objection?

3 MS. MAZZA: No, your Honor.

4 THE COURT: Exhibit JJ is admitted.

5 MS. RISTENPART: Permission to publish?

6 THE COURT: Granted.

7 Q. (By Ms. Ristenpart) So, in this picture is that
8 you, Ms. Copeland?

9 A. Yes.

10 Q. And sitting next to you is Rick?

11 A. Yes.

12 Q. And then who is next to Rick on the other side?

13 A. Alyssa.

14 Q. And then who is at the end?

15 A. GW.

16 Q. And is the roommate Chris across the way?

17 A. Yes.

18 Q. And the other individuals in the pictures?

19 A. The blonde-haired one next to Chris is my son

20 Brandon, his girlfriend Katelyn, and my son Ryan.

21 Q. And do you remember first generally meeting GW
22 some time in the spring of 2018?

23 A. Uh-huh, yes.

24 Q. At some point did GW start hanging out more and

1 more at your house?

2 A. Yes.

3 Q. How often would GW be at your house?

4 A. Oh, all the time. That summer the girls wanted
5 to spend every day of the summer together. So I would say
6 they were -- she was at our house four or five times a week.

7 Q. Of those times that GW was hanging out at your
8 house, did you interact with GW?

9 A. Yes.

10 Q. Did you talk with her?

11 A. Yes.

12 Q. In your opinion did you and GW become closer as
13 the summer went on?

14 A. Yes.

15 Q. Would you consider that GW came more and more
16 part of your family as the summer went on?

17 A. Yes, yes.

18 Q. As she became closer, did GW become more
19 physically affectionate with your family?

20 A. Yes.

21 Q. How so?

22 A. She is a hugger. She was always hugging and
23 wanted to sit next to us and just enjoyed being around us.

24 Q. Would GW be gradually more physically

1 affectionate with you?

2 A. Yes.

3 Q. Ask for more hugs?

4 A. Uh-huh, uh-huh, yes.

5 Q. Did you also see that progression with Rick?

6 A. Yes.

7 Q. What about with Chris?

8 A. Yes. I don't know about Chris as much. But,
9 yes, she got a little closer to Chris.

10 Q. And what about your son Ryan?

11 A. A little bit but not so much. My son would hang
12 out in his room all the time. Teenager.

13 Q. Of those interactions that you observed between
14 GW and your family, did you ever think or feel that GW may be
15 copying or mimicking Alyssa sometimes?

16 MS. MAZZA: Objection. Speculation.

17 THE COURT: Sustained.

18 Q. (By Ms. Ristenpart) Did you ever observe GW to
19 copy Alyssa in actions?

20 A. Yes.

21 Q. How so?

22 A. She would grab Rick's hand. She would want a
23 hug, like what Alyssa would hug him as. She would have to
24 sit next to him on the couch. If -- If Alyssa was on one

1 side, she was on the other.

2 Q. Now, the one side or the other, was that
3 something that as GW got closer to your family that kind of
4 became their custom?

5 A. It was. It was kind of a standing little cute
6 thing that they would do.

7 Q. So when you have this picture from earlier spring
8 of 2018 obviously GW is not sitting next to Rick; right?

9 A. Right.

10 Q. But then later on as they got closer there was a
11 thing where Alyssa would sit on one side and then GW would
12 always sit on the other side?

13 A. Yes.

14 Q. By the fall of 2018, would you consider yourself
15 close with GW?

16 A. Yes.

17 Q. How would you describe GW to other people?

18 A. Are you referring to now or what I thought back
19 then?

20 Q. Back then. I apologize. In the fall of 2018.

21 MS. MAZZA: Objection. Relevance.

22 THE COURT: Ms. Ristenpart.

23 MS. RISTENPART: Your Honor, it's relevant
24 because they're trying to -- Well, also GW claimed that she

1 was not close to Ms. Copeland.

2 THE COURT: All right. I'll allow it. Go ahead.

3 THE WITNESS: She would confide in me in some
4 things that would partake in her home or in her life. So,
5 yeah, I think that we were close. I tried to be supportive
6 of her at that time.

7 Q. If GW made a claim in her testimony that she
8 never talked to you, would that be true?

9 A. That's not true.

10 Q. And now you just stated that GW would confide or
11 you talked to her; right?

12 A. Uh-huh.

13 Q. And at some point did GW confide in to you
14 something that she claimed about Gage?

15 A. Yes, she did.

16 Q. Do you know who lived with GW at her house?

17 A. Her mom and Gage.

18 Q. Had you actually met her mom and Gage?

19 A. Yes.

20 Q. What did GW tell you -- or excuse me. Did GW
21 ever talk to you about Gage?

22 A. Yes, she did.

23 Q. Is there a specific conversation that stands out?

24 A. There's -- there was a couple of conversations.

1 One in particular was she contacted me through one of the
2 social media sites, upset, claiming that he had raped her.

3 Q. When was this?

4 A. It was late summer, early fall, I believe.

5 Q. What exactly do you remember GW claiming?

6 A. She said that Gage had raped her. And I
7 questioned her on it. And she had said that he had -- excuse
8 me, had pantsed her.

9 MS. MAZZA: Objection, your Honor. I would
10 consider this hearsay as well as pursuant to the Court's
11 order.

12 THE COURT: Ms. Ristenpart.

13 MS. RISTENPART: Your Honor, I'll rephrase.

14 THE COURT: Thank you.

15 Q. (By Ms. Ristenpart) So GW made the claim that
16 Gage raped her?

17 A. Yes, she did.

18 Q. And used the word raped?

19 A. Yes.

20 Q. What did you do when GW told you that Gage had
21 raped her?

22 A. I tried to console her. Again, this was all over
23 social media. I told her she needed to have a conversation
24 with her mom. She was very against talking to her mom about

1 it. I offered to go with her.

2 MS. MAZZA: Objection. Relevance, your Honor.

3 THE COURT: Sustained.

4 Q. (By Ms. Ristenpart) Showing you what has been
5 marked as WW. Do you recognize who is depicted in that
6 photo?

7 A. Yes.

8 Q. And who is depicted in there?

9 A. Myself and GW.

10 Q. And do you remember when that photo was taken?

11 A. I'm guessing it was some time during the summer.
12 It looks like we were at a restaurant. I'm thinking it's
13 probably in Reno.

14 Q. And does it depict you and GW?

15 A. Yes.

16 Q. And it kind of has a fun Snapchat filter over it?

17 A. Yes.

18 Q. Does it fairly and accurately depict your
19 relationship or how you felt close to GW during the late
20 summer, fall?

21 A. Yes.

22 MS. RISTENPART: Move for admission, your Honor.

23 THE COURT: Any objection?

24 MS. MAZZA: Your Honor, the State will object to

1 admission of that photo. I don't think it's relevant to this
2 case. Ms. Copeland is not on trial here. So her
3 relationship with GW I don't believe is relevant.

4 THE COURT: The objection is overruled. WW is
5 admitted.

6 Q. (By Ms. Ristenpart) Showing WW. Ms. Copeland,
7 did law enforcement ever contact you throughout this
8 investigation?

9 A. No.

10 Q. Did they ever ask you to interview?

11 A. No.

12 Q. Did Child Protective Services or CPS ever come to
13 check on Alyssa?

14 A. No.

15 Q. Or your minor son Ryan?

16 A. No.

17 MS. RISTENPART: No further questions at this
18 time. Thank you.

19 THE COURT: Ms. Mazza, cross-examination.

20 MS. MAZZA: Thank you, your Honor.

21 CROSS-EXAMINATION

22 By Ms. Mazza:

23 Q. Ms. Copeland, I just kind of want to go back over
24 a few things you spoke with Ms. Ristenpart about. You

1 mentioned that Rick and Alyssa are pretty affectionate?

2 A. Uh-huh.

3 Q. They hug sometimes; correct?

4 A. Yes.

5 Q. They may have once in a while held hands but a
6 while ago?

7 A. Yeah.

8 Q. Correct. But you aren't as affectionate with
9 Alyssa you said; correct?

10 A. No. I didn't want to overstep my bounds with
11 her. But we were affectionate. I mean, I adore that child.

12 Q. Yeah, you adore her. You live with her?

13 A. Yeah.

14 Q. Absolutely. You don't want to overstep your
15 bounds because you have your own kids and she's not your kid;
16 correct?

17 A. Absolutely.

18 Q. She does have a mom; correct?

19 A. Yes.

20 Q. So you didn't want to overstep those bounds?

21 A. Right.

22 Q. And you said you have two kids; correct?

23 A. Yes, I do.

24 Q. Two sons?

1 A. Yes.

2 Q. One doesn't live with you?

3 A. Not then, no.

4 Q. Not then. He may have previously?

5 A. No. During that time when that picture was

6 shown, he did not live with me.

7 Q. In that photo, the picture that was shown, JJ,

8 you're not sure when that was taken?

9 A. I -- We did family dinners like that all the

10 time. So I don't know when exactly that may have been taken.

11 Q. It would have been early in GW becoming part of

12 your family?

13 A. Yes.

14 Q. And you indicated that GW reached out to you over

15 social media?

16 A. Yes.

17 Q. You didn't screen shot that; correct?

18 A. No.

19 Q. You didn't send that to law enforcement; am I

20 understanding that correct?

21 A. Yes.

22 Q. So there's nothing preserving that; correct?

23 A. No. And --

24 Q. And you did indicate that the family all became

1 closer with GW as time went on?

2 A. Yes.

3 Q. Including Mr. Jenkins?

4 A. Yes.

5 Q. In fact, they were really close; am I correct?

6 A. Yes. He helped her out with volleyball and with
7 Alyssa there.

8 Q. And do you play volleyball with them?

9 A. No, I didn't.

10 Q. Not your sport?

11 A. No, no.

12 Q. So would I be correct in saying that you didn't
13 go to the rec center with them for clinics or even just to
14 hang out?

15 A. No.

16 Q. They would go without you?

17 A. Yes.

18 Q. Have you been to the rec center before?

19 A. Yes.

20 Q. Have you been in the equipment closet with
21 Mr. Jenkins and GW?

22 A. No.

23 Q. Am I correct, your son, I guess, back to 2014 --
24 He might be a little older now -- but back then he was a

1 teenager that kind of stuck to himself in his room; is that
2 correct?

3 A. Yes, yes.

4 Q. He did whatever he wanted to do on his own?

5 A. Yeah.

6 Q. When you talk about the relationship between
7 Mr. Jenkins and Alyssa, they're close?

8 A. Yes.

9 Q. Father daughter?

10 A. Yes.

11 Q. Does he hide it when he hugs Alyssa?

12 A. No, no.

13 Q. He wants to show everyone he loves his daughter?

14 A. He's very proud of his daughter, yes.

15 Q. And when GW reached out to you alleging this rape
16 allegation, you were concerned enough to tell her to contact
17 someone?

18 A. I was.

19 Q. But didn't tell law enforcement?

20 A. No.

21 Q. Don't remember when she reached out to you
22 exactly about this?

23 A. Late summer, early fall.

24 Q. Don't have any pictures of her reaching out to

1 you or anything like that?

2 MS. RISTENPART: Objection. Asked and answered.

3 THE COURT: I haven't heard the end of the
4 question. Go ahead, Ms. Mazza.

5 Q. (By Ms. Mazza) No additional ways that you
6 preserved her conversation with you?

7 A. I didn't. She had deleted her responses off of
8 the social media. So I couldn't go back and screen shot
9 them.

10 Q. Okay. But at the time you didn't?

11 A. No.

12 MS. MAZZA: Your Honor, I have no further
13 questions. Thank you.

14 THE COURT: Thank you.

15 Redirect.

16 REDIRECT EXAMINATION

17 By Ms. Ristenpart:

18 Q. Ms. Copeland, you were just stating that when you
19 went back to go try to find this conversation where GW
20 claimed Gage raped her GW had actually deleted her responses?

21 A. Yes.

22 Q. And you were asked repeatedly what -- or pointed
23 out that you did not go to law enforcement with this?

24 A. No.

1 Q. Why not?

2 A. Because, as the conversation went on, she said
3 that Gage had just pantsed her. So I didn't -- I think that
4 was something that maybe her mom should have known. But if
5 it was just pantsing, I didn't think that that warranted
6 going to the police.

7 Q. And shortly thereafter were there some false
8 allegations against Rick?

9 A. Yes, there was.

10 MS. RISTENPART: No further questions. Thank
11 you.

12 THE COURT: Recross.

13 RECROSS-EXAMINATION

14 By Ms. Mazza:

15 Q. When you're saying false allegations, they're
16 actually allegations that we're here on trial for; correct?

17 A. Yes.

18 MS. MAZZA: No further questions, your Honor.
19 Thank you.

20 THE COURT: Ms. Mazza, may this witness be
21 excused?

22 MS. MAZZA: Yes.

23 THE COURT: Ms. Ristenpart?

24 MS. RISTENPART: Yes, your Honor.

1 THE COURT: All right. Ms. Copeland, you are
2 excused. Pleases do not discuss your testimony with anyone
3 except for the attorneys in this case or the investigators
4 until the jury has reached a verdict.

5 THE WITNESS: Can I stay in here?

6 THE COURT: You may stay in the courtroom now.

7 THE WITNESS: Thank you.

8 THE COURT: Have the exhibits been returned to
9 the clerk?

10 MS. RISTENPART: They have, your Honor.

11 THE COURT: Ms. Ristenpart, you may call your
12 next witness.

13 MS. RISTENPART: Based upon the Court's ruling,
14 my next witness will not be here until 9:30.

15 THE COURT: Okay. So, Ladies and Gentlemen,
16 you're going to get an extended recess here for a half an
17 hour, approximately a half an hour. During the recess you
18 will be able to leave the jury deliberation room.

19 It is your duty not to converse amongst
20 yourselves or with anyone else on any subject connected with
21 the trial either by phone, e-mail, text, internet, or any
22 other means. Do not read, watch, or listen to any report of
23 or commentary on the trial or any person connected with the
24 trial by any medium of information, including, without

1 limitation, newspapers, television, and radio. Do not form
2 or express any opinion on any subject connected with the
3 trial until the cause is finally submitted to you. Do not do
4 any research such as consulting dictionaries, using the
5 internet, or using other reference materials. And do not
6 make any investigation, test the theory of the case, recreate
7 any aspect of the case, or in any other way investigate or
8 learn about the case on your own. We will be in recess until
9 9:30.

10 (Recess was taken)

11 THE COURT: Court is back in session on Case
12 Number 19-CR-188. Show the appearance of counsel for both
13 parties as well as the defendant.

14 Ms. Mazza, are you ready to bring in the jury?

15 MS. MAZZA: Yes, your Honor.

16 THE COURT: Ms. Ristenpart?

17 MS. RISTENPART: I am, your Honor.

18 THE COURT: All right. Deputy Schramm, let's
19 bring them in.

20 Ms. Mazza, do you stipulate to the presence of
21 the jury?

22 MS. MAZZA: Yes, your Honor.

23 THE COURT: Ms. Ristenpart?

24 MS. RISTENPART: I do, your Honor.

1 THE COURT: Thank you, folks. Please be seated.

2 Ms. Ristenpart, you may call your next witness.

3 MS. RISTENPART: Thank you, your Honor. The
4 defense calls Destiny Shull.

5 THE COURT: I'm going to have you stop right
6 there for a moment. Please raise your right hand, face the
7 court clerk to be sworn.

8 (The witness was sworn in)

9 THE COURT: I'm going to have you leave your
10 purse there on the seat. Thank you. Come on up here to the
11 witness stand. Please have a seat and remove your mask.

12 THE WITNESS: Okay.

13

14 DESTINY SHULL

15 Called as a witness on behalf of the
16 Defendant, having been first duly sworn,
17 Was examined and testified as follows:

18

19 DIRECT EXAMINATION

20 By Ms. Ristenpart:

21 Q. Ms. Shull, would you please state and spell your
22 name for the record.

23 A. Destiny Shull, D-e-s-t-i-n-y S-h-u-l-l.

24 Q. And, without going in to specifics, Ms. Shull,

1 but generally where do you live?

2 A. Gardnerville.

3 Q. And how long have you lived here for?

4 A. Well, seven years.

5 Q. Do you know Rick Jenkins?

6 A. I do.

7 Q. And how do you know Rick Jenkins?

8 A. He's been a coach, a volleyball coach, of my
9 three girls and a friend.

10 Q. So, to clarify, you have three daughters?

11 A. I do.

12 Q. And what are their ages?

13 A. 21, 18, and nine.

14 Q. Do you see Rick in the courtroom today?

15 A. I do.

16 Q. And what color shirt is he wearing?

17 A. Light blue.

18 MS. RISTENPART: May the record reflect
19 identification?

20 THE COURT: It will reflect.

21 Q. (By Ms. Ristenpart) Now, you stated that Rick
22 was a coach to your daughters?

23 A. Uh-huh.

24 Q. And how long was Rick your daughters' coach?

1 A. About six or seven years. Seven years, yeah, as
2 long as I've known him.

3 Q. During those six or seven years did you have
4 opportunity to go to volleyball practices?

5 A. Yes. All the time.

6 Q. Did you have the opportunity to go to volleyball
7 tournaments?

8 A. Yes.

9 Q. Did you have the opportunity to observe -- Excuse
10 me -- Rick interact with his players?

11 A. Yes.

12 Q. Now, taking you directly to the summer of 2018,
13 are you familiar with someone with the initials GW?

14 A. Yes.

15 Q. And how do you know GW?

16 A. From practices and from being his daughter's
17 friend.

18 Q. Was one of your daughters actively playing on
19 Rick's team during that summer?

20 A. I think she would -- Yeah, she was there.

21 Q. And when we're saying there, where are we talking
22 about? Where were practices?

23 A. The rec center.

24 Q. Now, before we go there, have you had the

1 opportunity to observe Rick's interactions with his daughter
2 Alyssa?

3 A. Yes, all the time.

4 Q. Would you describe their relationship as being
5 physically affectionate?

6 A. Yes.

7 Q. How so?

8 A. They're always hugging, they hold hands, they
9 stand close. They're, yeah, they're really close.

10 Q. Over that summer were you able to observe
11 interactions between Rick and GW?

12 A. Yes.

13 Q. How would you describe their interactions?

14 A. Like another daughter, always standing one
15 daughter on one side, one on the other.

16 Q. Now, beyond volleyball practice, do you know the
17 Jenkins family personally?

18 A. I do.

19 Q. Have you been over to the Jenkins home?

20 A. Yes.

21 Q. Had you been over to the home when GW was hanging
22 out at the Jenkins home?

23 A. Yes.

24 Q. Did you see any difference between how Rick would

1 treat or interact with Alyssa versus GW?

2 A. No. It was similar.

3 Q. Did you know how close GW was to the Jenkins
4 family?

5 A. Yes.

6 Q. Now, during your times that you observed
7 interactions between GW and Rick, did you ever see anything
8 that you felt was inappropriate?

9 A. Never.

10 Q. In fact, have you watched videos from the rec
11 center showing interactions between GW and Rick?

12 A. Yes.

13 Q. Did you find what was depicted in those videos to
14 be, quote, inappropriate?

15 A. Not at all.

16 Q. And why was that?

17 A. Because --

18 MS. MAZZA: Objection. Relevance.

19 MS. RISTENPART: Your Honor, it's definitely
20 relevant, because it goes towards she has context while
21 viewing those videos.

22 THE COURT: It's sustained. She's given her
23 opinion.

24 THE WITNESS: Because --

1 THE COURT: Hold on. That means, ma'am, you
2 can't continue. Wait for another question from
3 Ms. Ristenpart.

4 THE WITNESS: Okay.

5 Q. (By Ms. Ristenpart) Did Rick ever hug your
6 daughter?

7 A. Yes.

8 Q. Or your daughters?

9 A. Uh-huh.

10 Q. And did you watch a video from the rec center of
11 Rick hugging GW?

12 A. Yes.

13 Q. Would, in your observation over the years, and
14 particularly that summer, would Rick hug Alyssa the same way?

15 A. Yes.

16 Q. Would Rick hug your daughters the same way?

17 A. Yeah.

18 Q. And your daughters are close to Rick?

19 A. Yes.

20 Q. Your families are close together?

21 A. Yes.

22 Q. Also, during your daughters' volleyball careers
23 have you ever seen coaches hold on to the waist area or the
24 hips and physically move a player to position them?

1 A. Absolutely.

2 MS. MAZZA: Objection. Relevance, your Honor.

3 MS. RISTENPART: Your Honor, it is relevant.

4 They're making the allegation it was inappropriate. And she
5 has personal knowledge other coaches do that also.

6 THE COURT: All right. Go ahead.

7 MS. RISTENPART: Thank you.

8 Q. (By Ms. Ristenpart) So you've seen other coaches
9 do that?

10 A. Yes. Just the other night with my youngest.

11 Q. And have you seen Rick do that?

12 A. Yes.

13 MS. RISTENPART: No further questions. Thank
14 you.

15 THE WITNESS: You're welcome.

16 THE COURT: Cross-examination.

17 MS. MAZZA: Thank you, your Honor. If I may
18 approach the clerk.

19 THE COURT: You may.

20 CROSS-EXAMINATION

21 By Ms. Mazza:

22 Q. Ms. Shull, is that correct?

23 A. Yes.

24 Q. So you've been friends with Mr. Jenkins for seven

1 years?

2 A. Yes.

3 Q. And you've lived here for seven years; correct?

4 A. Yes. Back here. But yes.

5 Q. In this area for seven years this time?

6 A. Yes.

7 Q. Okay. And during that seven years the entire
8 time you've been friends with Mr. Jenkins?

9 A. I have.

10 Q. Friends close enough that you've gone to his
11 house; correct?

12 A. Yes.

13 Q. You don't want to see him get in any trouble or
14 ever get hurt; is that correct?

15 A. Well, of course not.

16 Q. So, you indicated that your daughters are very
17 close to Mr. Jenkins also?

18 A. Yes.

19 Q. So I would assume that they have had many
20 sleepovers with Alyssa then at Mr. Jenkins' house?

21 A. Yeah, they've had some, uh-huh.

22 Q. Some?

23 A. Yeah.

24 Q. So not a lot actually; correct?

1 A. Meadow has, yes.

2 Q. Okay. She stayed the night multiple times?

3 A. Yeah.

4 Q. Over an entire summer?

5 A. I mean, over the entire year, yeah.

6 Q. But we've actually heard testimony that really
7 Alyssa's best friend has been GW, no other person has been
8 mentioned, not Meadow?

9 A. No. Not as a best friend.

10 Q. They weren't close; correct?

11 A. Yeah, they were close for a while.

12 Q. But not best friends?

13 A. No.

14 Q. And so then your daughters went on family trips
15 with them too, I'm guessing?

16 A. No.

17 Q. So did your daughters have movie nights on
18 multiple occasions with Mr. Jenkins?

19 A. No.

20 Q. And then your daughters have they gone in to
21 private secluded areas with Mr. Jenkins without you present
22 that you know of?

23 A. Yeah. To get balls, yeah.

24 Q. And have you gone and seen Mr. Jenkins go to get

1 balls with GW?

2 A. I'm not sure if I was paying attention to that,
3 so....

4 Q. So is it safe to say sometimes at volleyball
5 practice you can't see everything that's going on; right?

6 A. Right.

7 Q. Sometimes you're watching your own kid or
8 sometimes you maybe have a phone call or something else that
9 you're taking care of; is that correct?

10 A. Yes.

11 Q. So you can't see everything?

12 A. Right.

13 Q. And you said that you've seen video in this case
14 regarding Mr. Jenkins in a hug I guess you could say with GW?

15 A. Yes.

16 Q. Have you ever seen him have to take Alyssa to a
17 secluded area to hug her in private?

18 A. When people are upset, he steps aside with them.
19 Yes, I've seen it multiple times.

20 Q. And kiss their neck?

21 A. I didn't see --

22 MS. RISTENPART: Objection. Mischaracterization
23 of the video.

24 THE COURT: She's asking what she observed.

1 Objection is overruled. Please answer the question.

2 THE WITNESS: I did not see that.

3 Q. (By Ms. Mazza) I'm not asking you what you saw.
4 I'm asking you when he takes people to secluded areas does he
5 kiss their neck?

6 A. No.

7 Q. Do you see him kiss any daughter -- or any
8 players other than his daughter?

9 A. No.

10 Q. I'm going to show you what's been admitted
11 State's Exhibit 20. So you said you've seen all of these
12 videos; correct?

13 A. Yes.

14 Q. Show you video four on Exhibit 20. Would it be
15 inappropriate if a coach touched your daughter's butt?

16 A. Not -- I mean, hand on the butt, yeah. But
17 otherwise sportsman --

18 Q. So, it's okay, you're saying?

19 A. Not a hand on the butt.

20 Q. Anything on the butt, right, your kid's butt, is
21 that inappropriate?

22 A. I mean, I don't think it was inappropriate.

23 Q. Okay. So I'm going to show you video six.

24 THE COURT: Ms. Mazza, you may need to plug in

1 the video.

2 MS. MAZZA: Thank you. Thank you, your Honor.

3 Would it be safe to say that you weren't always
4 around when GW and Mr. Jenkins were together?

5 MS. RISTENPART: Objection. Asked and answered.

6 THE COURT: Overruled.

7 Q. (By Ms. Mazza) Were you always around when they
8 were together?

9 A. Not always.

10 Q. Now, clearly, the kid in the video actually put
11 their hands to stop it in the way?

12 MS. RISTENPART: Objection. Speculation.

13 Q. (By Ms. Mazza) Can you see the person put their
14 hands in front of their bottom area?

15 A. Yeah.

16 Q. And now?

17 A. And then it stopped.

18 Q. But it would be appropriate to touch someone's
19 butt, I guess, is what you're saying?

20 A. He wasn't touching it though.

21 Q. Okay. And, your Honor, if I can use the
22 projector now to show you Exhibit 6. You're saying that this
23 is normal? Your daughters would also lean their head on
24 Mr. Jenkins like that at dinner?

1 A. I mean, yeah, they seek comfort sometimes and --
2 especially somebody who is like her dad.

3 Q. I'm not asking about GW. I was asking about your
4 kids.

5 A. Yeah, I think it's fine.

6 MS. MAZZA: Your Honor, I have no further
7 questions.

8 THE COURT: Redirect.

9 REDIRECT EXAMINATION

10 By Ms. Ristenpart:

11 Q. Ms. Shull, Ms. Mazza kept saying do you think
12 it's appropriate to be touched on the butt. The video we
13 were shown, you said, no, I thought that would be
14 appropriate; right?

15 A. Yeah. I mean, there's many other reasons. It
16 doesn't look perverted to me at all.

17 Q. So, when you're saying touch, I mean, you're,
18 like, yeah, if it was inappropriate it would be -- if I saw
19 someone groping my daughter's butt?

20 A. Yes.

21 Q. Rubbing it?

22 A. Yes.

23 Q. Something overtly sexual?

24 A. Yes.

1 Q. When you're looking at that, you're, like, I
2 don't see that, I see the relationship you saw between GW and
3 Rick; right?

4 A. Yes.

5 Q. Appropriate in your opinion?

6 A. Yes.

7 MS. MAZZA: Objection. Relevance.

8 MS. RISTENPART: She went through this in
9 cross-examination, your Honor.

10 THE COURT: Go ahead.

11 Q. (By Ms. Ristenpart) And also in the context that
12 you knew the family dynamics?

13 A. Exactly.

14 Q. Now, you were asked some questions about your
15 daughter Meadow. To be fair, Meadow was not as close to
16 Alyssa as you understood GW and Alyssa to be?

17 A. Right.

18 Q. And, in your knowledge of the relationship, GW
19 was much closer to the Jenkins family than your daughters
20 ever were?

21 A. Yes.

22 Q. And Ms. Mazza asked if you would allow your
23 daughters to be touched in this manner. From what you saw,
24 nothing was inappropriate?

1 A. No, it wasn't.

2 Q. And, if you believed it had, would you be here
3 testifying?

4 A. No. I have three girls. I would not.

5 MS. RISTENPART: No further questions. Thank
6 you.

7 THE COURT: Okay. Recross.

8 RECROSS-EXAMINATION

9 By Ms. Mazza:

10 Q. Now, if you heard -- given your opinion,
11 Ms. Ristenpart asked if someone said that they put their
12 hands down a child's pants at the age of 13 to 14, would that
13 be inappropriate?

14 A. If I believed it or saw it happen or had some
15 proof.

16 Q. I'm asking you the facts of that -- of what I
17 just stated, would that be inappropriate, would that rise to
18 the level of inappropriate for you?

19 A. Yeah, yes.

20 MS. MAZZA: Your Honor, I have no further
21 questions. Thank you.

22 THE COURT: Ms. Mazza, may this witness be
23 excused?

24 MS. MAZZA: Your Honor, I actually would like to

1 keep her subject to recall.

2 THE COURT: Okay. Ma'am, you are held subject to
3 recall, which means you might be called back to the stand or
4 you may not be called back to the stand.

5 THE WITNESS: Okay.

6 THE COURT: Please do not discuss your testimony
7 with anyone except for the attorneys in this case or their
8 investigators until such time as the jury has reached its
9 verdict. At this time I'll excuse you from the courtroom.

10 THE WITNESS: Thank you.

11 THE COURT: Ms. Ristenpart, you may call your
12 next witness.

13 MS. RISTENPART: With that, your Honor, the
14 defense rests.

15 THE COURT: Ms. Mazza, does the State wish to
16 present any rebuttal evidence?

17 MS. MAZZA: Your Honor, I may. And I just would
18 ask for a five to ten-minute quick recess.

19 THE COURT: Okay. Ladies and Gentlemen, we are
20 going to take a recess. During this recess, I'm going to ask
21 you to remain back in the jury deliberation room.

22 I remind you that it is your duty not to converse
23 amongst yourselves or with anyone else on any subject
24 connected with the trial either by phone, e-mail, text,

1 internet, or any other means. Do not read, watch, or listen
2 to any report of or commentary on the trial or any person
3 connected with the trial by any medium of information,
4 including, without limitation, newspapers, television, and
5 radio. Do not form or express any opinion on any subject
6 connected with the trial until the cause is finally submitted
7 to you. Do not do any research such as consulting
8 dictionaries, using the internet, or using other reference
9 materials or make any investigation, test the theory of the
10 case, recreate any aspect of the case, or in any other way
11 investigate or learn about case on your own.

12 We will be in recess for ten minutes. Thank you.

13 (Recess was taken)

14 THE COURT: Court is back in session on Case
15 Number 19-CR-188. I show the appearance of counsel for both
16 parties as well as the defendant. We're convened outside the
17 presence of the jury.

18 Ms. Mazza, is the State going to be presenting a
19 rebuttal case?

20 MS. MAZZA: No, your Honor.

21 THE COURT: Okay. So, before we call the jurors
22 in, I just want to talk about scheduling. So the State, in
23 essence, is going to be resting; is that correct?

24 MS. MAZZA: Yes, your Honor.

1 THE COURT: All right. So we still have a little
2 bit of work left on the jury instructions. My thought would
3 be that we would give the jury an extended lunch with the
4 idea that we would have the instructions ready and be ready
5 for the jury when they come back.

6 The question is how much time do you think we
7 need to resolve instructions. Ms. Mazza, what is your
8 suggestion?

9 MS. MAZZA: Your Honor, I don't anticipate it
10 will take too much time to settle the instructions. But I'll
11 defer to Ms. Ristenpart, because I believe she had the most
12 objections.

13 THE COURT: Ms. Ristenpart, what are your
14 thoughts? So we need to think about we will probably have a
15 need to meet informally again and then put on the record any
16 objections to those instructions, the Court's rulings, before
17 we would be ready for the jury. Ms. Ristenpart?

18 MS. RISTENPART: Your Honor, as I indicated to
19 the Court this morning, I've reviewed some of my what I had
20 initially put question marks on last night. And my
21 objections I don't think are going to be as many as I
22 anticipated last night.

23 I do have a one newly proffered which I think
24 tracks the case law better. And so I do have that for the

1 Court.

2 But, in abundance of caution, I would ask
3 possibly if we could take two hours and have the jury come
4 back at 12. That way both Ms. Mazza and I can work on the
5 closings with our jury instructions set if that's amenable to
6 the Court. I know we can get it done by then.

7 THE COURT: Okay. So I tend to agree that we
8 should be able to get the jury instructions done in that
9 amount of time. I do want to be mindful that the two of you
10 need to eat, and Mr. Jenkins as well. So I'm wondering, one
11 might be a little better for that purpose. But I'm also open
12 to your suggestions.

13 Ms. Mazza, what are your thoughts?

14 MS. MAZZA: That would work for the State. I
15 think that would give us plenty of time for everything we
16 need to do over the break.

17 THE COURT: Okay. I think that would work. So
18 we would have the jury -- go ahead and discharge them until
19 1:00 o'clock. We would go ahead and continue to work here
20 first informally and then formally with the jury
21 instructions. And then, of course, we would break for our
22 lunches and then come back at 1:00 o'clock for reading of the
23 instructions and closing argument.

24 Ms. Mazza, does that sound like a good plan?

1 MS. MAZZA: Yes, your Honor.

2 THE COURT: Ms. Ristenpart?

3 MS. RISTENPART: Your Honor, I'll also waive my
4 client's appearance again for our informal discussion and
5 also, frankly, for the putting on the record.

6 THE COURT: Okay. So, Mr. Jenkins, are you good
7 with that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Okay. And, as I indicated before,
10 either way is fine with the Court. I just want you to know
11 you're welcome to be here and be part of that or you're
12 welcome to not be here.

13 THE DEFENDANT: Thank you.

14 THE COURT: Okay. So I think we're ready then to
15 call in the jury. Ms. Mazza?

16 MS. MAZZA: Yes, your Honor.

17 THE COURT: Ms. Ristenpart?

18 MS. RISTENPART: Yes, your Honor.

19 THE COURT: Okay. Call in the jury.

20 Ms. Mazza, do you stipulate to the presence of
21 the jury?

22 MS. MAZZA: Yes, your Honor.

23 THE COURT: Ms. Ristenpart?

24 MS. RISTENPART: Stipulated.

1 THE COURT: Thank you, folks. Please be seated.

2 Ms. Mazza, does the State wish to call any
3 rebuttal witnesses?

4 MS. MAZZA: No, your Honor. At this time the
5 State will rest.

6 THE COURT: All right. Thank you.

7 So, Ladies and Gentlemen, we have concluded the
8 evidence portion of this trial. What remains is the reading
9 of the jury instructions to you, closing arguments by
10 counsel, and then you would be discharged in to the jury room
11 to deliberate.

12 In terms of the jury instructions, the Court now
13 has to spend some time with the attorneys preparing those
14 instructions. And, again, as I instructed you at the
15 beginning of the case, this happens in every case where we
16 have to take some time at the end of evidence to settle upon
17 jury instructions. Counsel and I are estimating that we
18 would be ready to go for you folks at 1:00 o'clock.

19 So I'm going to release you until 1:00 o'clock
20 with the admonishment that I've given you at every recess.
21 You folks have been very prompt and I ask you again to return
22 promptly at one.

23 It would be appropriate for you to know and
24 understand for scheduling purposes that the case will be

1 given to you today for deliberation.

2 And what I told you before about cell phones
3 comes in to play here. I remind you, you will not be allowed
4 to take cell phones back in to the jury deliberation room.
5 If you have cell phones at that time, they will be
6 confiscated. So I suggest you simply don't bring them back
7 with you after lunch.

8 Again, the admonishment continues to apply here.
9 Specifically, you are admonished and ordered it is your duty
10 not to converse amongst yourselves or with anyone else on any
11 subject connected with the trial either by phone, e-mail,
12 text, internet, or any other means. Do not read, watch, or
13 listen to any report of or commentary on the trial or any
14 person connected with the trial by any medium of information,
15 including, without limitation, newspapers, television, and
16 radio. Do not form or express any opinion on any subject
17 connected with the trial until the cause is finally submitted
18 to you. Do not do any research such as consulting
19 dictionaries, using the internet, or using other reference
20 materials. Do not make any investigation, test the theory of
21 the case, recreate any aspect of the case, or in any other
22 way investigate or learn about the case on your own.

23 I'm going to go ahead and excuse you at this
24 time. If there's anything you need out of the jury room, you

1 can go ahead and grab it. We'll see you back at 1:00
2 o'clock.

3 And, Counsel, we will convene informally in about
4 ten minutes. Thank you. The court is in recess.

5 (Recess was taken)

6 THE COURT: The Court is in session on Case
7 Number 19-CR-188. We are convened outside the presence of
8 the jury. Appearing are counsel for the State and counsel
9 for the defendant. Defendant is voluntarily absent. We are
10 convened for the purpose of settling jury instructions.
11 Counsel have been handed a stack of instructions attached
12 with a binder clip with a Post-it note indicating agreed.
13 Will counsel please take a moment to review those and let me
14 know if you do in fact agree with those. Ms. Plante is
15 handing them to you now. Take your time going through them.

16 And you don't need to pay too much attention to
17 order right now. We will go through and put these in a
18 different order after we agree on the instructions.

19 MS. RISTENPART: Judge, I have reviewed the
20 agreed-upon binder clipped packet that was handed to us and
21 defense has reviewed and has no objections to those
22 instructions as in that packet.

23 THE COURT: Thank you.

24 Ms. Mazza?

1 MS. MAZZA: No objections from the State as well.

2 THE COURT: Okay. In addition to those
3 instructions, the Court proffers two alternative instructions
4 regarding prior bad acts. And the Court has provided copies
5 of those to proposed alternative instructions regarding prior
6 bad acts. It is my understanding from our off-the-record
7 conversations that the defense wishes to waive an instruction
8 regarding prior bad acts for strategic purposes.

9 Ms. Ristenpart, would you like to make a record
10 to that extent?

11 MS. RISTENPART: Your Honor, we have received
12 both copies of the proffered PBA or prior bad act instruction
13 from the Court. At this time, pursuant to Tavares versus
14 State and also McLellan, M-c-L-e-l-l-a-n, versus State,
15 defense is specifically requesting that those instructions
16 not be given for strategic purposes.

17 THE COURT: Thank you. Ms. Mazza, does the State
18 wish to be heard?

19 MS. MAZZA: Your Honor, the State will submit.

20 THE COURT: The Court has had an opportunity to
21 review McLellan versus State, 124 Nevada 263, a 2008 case.
22 Also important is Tavares, T-a-v-a-r-e-s, versus State, 117
23 Nevada 725, 2008. And it is the Court's reading of those
24 cases that a defendant may waive a limiting instruction but

1 must explicitly waive the limiting instruction prior to the
2 admission of the evidence and that -- It also indicates that
3 a Court should defer to and recognize the defendant's
4 request. And so, at the defendant's request, the Court does
5 find that the defense has waived that instruction.

6 Ms. Ristenpart, would you like to make any record
7 regarding -- Have you discussed that with your client at all?

8 MS. RISTENPART: I have, your Honor. He's in
9 agreement with my legal decision.

10 THE COURT: Okay. Very good. So the Court will
11 recognize the defendant's request to waive. I do want at
12 this time to make a record. In this case, the Court entered
13 an order granting the State's request to admit prior bad
14 acts. That written order was entered April 9th, 2021. In
15 that order, at page nine, lines 20 through 21, the Court
16 indicated, quote, to reduce any prejudice, the Court will
17 give a limiting instruction. And, of course, the Court did
18 give the limiting instruction without any objection during
19 the course of the trial on two occasions. After the Court
20 had done that twice, then the defense asked the Court to not
21 provide that any further instruction as it regards prior bad
22 acts and the Court granted that request.

23 So the Court's proffered instructions, I'm going
24 to put a line through those instructions, indicate not given,

1 and those will be provided to the court clerk for the purpose
2 of the record. Both of those instructions begin with the
3 records, during the trial I explained that certain evidence
4 was admitted for a limited purpose. One of the instructions
5 adds just one additional sentence. The other instruction
6 then adds two additional sentences. And, again, the Court
7 proffered those to be given in the alternative. The Court
8 has placed a -- has crossed out each of those instructions,
9 indicated not given, and I will now hand those to the court
10 clerk.

11 THE CLERK: Thank you.

12 THE COURT: Okay. We will next turn to the
13 State. Ms. Mazza, does the State have any other instructions
14 that you wish to proffer?

15 MS. MAZZA: Your Honor, the State wishes to
16 proffer instruction beginning with inconsistencies or
17 discrepancies in the testimony.

18 THE COURT: Ms. Mazza, do you happen to have a
19 clean copy of that? I have marked all over mine.

20 MS. MAZZA: I do, your Honor, if I may approach.

21 THE COURT: You may.

22 MS. MAZZA: This is a copy without citations.

23 THE COURT: Thank you.

24 Ms. Ristenpart, have you seen that instruction?

1 MS. RISTENPART: I have, your Honor.

2 THE COURT: Do you wish to offer any objection?

3 MS. RISTENPART: We are objecting to that
4 proffered instruction. I believe it's duplicative and not
5 needed pursuant to the Court's instructions that we've just
6 agreed upon, primarily that the instruction which starts
7 with, you are the sole judges of the credibility of witnesses
8 and of the weight to be given to their testimony, that
9 directly covers and succinctly covers. We don't need another
10 instruction about inconsistencies and witness testimony.

11 THE COURT: Okay. Ms. Mazza, what is the State's
12 position?

13 MS. MAZZA: Your Honor, the State's position is
14 that the current instructions do not actually cover that.
15 Unfortunately, the current instruction does not actually
16 cover inconsistencies or discrepancies. Although it covers
17 that the jury is to weigh the credibility of witnesses, it
18 doesn't specifically discuss this portion which the State was
19 submitting for. So we would ask that it be admitted. We
20 also believe it is appropriate under Nevada law, pursuant to
21 Ward v. State, 95 Nevada 431, pinpoint 432. Your Honor, so
22 we would request that it be given.

23 THE COURT: The Court has reviewed and considered
24 the instructions that have been agreed upon as cited by

1 Ms. Ristenpart, the one beginning with you are the sole
2 judges and the second beginning with a witness wilfully
3 falls. The Court finds that for the most part this
4 instruction proffered by the State is not redundant. Those
5 instructions talk about how a certain witness' testimony
6 ought to be considered by the jury. This instruction is
7 meant to help and assist the jury and considering the
8 testimony of different witnesses.

9 And, when I say it's not redundant for the most
10 part, there is language within the proffered instruction that
11 I'm going to strike because I believe it would be redundant.
12 Specifically, beginning at line one, I'm going to strike the
13 words in the testimony of a witness. So the instruction then
14 purely relates to and assists the jury in deciding what to do
15 with witness -- testimony between different witnesses. So,
16 as interlineated, that instruction is going to be given.
17 I'll ask my judicial assistant to print out a version with
18 those words stricken and it will be provided to the parties
19 and then added in to the instructions that will be given.
20 The Court also believes it is a correct statement of the law.

21 MS. MAZZA: And, your Honor, just to confirm, so
22 the word in through the word or will be stricken?

23 THE COURT: Yes. So the first sentence now
24 reads, inconsistencies or discrepancies -- Oh, I see what

1 you're saying, Ms. Mazza. Yeah, I need to strike the word or
2 as well. So it will read, inconsistencies or discrepancies
3 between the testimony of different witnesses may or may not
4 cause the jury to discredit such testimony.

5 MS. MAZZA: Thank you, your Honor.

6 THE BAILIFF: Judge, we have some jurors showing
7 up. Would you like me to keep them out in the hallway?

8 THE COURT: Yes, please. For the record, we have
9 some jurors appearing. However, they have not come in to the
10 courtroom. I have asked the bailiff to keep them out of the
11 courtroom until we finish going through the instructions.

12 Okay. Ms. Mazza, do you have any other
13 instructions that you wish to proffer?

14 MS. MAZZA: Your Honor, the State would proffer
15 the next instruction, it is not improper for attorneys to
16 have interviewed. As discussed with the Court informally, we
17 would strike the second sentence, the practice of
18 interviewing. But we would propose this one be admitted with
19 the first sentence included. The State does believe actually
20 that it is appropriate under the law. We believe that Banks
21 v. Fowler, the fifth circuit case, as well as United States
22 v. Mambo Barajas, an eighth circuit case, and then United
23 States v. Ash do indicate that it is proper and it is allowed
24 and not improper for that to have occurred. So the State

1 would propose that we admit -- give this instruction with the
2 last sentence stricken.

3 THE COURT: Okay. And do you have a clean copy
4 of that instruction?

5 MS. MAZZA: I have a clean copy without the
6 second sentence stricken.

7 THE COURT: Okay. Why don't you go ahead and
8 bring that one forward. And why don't you -- why don't you
9 go ahead and just strike that last part and place your
10 initials next to that so that it's clear what the State is
11 proffering. Okay.

12 Ms. Ristenpart, does the defense have any
13 objection?

14 MS. RISTENPART: Your Honor, we're still
15 objecting to even the newly-proffered State's instruction.
16 In United States versus Ash, which is the only controlling
17 case law for -- that's been cited by the State to support
18 their theory in this instruction, the other cases are not in
19 circuit courts that are controlling to our courts.

20 United States versus Ash decided by the United
21 States Supreme Court 413 US 300, pinpoint cite at 317 to 318,
22 decided in 1973, the Court is talking about how, although
23 photography is relatively new, the interviewing of witnesses
24 before trial is procedure that predates the Sixth Amendment.

1 In England, the 16th and 17th centuries counsel
2 regularly interviewed witnesses before trial. The
3 traditional counter-balance in the American adversary system
4 for these interviews arises from the equal ability of defense
5 counsel to seek and interview witnesses himself.

6 Your Honor, it's for the trier of fact to
7 determine whether there was some manipulation of the witness
8 by the prosecutor. We have had only testimony in this case
9 that Ms. Mazza has met repeatedly with GW, the alleged
10 victim, the witness. And also there was testimony that GW
11 had reviewed transcripts before testifying today.

12 The Court to give this instruction that is
13 declaring that it's not improper for the attorneys to have
14 interviewed witnesses prior to the trial in this case is
15 impermissibly vouching, frankly, how the case facts and our
16 case came together for the prosecution in their actions.

17 THE COURT: Okay.

18 MS. RISTENPART: If the Court is inclined to even
19 give any kind of instruction, we would ask that the Court
20 follow United States versus Ash and only limit it to
21 attorneys are allowed to interview witnesses prior to trial.

22 THE COURT: As proffered by the State, the
23 instruction is not going to be given. Of course it can be
24 proper for attorneys to interview witnesses. But the conduct

1 could also be improper. And this sentence or this
2 instruction does not in any way assist the jury in deciding
3 whether the interviews conducted in this case were proper or
4 improper. Left as is, it does tend to improperly vouch. And
5 also the Court has considered the authorities cited by
6 Ms. Ristenpart. So the Court is going to draw a line through
7 that instruction. I will indicate offered by State, not
8 given. And I'll give that to the court clerk.

9 Ms. Mazza, do you have another instruction to
10 proffer?

11 MS. MAZZA: Your Honor, the State would proffer
12 an instruction beginning with, in our lives, we often look at
13 one fact. I have a copy for the Court.

14 THE COURT: Thank you. It's probably best for
15 all of these that you hand a clean copy. I have writing all
16 over mine. Thank you.

17 Ms. Ristenpart, have you received that
18 instruction?

19 MS. RISTENPART: We have, your Honor.

20 THE COURT: Do you have any objection?

21 MS. RISTENPART: We are objecting to the State's
22 proposed instruction. It is duplicative, your Honor. The
23 Court's already instruction, if the Court would turn to in
24 our agreed-upon packet, the instruction the Court is going to

1 give is, although you are to consider only the evidence in
2 the case in reaching a verdict, you must bring to the
3 consideration the evidence of your everyday common sense and
4 judgment as reasonable men and women. Thus you are not
5 limited solely to what you see and hear as the witnesses
6 testify. You may draw reasonable inferences from the
7 evidence that you feel are justified by the evidence, keeping
8 in mind that such inferences should not be based on
9 speculation or guess.

10 This is duplicative. You've already given an
11 instruction and we would ask that you not offer it -- or
12 grant it.

13 THE COURT: In the absence of any additional
14 authorities by the State, the Court is not inclined to give
15 this instruction. The authority cited by the State are from
16 the second circuit and also the 11th circuit. Ms. Mazza, any
17 other authorities you would like the Court to refer to?

18 MS. MAZZA: No, your Honor. I would ask that the
19 Court consider the circuits I've provided. I believe they
20 are persuasive.

21 THE COURT: And I have read and considered those.
22 And, again, the Court does have concern that there is no
23 Nevada authority cited. But I have an additional concern
24 here. And that is in this case there has been evidence of

1 prior bad acts. It's also a case where the defendant has
2 waived an instruction regarding prior bad acts. And the
3 concern I have is if I give this instruction it might lead
4 the jury to improperly use the prior bad acts. In other
5 words, to use the bad acts for improper purposes, i.e., that
6 because the defendant acted certain ways at certain times
7 then he must have acted the way that he has been charged.

8 And so, due to the lack of authority, as well as
9 the Court's concerns as stated, this instruction is not going
10 to be given. I'm placing a mark through the instruction.
11 I'll indicate offered by the State and not given. And I'll
12 give that to the court clerk.

13 Ms. Mazza, do you have other instructions that
14 you would like to proffer?

15 MS. MAZZA: Your Honor, the next instruction
16 would be instruction regarding the elements. I believe -- I
17 don't have a copy of this because there has been changes made
18 on the Court's copy. The State would submit that our
19 instruction is appropriate. I believe it would be
20 inappropriate to break number -- element number two in to two
21 because the act is this act that's being committed upon the
22 body of this person, a child. I believe it would be
23 inappropriate to separate it in to two. I also believe
24 defense instruction would be inappropriate to add beyond a

1 reasonable doubt to that first sentence, because it's already
2 stated multiple places elsewhere what the State must prove.

3 THE COURT: All right. I'm going to ask that my
4 judicial assistant print out a clean copy so that we have
5 that for the record. And so that would be the State's
6 proffered instruction regarding the elements and begins,
7 Richard Jenkins is charged with four counts.

8 Thank you, Ms. Plante.

9 Although we are going through the State's
10 proffered instructions at this time, I think it would make
11 most sense to at this time consider whether the defendant
12 wishes to proffer an alternative instruction on elements.
13 Ms. Ristenpart?

14 MS. RISTENPART: We do, your Honor. We would ask
15 for more simply modifications to the State's proposed. And
16 defense would be requesting that the word the defendant on
17 the State's proposed be changed to Richard Jenkins to reflect
18 how we've referred to him throughout court proceedings.

19 THE COURT: That has already been accomplished
20 when we met informally. So that is taken care of.

21 MS. RISTENPART: Also, defense would request the
22 interlineation of pursuant to NRS 201.230, the State must
23 prove the following material elements beyond a reasonable
24 doubt. The material elements, your Honor, tracks back to the

1 Court's already agreed-upon instruction where it starts with
2 Richard Jenkins presumed innocent until the contrary is
3 proven. The State has the burden of proving beyond a
4 reasonable doubt every material element of the alleged crimes
5 charged.

6 In addition, your Honor, I think Moore versus
7 State, which is cited as 479P3D33, decided in 2020, clearly
8 goes through quite an extensive discussion as how upon or
9 with the body as an element of lewdness with a minor. And
10 that is why defense is requesting that that be separated and
11 broke in to a third element and coupled with, your Honor,
12 after line what would be the fourth element of a child under
13 the age of 16 years, adding the word and, because they do
14 have to prove all the elements and that is tracking to the
15 statute.

16 THE COURT: It sounded like you did not have a
17 clean copy.

18 MS. RISTENPART: I don't, your Honor. I don't
19 have a printer.

20 THE COURT: Do you have the State's version in
21 front of you?

22 MS. RISTENPART: I have the very old version.

23 THE COURT: Okay. Would you go ahead and make
24 the changes that you are suggesting by way of interlineation

1 and then place those changes -- or your initials next to the
2 changes?

3 MS. RISTENPART: I'm sorry. Does the Court have
4 a cleaner copy?

5 THE COURT: I do not.

6 MS. MAZZA: I do.

7 MS. RISTENPART: For the record, your Honor, I'm
8 handing a copy of my interlineations to the State.

9 THE COURT: Okay. Thank you.

10 Ms. Mazza, do you have any objection to the
11 proposed changes made by Ms. Ristenpart?

12 MS. MAZZA: Your Honor, I do. Based upon what I
13 just had argued with regard to my proposed instruction.

14 THE COURT: The Court finds that the defendant's
15 elements best comport with the elements of the offense and
16 the Court does not see any harm in adding that the elements
17 must be proven beyond a reasonable doubt. So the State's
18 proffered instruction will not be given. I've put an X
19 through it and indicated offered by State, not given.

20 I'm then going to take the interlineations made
21 by Ms. Ristenpart and we will plug those in and give that
22 instruction. And so when we have a chance, we'll make those
23 changes, and pass that out to the parties.

24 I'm just going to read it out loud how it's going

1 to read. Richard Jenkins is charged with four counts of
2 lewdness with a child under 16 years of age pursuant to NRS
3 201.230, the State must prove the following material elements
4 beyond a reasonable doubt, colon.

5 The only other changes to the State's proposed
6 would then be to add a fifth element as follows: The second
7 element proposed by the State would be divided up in to two
8 elements with element two being commits any lewd or
9 lascivious act, comma, other than the acts constituting the
10 crime of sexual assault. The third element would then read,
11 upon or with the body, comma, or any part of or member
12 thereof, comma. The only other change needed then would be
13 at the end of what would be the new element four, which
14 reads, of a child under the age of 16 years, comma, we are
15 adding the word and.

16 Okay. We'll return to the State's proffered
17 instructions. Ms. Mazza, your next proffered instruction?

18 MS. MAZZA: Your Honor, the State would propose
19 an instruction defining lewdness. Lewdness is defined as.
20 Your Honor, as discussed in our informal meetings, I believe
21 the case law is specific. In defining lewdness, I believe it
22 defines lewdness, even in the context of open and gross
23 lewdness is case, you can look at Barry v. State, the Shue
24 matter, as well as Catanio, your Honor. Those all give that

1 definition and they give the definition along with other
2 additional definitions with additional words that are
3 confusing. So the State believes that this exact definition
4 is appropriate. And we would propose this definition. I do
5 have a clean copy if the Court would like a copy.

6 THE COURT: Yes, please. That would be helpful.
7 Thank you.

8 Ms. Ristenpart, any objection?

9 MS. RISTENPART: We're objecting to that
10 instruction, your Honor, proffered by the State. We don't
11 believe it's a full and accurate definition as decided by our
12 Nevada Supreme Court.

13 In Shue versus State, S-h-u-e, cite 133 Nevada
14 798, pinpoint 808, decided in 2017. In that case, your
15 Honor, the Supreme Court defined lewd in quotations as an
16 ordinary, well-established definition, one, pertaining to
17 sexual conduct that is obscene or indecent, semicolon,
18 tending to moral impurity or wantonness. Two, evil, wicked,
19 or sexually unchaste or licentious. And, three, preoccupied
20 with sex and sexual desires, semicolon, lustful.

21 They are quoting Barry versus State, your Honor.
22 And we would be asking that the Court modify the State's
23 proposed, which is leaving out a significant amount of that
24 definition and adding in the additional terms that have been

1 approved by our Supreme Court.

2 THE COURT: Ms. Mazza, any reply?

3 MS. MAZZA: Your Honor, my reply would be that
4 we've agreed upon adding the definition of lascivious now,
5 which has what is exactly stated by Ms. Ristenpart just now.
6 So, if we're going to add all of that that she just stated, I
7 would ask to take out the lascivious definition. I think
8 that's extremely confusing because lascivious is in the
9 definition of lewdness. So I believe it would be more
10 succinct to have the two separate terms defined simply as
11 this.

12 THE COURT: Ms. Ristenpart, your thoughts
13 about -- it sounds like Ms. Mazza proposes as an alternative
14 perhaps that the lascivious instruction that's been agreed
15 upon remain in with her proposed instruction or that we
16 define lewdness in the manner you've described, but we get
17 rid of the lascivious instruction. What are your thoughts?

18 MS. RISTENPART: Your Honor, the statute that
19 Mr. Jenkins is charged with says lewd or lascivious act the
20 word or is a disjunctive. Our Nevada Supreme Court has held
21 that that is two separate and two different qualifiers as to
22 the act.

23 So, in pursuant to Shue, I'm asking that the
24 Court follow their definition of lewd as to all the different

1 examples they're giving. The State when they argue that
2 lascivious is used in the definition of lewdness is actually
3 incorrect. They don't use the word lascivious at all in the
4 Shue definition.

5 And so, therefore, that's why we're requesting
6 the more complete -- the full complete definition of lewd and
7 then also the definition for lascivious, which we're using
8 the Merriam-Webster dictionary definition.

9 THE COURT: The best definition we have of
10 lewdness is as stated in Shue, Shue versus State. That's
11 S-h-u-e, 133 Nevada 798, 2017. And the Court is not going to
12 give the instruction of lewdness as offered by the State
13 because it is not a complete definition as reflected in Shue.
14 So I'm striking the instruction. I'm indicating offered by
15 State and not given.

16 Now, the Court believes that lewdness should be
17 defined here and the Court will give a lewdness definition
18 that follows the definition as outlined in Shue. And the
19 Court will -- hasn't prepared that instruction yet. I will
20 do so and provide it to the parties before we go in front of
21 the jury. I am handing the clerk the State's instruction.

22 Ms. Mazza, the next State's proffered
23 instruction.

24 MS. MAZZA: Your Honor, the State would proffer

1 to constitute a lewd or lascivious act. The State believes
2 it is accurate for the statute as well as the case law.
3 There is no requirement that the bare skin of a child be
4 touched. The touching can be through the clothing of the
5 child.

6 Your Honor, the State believes that as we've
7 cited the Catanio case, Catanio, C-a-t-a-n-i-o, v. State, 120
8 Nevada, 1030, 2004, as well as the statute under which
9 Mr. Jenkins is charged, as well as California jury
10 instructions, the State believes that is an accurate
11 statement of the law. I do not -- I unfortunately do not
12 have a clean copy of that one.

13 THE COURT: Okay. I will ask my judicial
14 assistant to print out a clean copy of the State's proffered
15 instruction that was in the objected-to pile, beginning, to
16 constitute a lewd or lascivious act, it is not necessary that
17 the bare skin be touched.

18 While we are waiting for that, Ms. Ristenpart,
19 are you familiar and have you seen that proffered
20 instruction?

21 MS. RISTENPART: Defense has received it and
22 reviewed it. We are objecting to that State's proffered
23 instruction. The statute itself in the State of Nevada
24 doesn't say anything about bare skin and/or that you can be

1 convicted of lewdness with a minor by touching of the
2 clothing of a child. The case law that they cite, Catanio
3 versus State, 120 Nevada, 1030, decided in 2004, was in
4 regards to an allegation of the defendant kissing a minor and
5 whether or not that constituted open and gross lewdness. So
6 it's not even on point with our case facts here. Coupled
7 with, your Honor, that the CALJIC 1032 that they have cited
8 refers to sexual penetration and definitions about that,
9 which is not our case either. We're a lewdness with a minor
10 allegation.

11 So, your Honor, this doesn't actually have any
12 basis in law. And I also think that it is clear through the
13 other instructions given to the Court or being proffered by
14 the Court that the State needs to prove a lewd and lascivious
15 act upon the body of or with the intent and purposes. So I
16 just don't -- this is not a proper instruction and we're
17 objecting.

18 THE COURT: Ms. Mazza?

19 MS. MAZZA: Your Honor, the State -- I disagree
20 specifically with saying that the Catanio case is not on
21 point. That case, yes, the facts are different. But the
22 facts are very clear that it's saying what is a lewdness and
23 what is not. And in that case they were saying whether or
24 not an open and gross lewdness occurred given the fact of the

1 case. And that case then lead to the decision of what could
2 be a lewdness. And, in this case, your Honor, a lewdness
3 absolutely can happen whether it's under the clothes or over
4 the clothes. So, your Honor, the State believes that the
5 cases are very specific and allow for the Court to instruct
6 on this.

7 MS. RISTENPART: Your Honor, if I can just
8 pinpoint cite in reply to the Court in State versus Catanio
9 at 1036.

10 THE COURT: Yes.

11 MS. RISTENPART: The Nevada statutory language
12 providing that a lewd act be done, quote, upon or with a
13 child's body, unquote, clearly requires a specific intent by
14 the perpetrator to encourage or compel a lewd act in order to
15 gratify the accused's sexual desires but does not require
16 physical contact between the perpetrator and the victim.
17 Thus, the perpetrator who threatens or otherwise instigates a
18 lewd act that has no physical contact with the victim may
19 nevertheless satisfy the elements of NRS 201.230. It has
20 nothing about bare skin and/or touching through the clothing
21 of a child.

22 THE COURT: The instruction may very well be an
23 accurate statement of the law as stated by Ms. Mazza. My
24 concern is that, as I've already indicated, Shue really gives

1 us the best definition of lewdness. I have concern in going
2 beyond that. And it feels like this instruction is an
3 attempt to further give further definition to what lewd or
4 lasciviousness is. And that does concern the Court.

5 And I start with, also I would add to that, that
6 the Supreme Court has also said lewdness has ordinary
7 meaning. And so I think the best direction is to follow what
8 our Supreme Court has given us in Shue as being the only
9 additional definitions that should be given.

10 And so, again, although this might be a correct
11 statement of the law, the Court has concerns based upon
12 Nevada case law precedent.

13 So the Court's proffered instruction is going to
14 be -- not going to be given. I'm going to mark it offered by
15 State but not given. I'll return that to the court clerk.

16 Ms. Mazza, your next proffered instruction.

17 MS. MAZZA: Your Honor, the next proffered
18 instruction the State would propose as to Counts 1 through 4,
19 lewdness with a child under 16 years of age, it is no defense
20 that the charge that the child may have consented to the
21 alleged lewd or lascivious acts. Your Honor, I do not have a
22 clean copy of that one.

23 THE COURT: Thank you. Well, I'll ask Ms. Plante
24 to print out a copy of the State's proffered instruction

1 beginning, although an essential element in Counts 1 through
2 4 of the offense of lewdness with a child. Ms. Ristenpart,
3 have you been provided with a copy?

4 MS. RISTENPART: We have. And, as indicated off
5 the record, your Honor, defense does not object to that.
6 That is an accurate statement of law.

7 THE COURT: Does not object?

8 MS. RISTENPART: Does not.

9 THE COURT: Okay. And so that instruction will
10 be given and we will add that to our agreed-upon
11 instructions.

12 Ms. Mazza, does the State have any other
13 proffered instructions?

14 MS. MAZZA: And, your Honor, I just want to
15 confirm that that agreed-upon pack that you gave us is the
16 ones that were agreed upon even Ms. Ristenpart withdrawing
17 her objections to some this morning?

18 THE COURT: Yes. The Court made every effort to
19 include in that packet only the instructions that both sides
20 indicated they agreed to during our informal meetings.

21 MS. MAZZA: So, your Honor, I apologize. The
22 last one I just provided is actually in that packet already.

23 THE COURT: Okay. Thank you. We'll check that.

24 MS. MAZZA: It is towards the end, two

1 instructions before the verdict form.

2 THE COURT: Okay. Let's see. I have not seen
3 that one in the packet.

4 MS. MAZZA: The packet I have is, like I said,
5 the verdict forms again and it's one, two away from the
6 verdict forms.

7 MS. RISTENPART: It's right after, except for
8 discussing the case with your fellow jurors during
9 deliberations.

10 MS. PLANTE: Judge, it should be at the end of
11 yours because your verdict forms are not at the end.

12 THE COURT: Thank you. Oh, got it. That was
13 helpful what Ms. Plante just told me.

14 Well, both counsel believe it's in there; is that
15 right?

16 MS. MAZZA: Yes.

17 MS. RISTENPART: I do.

18 THE COURT: We'll make sure it is in there and
19 that it's only given once. But I'll review that here in a
20 bit.

21 Okay. Ms. Mazza, other proffered instructions?

22 MS. MAZZA: Your Honor, I have proffered an
23 instruction on willful that I provided to the Court. I do
24 not have a printed copy in front of me.

1 THE COURT: Okay. And this would be -- There
2 were different versions that had been offered. Is this the
3 one that is two sentences in length?

4 MS. MAZZA: Two separate paragraph sentences.

5 THE COURT: Oh, right. Okay. So we have the
6 word wilfully as used in the information related to an act or
7 omission which is done intentionally and then we have
8 specific intent is the intent to accomplish the precise act
9 which the law prohibits.

10 MS. MAZZA: Correct, your Honor.

11 THE COURT: And then that one, I do have a fairly
12 clean copy. I have one notation just indicating defendant is
13 going to object. I don't have -- I don't know that we have
14 formatted that one yet. Maybe we have. All right.

15 Ms. Ristenpart, are you familiar with that
16 objection?

17 MS. RISTENPART: I have received a copy of
18 State's proposed. And we are objecting to it. I think that
19 the court of appeals in Nevada and also through other case
20 law has pretty specifically instructed that in a specific
21 intent crime, as in lewdness with a minor, that the
22 definition of wilfully should not be given because that is
23 for general intent crimes. And so we're objecting to that
24 instruction.

1 THE COURT: Do you believe the instruction is a
2 correct statement of the law?

3 MS. RISTENPART: Your Honor, it's a short version
4 of what has been approved by the Nevada Supreme Court for a
5 definition of wilfully in regards to general intent crimes.
6 So I don't believe it's an accurate statement, regardless.

7 MS. MAZZA: Your Honor, I believe it is an
8 accurate definition of willful for a specific intent crime.

9 THE COURT: Let's take the first sentence first,
10 which is wilfully is an act done intentionally.
11 Ms. Ristenpart, do you have any issue with that under the
12 law?

13 MS. RISTENPART: Your Honor, pursuant to
14 Fullerton versus State, 116 Nevada 435, pinpoint cite 437 to
15 438, decided in 2000, they define wilfully as done
16 intentionally, comma, deliberately, comma, or decidedly,
17 comma, as distinguished from an act or omission done
18 accidentally, comma, inadvertently, or innocently. The State
19 has shortened that to just say the word wilfully as using the
20 information related to an act or omission that was done
21 intentionally, therefore, lessening their burden in defense
22 argument.

23 THE COURT: Ms. Mazza, your response.

24 MS. MAZZA: Your Honor, we're not shortening

1 anything, not lessening a burden. Ms. Ristenpart objected to
2 the previous willful instruction that the State provided.

3 At this time, I believe Ms. Ristenpart also
4 provided a second or third instruction to the Court on
5 specific intent. If the Court is inclined to give her
6 instruction, I will withdraw my instruction and we can move
7 forward.

8 THE COURT: Which of the defendant's proffered
9 instructions are you speaking about?

10 MS. MAZZA: Your Honor, it's the last one that
11 was provided to Ms. Plante. It was provided by e-mail to me
12 as well.

13 THE COURT: Is this the one that begins a lewd
14 act may be done upon or with a child's body requires specific
15 intent?

16 MS. MAZZA: No, your Honor.

17 MS. RISTENPART: No, your Honor.

18 MS. MAZZA: It's the crime of lewdness with a
19 minor.

20 THE COURT: Okay. Got it. Okay. When we get to
21 that instruction, it is the Court's intent to give that
22 instruction. And so the Court is going to not give the
23 State's wilfully instruction. I'll indicate offered by
24 State, not given. I'll hand that to the court clerk.

1 Ms. Mazza, any other proffered instructions by
2 the State?

3 MS. MAZZA: No, your Honor.

4 THE COURT: Okay. Turning to defendant's
5 proffered instructions, Ms. Ristenpart, do you have any to
6 proffer?

7 MS. RISTENPART: Your Honor, we would just ask
8 that the Court, as defense proposed, that last one I do not
9 have a clean copy. I apologize. But the one that we just
10 e-mailed the Court that reiterates the crime of lewdness with
11 a minor and requires the State prove beyond a reasonable
12 doubt that Richard Jenkins did commit a lewd and lascivious
13 act with the specific intent of arousing, appealing to, or
14 gratifying the lust and passions or sexual desires of himself
15 or GW. If you're not convinced beyond a reasonable doubt
16 that Mr. Jenkins acted with this required specific intent,
17 arousing, appealing to, or gratifying the lust or passions or
18 sexual desires of himself or GW, you should find Richard
19 Jenkins not guilty.

20 We'll withdraw our other proposed, your Honor, as
21 they all dealt with specific intent.

22 THE COURT: As to the one that's proposed here in
23 court, Ms. Mazza, any objection?

24 MS. MAZZA: No, your Honor.

1 THE COURT: That instruction will be given.

2 Ms. Ristenpart, any other proposed instructions?

3 MS. RISTENPART: No, your Honor.

4 THE COURT: Okay. So the Court will make the
5 changes that we've noted here on the record. Counsel will be
6 provided with all of the instructions that are going to be
7 given. During our recess here, I would ask counsel to
8 together review the instructions that are going to be given
9 and see if you can decide upon an order of giving those
10 instructions. And so I'll give you a few moments to do that.
11 And then we will make one last record with the numbering. I
12 will go through and number the instructions and ask if you
13 agree. And I think we'll be ready. The Court will be in
14 recess.

15 (Recess was taken)

16 THE COURT: The court is in session. Case Number
17 19-CR-188. Show the appearance of counsel for both parties.
18 Defendant is voluntarily absent and we are outside the
19 presence of the jury. The Court has now marked jury
20 instructions one through 27, although there is a final page,
21 which is the Court's signature page.

22 Ms. Mazza, do you agree that these are the
23 instructions that are to be given?

24 MS. MAZZA: I do, your Honor.

1 THE COURT: Ms. Ristenpart?

2 MS. RISTENPART: I do.

3 THE COURT: Also -- And those original
4 instructions will go back with the jurors. The Court also
5 has eight verdict forms, two for each count, one not guilty
6 verdict form, one guilty verdict form for each count.

7 Ms. Mazza, do you agree with the verdict forms?

8 MS. MAZZA: I do, your Honor. Thank you.

9 THE COURT: Ms. Ristenpart?

10 MS. RISTENPART: I do, your Honor. And in that
11 order also.

12 THE COURT: Okay. Thank you.

13 So the Court is going to be in recess until 2:15,
14 at which time we will then call in the jury, read the jury
15 instructions, and then proceed with closing arguments.

16 Ms. Mazza, anything else?

17 MS. MAZZA: No, thank you, your Honor.

18 THE COURT: Ms. Ristenpart?

19 MS. RISTENPART: No, thank you.

20 THE COURT: Thank you. The court is in recess.

21 (Recess was taken)

22 THE COURT: Court is back in session on Case
23 Number 19-CR-188. Show the appearance of counsel for both
24 parties and also the defendant. We are convened outside the

1 presence of the jury.

2 Ms. Mazza, are you ready to bring the jury in?

3 MS. MAZZA: Yes, your Honor.

4 THE COURT: Ms. Ristenpart?

5 MS. RISTENPART: Yes, your Honor.

6 THE COURT: Deputy Schramm, please bring the jury
7 in.

8 Ms. Mazza, do you stipulate to the presence of
9 the jury?

10 MS. MAZZA: Yes, your Honor.

11 THE COURT: Ms. Ristenpart?

12 MS. RISTENPART: I do, your Honor.

13 THE COURT: Thank you, folks. Please be seated.

14 It has come time for the Court to instruct the jurors on the
15 law. Ladies and Gentlemen, each of you have been handed a
16 packet entitled instructions to the jury. The law requires
17 that I read these instructions to you. And I encourage you
18 to follow along as I do so.

19 First, I want to make sure that everybody has a
20 copy. If you do not have a copy, please raise your hand. No
21 hands.

22 Case Number 2019-CR-00188, Department 2, in the
23 Ninth Judicial District Court of the State of Nevada, in and
24 for the County of Douglas, State of Nevada, plaintiff, versus

1 Richard Alexander Jenkins, defendant. Instructions to the
2 jury.

3 Members of the Jury, it is my duty as judge to
4 instruct you in the law that applies to the case. It is your
5 duty as jurors to follow the law as instructed regardless of
6 any personal opinion you may have as to what the law is or
7 ought to be. It is, however, the exclusive province of the
8 jury to determine the facts in the case by considering and
9 weighing all of the evidence presented.

10 If in these instructions, any rule, direction, or
11 idea is repeated or stated in different ways, no emphasis
12 thereon is intended by me and none may be inferred by you.
13 For that reason, you are not to single out any certain
14 sentence or any individual point or instruction and ignore
15 the others. You are to consider all the instructions as a
16 whole and regard each in the light of all of the others. The
17 order in which the instructions are given has no significance
18 as to their relative importance.

19 Nothing I have said or done during the course of
20 the trial should be taken by you as a suggestion that I favor
21 the claims of either party or have formed opinions regarding
22 the credibility of witnesses or the strength of the evidence.
23 To the extent that any expression of mine has seemed to
24 indicate an opinion relating to any of these matters, I

1 instruct you to disregard it.

2 An information is a formal document accusing a
3 defendant of a crime. It is not evidence of any kind against
4 the accused. And you should not infer or presume any
5 inference of guilt from this document.

6 The defendant in this case is being charged upon
7 an information duly and regularly filed by the district
8 attorney of Douglas County, Nevada, charging the defendant,
9 Richard Alexander Jenkins, with committing the crimes of four
10 counts of lewdness with a child under 16 years of age,
11 Category B felonies, a violation of NRS 201.230 Subsection 1A
12 and 3. On or between July 1st, 2018, and September 25th,
13 2018, in Douglas County, Nevada, in the following manner:
14 Count 1, lewdness with a child under 16 years of age, a
15 violation of NRS 201.230 Subsection 1A and 3, a Category B
16 felony. Being a person who was 18 years of age or older did
17 wilfully, unlawfully, and lewdly commit any lewd or
18 lascivious act other than acts constituting the crime of
19 sexual assault upon or with the body or any part or member
20 thereof with a child under the age of 16 years with the
21 intent of arousing, appealing to, or gratifying the lust or
22 passions or sexual desires of the defendant or the child. To
23 wit, did place his hand or hands down the front of the pants
24 or shorts and underneath the underwear of Corey Collins, a

1 14-year-old child, and did touch and/or rub her pubic area
2 and/or did touch and/or rub his hand or hands on her buttocks
3 while they were together at the defendant's residence with
4 the intent of arousing, appealing to, or gratifying his own
5 lust, passion, or sexual desires. All of which occurred in
6 the County of Douglas, State of Nevada.

7 Count 2, lewdness with a child under 16 years of
8 age, a violation of NRS 201.230 Subsection 1A and 3, a
9 Category B felony. Being a person who is 18 years of age or
10 older did wilfully, unlawfully, and lewdly committed any lewd
11 or lascivious act other than acts constituting a crime of
12 sexual assault upon or with the body or any part or member
13 thereof with a child under the age of 16 years, with the
14 intent of arousing, appealing to, or gratifying the lust or
15 passions or sexual desires of the defendant or the child. To
16 wit, did place his hand or hands down the front of the pants
17 or shorts and underneath the underwear of Corey Collins, a
18 14-year-old child, and did touch and/or rub her pubic area
19 and/or did touch and/or rub his hand or hands on her buttocks
20 while they were together inside the equipment room at the
21 Douglas County Community Center with the intent of arousing,
22 appealing to, or gratifying his own lust, passion, or sexual
23 desires, all of which occurred in the County of Douglas,
24 State of Nevada.

1 Count 3, lewdness with a child under 16 years of
2 age, a violation of NRS 201.230 Subsection 1A and 3, a
3 Category B felony. Being a person who is 18 years of age or
4 older did wilfully, unlawfully, and lewdly commit any lewd or
5 lascivious act other than acts constituting the crime of
6 sexual assault upon or with the body or any part or member
7 thereof with a child under the age of 16 years, with the
8 intent of arousing, appealing to, or gratifying the lust or
9 passions or sexual desires of the defendant or the child. To
10 wit, did place his hand or hands down the front of the pants
11 or shorts and underneath the underwear of Corey Collins, a
12 14-year-old child, and did touch and/or rub her pubic area
13 and/or did touch and/or rub his hand or hands on her buttocks
14 while they were together in the multi-purpose silo room,
15 commonly referred to as the squishy floor room, inside the
16 Douglas County Community Center with the intent of arousing,
17 appealing to, or gratifying his own lust, passion, or sexual
18 desires, all of which occurred in the County of Douglas,
19 State of Nevada.

20 Count 4, lewdness with a child under 16 years of
21 age, a violation of NRS 201.230 Subsection 1A and 3, a
22 Category B felony. Being a person who was 18 years of age or
23 older did wilfully, unlawfully, and lewdly commit any lewd or
24 lascivious act other than acts constituting the crime of

1 sexual assault upon or with the body or any part or member
2 thereof with a child under the age of 16 years, with the
3 intent of arousing, appealing to, or gratifying the lust or
4 passions or sexual desires of the defendant or the child. To
5 wit, did place his hand or hands down the front of the pants
6 or shorts and underneath the underwear of Corey Collins, a
7 14-year-old child. And did touch and/or rub her pubic area
8 and/or did touch and/or rub his hand or hands on her buttocks
9 while they were together behind a set of stairs inside the
10 Douglas County Community Center, with the intent of arousing,
11 appealing to, or gratifying his own lust, passion, or sexual
12 desires, all of which occurred in the County of Douglas,
13 State of Nevada.

14 Richard Jenkins entered pleas of not guilty to
15 all the allegations in the information.

16 Richard Jenkins is presumed to be innocent until
17 the contrary is proven beyond a reasonable doubt. The State
18 has the burden of proving beyond a reasonable doubt every
19 material element of the alleged crimes charged in each count
20 and that Richard Jenkins is the person who committed the
21 offense.

22 A reasonable doubt is one based on reason. It is
23 not mere possible doubt. It is such a doubt as would govern
24 or control a person in the more weighty affairs of life. If

1 the minds of the jurors, after the entire comparison and
2 consideration of all the evidence, are in such a condition
3 that they can say they feel an abiding conviction of the
4 truth of the charge, there is not a reasonable doubt. Doubt
5 to be reasonable must be actual, not mere possibility or
6 speculation. If you have a reasonable doubt as to the guilt
7 of Richard Jenkins, you shall find him not guilty.

8 You will note that the information charges the
9 offenses were committed on or between a specified date. The
10 State does not have to prove that the crime was committed on
11 that exact date, so long as the State establishes that the
12 crime was committed on a date reasonably between July 1st,
13 2018, and September 25th, 2018, the dates stated in the
14 information.

15 To constitute the crime charged, there must exist
16 a union or joint operation of an act forbidden by law and an
17 intent to do the act. The intent with which an act is done
18 is shown by the facts and circumstances surrounding the case.
19 The burden is always upon the State to prove both act and
20 intent beyond a reasonable doubt.

21 The law recognizes two classes of evidence,
22 direct and circumstantial. Direct evidence is evidence that,
23 if found to be true, directly establishes a fact. For
24 example, if a witness testifies she saw a jet plane flying

1 across the sky, that testimony is direct evidence that a jet
2 plane flew across the sky. Circumstantial evidence is
3 evidence that, if found to be true, indirectly establishes a
4 fact. For example, if a witness testifies that he saw only
5 the white trail that jet planes often leave, that testimony
6 is circumstantial evidence that a jet plane flew across the
7 sky.

8 As far as the law is concerned, it makes no
9 difference whether evidence is direct or circumstantial. You
10 may choose to believe or disbelieve either kind. Whether it
11 is direct or circumstantial, you should give every piece of
12 evidence whatever weight you think it deserves.

13 Intent may be proved by circumstantial evidence.
14 It rarely can be established by any other means. The
15 prosecution is not required to present direct evidence of a
16 defendant's state of mind as it existed during the commission
17 of a crime. While witnesses may see and hear and thus be
18 able to give direct evidence of what a defendant does or
19 fails to do, there can be no eyewitness account of a state of
20 mind with which the acts were done or admitted. But what a
21 defendant does or fails to do may indicate intent or lack of
22 intent to commit the offense charged. You may infer the
23 existence of a particular state of mind from the
24 circumstances disclosed by the evidence.

1 In determining the issue as to intent, you are
2 entitled to consider any statements made and acts done or
3 admitted by the accused and all facts and circumstances in
4 evidence which may aid in the determination of state of mind.

5 The evidence which you are to consider in this
6 case consists of the testimony of witnesses and exhibits.
7 Statements, arguments, and opinions of counsel are not
8 evidence in the case.

9 Neither side is required to call as witnesses all
10 persons who may have been present at any of the events
11 disclosed by the evidence or who may appear to have some
12 knowledge of these events.

13 A witness who has special knowledge, skill,
14 experience, training, or education in a particular science,
15 profession, or occupation may testify as an expert witness.
16 An expert witness may give an opinion as to any matter in
17 which the witness is skilled. You should consider such
18 expert opinion and weigh the reasons, if any, given for it.
19 You are not bound, however, by such an opinion. Give it the
20 weight to which you deem it entitled, whether that be great
21 or slight. And you may reject it if, in your judgment, the
22 reasons given for it are unsound. The opinions of experts
23 are to be considered by you in connection with all other
24 evidence in the case. The same rules apply to expert

1 witnesses that apply to other witnesses in determining the
2 weight or value of such testimony.

3 You must not assume or deem to be true any
4 insinuation suggested by a question asked a witness. A
5 question is not evidence and may be considered only as it
6 supplies meaning to the answer. Any evidence as to which an
7 objection was sustained by the Court and any evidence ordered
8 stricken by the Court must be entirely disregarded. Anything
9 you may have seen or heard outside the courtroom is not
10 evidence and must also be disregarded.

11 You are the sole judges of the credibility of the
12 witnesses and of the weight to be given to their testimony.
13 In determining the credit to be given any witness, you may
14 take in to account his or her ability and opportunity to
15 observe, his or her memory, his or her manner while
16 testifying, any interest, bias, or prejudice he or she may
17 have and the reasonableness of his or her testimony
18 considered in the light of all the evidence in the case.

19 Inconsistencies or discrepancies between the
20 testimony of different witnesses may or may not cause the
21 jury to discredit such testimony. Two or more persons
22 witnessing an incident or transaction may see or hear it
23 differently. An innocent mis-recollection like failure to
24 recollect is not an uncommon experience. In weighing the

1 effect of a discrepancy, consider whether it pertains to a
2 matter of importance or an unimportant detail and whether the
3 discrepancy results from innocent error or willful falsehood.

4 A witness wilfully false in one material part of
5 his or her testimony is to be distrusted in others. The jury
6 may reject the whole of the testimony of a witness who has
7 wilfully sworn falsely as to a material point. If you are
8 convinced that a witness has stated what was untrue as to a
9 material point, not as a result of mistake or inadvertence,
10 but wilfully and with the design to deceive, then you may
11 treat all of his or her testimony with distrust and suspicion
12 and reject all unless you shall be convinced that he or she
13 has in other particulars sworn to the truth.

14 Although you are to consider only the evidence in
15 the case in reaching a verdict, you must bring to the
16 consideration of the evidence your everyday common sense and
17 judgment as reasonable men and women. Thus, you are not
18 limited solely to what you see and hear as the witnesses
19 testify. You may draw reasonable inferences from the
20 evidence that you feel are justified by the evidence.
21 Keeping in mind that such inferences should not be based on
22 speculation or guess.

23 Richard Jenkins is charged with four counts of
24 lewdness with a child under 16 years of age. Pursuant to NRS

1 201.230, the State must prove the following material elements
2 beyond a reasonable doubt: One, the defendant wilfully,
3 unlawfully, and lewdly, two, commits any lewd or lascivious
4 act other than acts constituting a crime of sexual assault.
5 Three, upon or with the body or any part or member thereof.
6 Four, of a child under the age of 16 years. And, five, with
7 the intent of arousing, appealing to, or gratifying the lust
8 or passions or sexual desires of that person or of that
9 child.

10 Lewdness has an ordinary, well-established
11 definition pertaining to sexual conduct that is obscene or
12 indecent, tending to moral impurity or wantonness, evil,
13 wicked, or sexually unchaste or licentious and pre-occupied
14 with sex and sexual desire, lustful.

15 Lascivious is defined as feeling or revealing an
16 overt and often offensive sexual desire.

17 The crime of lewdness with a minor requires that
18 the State prove beyond a reasonable doubt that Richard
19 Jenkins did commit a lewd and lascivious act with the
20 specific intent of arousing, appealing to, or gratifying the
21 lust or passions or sexual desires of himself or GW. If you
22 are not convinced beyond a reasonable doubt that Richard
23 Jenkins acted with this required specific intent of arousing,
24 appealing to, or gratifying the lust or passions or sexual

1 desires of himself or GW, you should find Richard Jenkins not
2 guilty.

3 As to Counts 1 through 4, lewdness with a child
4 under 16 years of age, it is no defense to that charge that
5 the child may have consented to the alleged lewd or
6 lascivious act.

7 If in your deliberation you -- Excuse me. In
8 your deliberation, you may not discuss or consider the
9 subject of punishment, as that is a matter which lies solely
10 with the Court.

11 Your verdict may not be influenced by sympathy,
12 prejudice, or public opinion. Your decision should be the
13 product of sincere judgment and sound discretion in
14 accordance with these rules of law.

15 Except for discussing the case with your fellow
16 jurors during deliberations, do not communicate with anyone
17 in any way and do not let anyone else communicate with you in
18 any way about the case or its merits. This includes
19 discussing the case in person, in writing, by phone or
20 electronic means, via e-mail, text messaging, or any internet
21 chat room, blog, website, or other feature. This applies to
22 communicating with your family members, your employer, and
23 the media or press. If you are asked or approached in any
24 way about your jury service or anything about this case, you

1 must respond that you have been ordered not to discuss the
2 matter.

3 Do you not read, watch, or listen to any news or
4 media accounts or commentary about the case. Do not do any
5 research such as consulting dictionaries, searching the
6 internet, or using other reference materials. No juror is to
7 make any investigation on your own, test the theory of the
8 case on your own, recreate any aspect of the case on your
9 own, or in any other way try to learn about the case on your
10 own.

11 It is your duty as jurors to consult with one
12 another and to deliberate with a view toward reaching an
13 agreement, while at the same time maintaining your individual
14 judgment. Each of you must decide the case for yourself.
15 And you should do so only after a consideration of the case
16 with your fellow jurors. And you should not hesitate to
17 change an opinion when convinced that it is erroneous.
18 However, you should not be influenced to vote in any way on
19 any question submitted to you by the single fact that a
20 majority of the jurors or any of them favor such a decision.

21 In other words, you should not surrender your
22 honest conviction concerning the effect or weight of evidence
23 for the mere purpose of returning a verdict or solely because
24 of the opinion of other jurors.

1 Whatever your verdict is, it must be the product
2 of each juror's careful and impartial consideration of all
3 the evidence in the case under the rules of law as given to
4 you by the Court.

5 When you retire to consider your verdict, you
6 must select one of your number to act as a foreperson who
7 will preside over your deliberation and will be your
8 spokesperson in court. During your deliberation, you will
9 have all the exhibits which were admitted in to evidence,
10 these written instructions, and forms of verdict. Your
11 verdict must be unanimous. As soon as you have agreed upon a
12 verdict, have it signed and dated by your foreperson and
13 notify the bailiff that you have reached a verdict. The
14 foreperson will return the verdict to the courtroom.

15 Now you will listen to the argument of counsel
16 who will endeavor to aid you to reach a proper verdict by
17 refreshing in your minds the evidence and by showing
18 application thereof to the law. But, whatever counsel may
19 say, you will bear in mind that it is your duty to be
20 governed in your deliberations by the evidence as you
21 understand it and remember it to be and by the law as given
22 you in these instructions.

23 Given, Thomas W. Gregory, District Judge. And I
24 have signed those original instructions.

1 Ms. Mazza, are you prepared to go forward with
2 your closing argument?

3 MS. MAZZA: I am, your Honor. Thank you.

4 THE COURT: You may proceed.

5 MS. MAZZA: Your Honor, if I may have use to
6 project on to the screen.

7 THE COURT: You may.

8 MS. MAZZA: Ladies and Gentlemen, when we started
9 this trial, I mentioned to you all that it was a romantic
10 embrace that led us to where we are here today. And, Ladies
11 and Gentlemen, you've been given the opportunity to actually
12 see what was reported by Ashley Gosney in this case. And I
13 just want to walk you back through what we discovered in this
14 case and what has been talked about in the case against Mr.
15 Jenkins.

16 As you heard through the instructions, your Honor
17 gave you the law in this case and indicated what the State
18 must prove. So, going over that, what the State must prove
19 with regard to Mr. Jenkins and what he's charged with.

20 Mr. Jenkins is charged with four counts of
21 lewdness with a child under 16 years of age. With regard to
22 that, we have to prove that Mr. Jenkins himself committed a
23 lewd or lascivious act other than the acts constituting the
24 crime of sexual assault upon or with the body or any part or

1 any member thereof of KC or GW, who is a child under 16 years
2 of age, and that Mr. Jenkins had the intent of arousing,
3 appealing to, or gratifying the lust or passions or sexual
4 desires of that person or child, and that person being
5 Mr. Jenkins and that child being GW.

6 In this case the State believes we have proven
7 beyond a reasonable doubt that Mr. Jenkins committed that
8 crime four times in four counts at four separate locations.
9 And, as you've heard throughout this trial and as you've
10 heard from the instruction from the judge, those four
11 locations are Count 1 at Mr. Jenkins' residence, Count 2, in
12 the equipment room at the Douglas County Recreation Center,
13 and Count 3, in the squishy room or the silo room at the
14 Douglas County Recreation Center. And then, lastly, under
15 the stairs in an area we've kind of heard testimony being
16 called a nook or a little hidden area off of the side of the
17 arcade.

18 Ladies and Gentlemen, the State believes we've
19 proven beyond a reasonable doubt that Mr. Jenkins committed
20 lewdness with GW in those four locations. But you don't have
21 to take my word for it. You can review the evidence. You'll
22 also be given copies of the evidence from the judge. You've
23 also reviewed it here as we've been here for the last week.

24 But, going through that, what you've seen is

1 you've seen this exhibit, I believe it's in Exhibit 20 and
2 21. You can watch this video. And this would be the area
3 known as the area under the stairs or the nook. And in this
4 area you heard testimony from GW that this wasn't the only
5 time that they went to this area and this wasn't the only
6 time they embraced in this area. And, in fact, Mr. Jenkins
7 had actually touched her butt in this area. In fact,
8 Mr. Jenkins had actually done that multiple times over an
9 entire summer.

10 And you can see that when you watch this exhibit.
11 You can see just one example of how they would embrace in
12 this area. And this actually turns out to be the area that
13 was reported by Ashley Gosney. Mr. Jenkins himself admitted
14 you can see Alex and Ashley Gosney in the back of that video.

15 Now, what I ask you to take a look at when you're
16 reviewing this evidence is Mr. Jenkins' conduct in that
17 video. If this is simply a hug where you're taking aside a
18 child who is having a hard time or you're having a
19 conversation with that child, why is he looking around like
20 it's inappropriate? Why is he putting her head in to her
21 neck?

22 Ladies and Gentlemen, the State believes that
23 this exhibit shows you just a glimpse of really what was a
24 romantic relationship between Mr. Jenkins and GW, who at the

1 time had just turned 14. So during the summer of 2018 would
2 have been 13 years old.

3 And here's another angle, you can see of this
4 same encounter in the area known as under the stairs or the
5 nook.

6 What defense will make a huge argument about is
7 that, well, we don't have all of the 100 cameras at the rec
8 center, 100 angles. The rec center did every effort that
9 they could. They actually got you another angle of this
10 area. They really said if you tried to get it from any other
11 camera it would be pixilated. And the same for all of the
12 other areas around the recreation center. And, again, you
13 can see this view of Mr. Jenkins and GW conveniently going
14 around the corner in an area that's really not picked up by
15 any camera very well.

16 And you'll hear defense argue, gosh, there's a
17 camera up above the pony wall though. Well, you can look at
18 that exhibit that shows the monitors. That area is not fully
19 picked up on video.

20 And now you can watch another exhibit that you
21 have. You have two shots of this video zoomed in and you
22 also have this one where you can zoom out. But you can also
23 see Mr. Jenkins throughout this video, with GW directly in
24 front of him, his entire body is being pressed up against

1 her. And you don't have to take my word for it because you
2 can actually watch this exhibit.

3 We know that's GW that walks up in front of him
4 because it's actually the same outfit Ashley Gosney reported
5 she was wearing on the time she observed them together,
6 tie-dye shirt, black leggings. Now, you can see Mr. Jenkins
7 standing there for quite some time.

8 In this video, as you'll learn when you're
9 watching it, it zooms out after some time so you can zoom
10 back in. What you'll actually see here is Mr. Jenkins rub
11 his hand across GW's waist and actually run his hand through
12 her hair.

13 And, Ladies and Gentlemen, when you are thinking
14 about this case, I would ask you to consider if that's the
15 conduct of a dad of a kid's best friend or more likely a
16 romantic relationship between the two of them. And, again,
17 Ladies and Gentlemen, I ask you to look at his entire body is
18 pressed up against as he's standing next to GW for this whole
19 time. Not his daughter. His daughter's friend. And now he
20 finally walks away. But he's going to go back and talk to
21 the other two. He'll go back to GW though.

22 And, again, Ladies and Gentlemen, this is all
23 evidence you can watch again. And, as I indicated, Ladies
24 and Gentlemen, you'll get all of this evidence. You can

1 watch these videos. You can watch Mr. Jenkins grab her waist
2 again as he's walking by. But he's found his spot again.
3 And there Mr. Jenkins will continue to stay close to GW for
4 the rest of this video.

5 So, Ladies and Gentlemen, let's just go back and
6 talk about how, as I said, how we got here, this romantic
7 embrace. As you know, Ashley Gosney made a report after
8 something that she observed at the Douglas County Rec Center.
9 She observed it on September 17th. She then goes and reports
10 it. She didn't report it that day. She went home. She
11 thought about it and talked about it with her now husband.
12 And what she actually said here in court was that she
13 reported it because she would sure hope that someone would
14 have reported something like that if she were a kid. So she
15 reported it.

16 Her husband, Nick, reported what he also seen.
17 He saw Mr. Jenkins going in to the community center closet
18 for a pretty lengthy period of time. He saw the touchy
19 relationship between the two of them. He did say they
20 wouldn't come out with equipment. We know sometimes they do
21 come out with equipment. But a majority of the time
22 Mr. Lonnegren saw them not coming out with any equipment.

23 So these reports are all made to the Douglas
24 County Community Center. Them doing their jobs and, as you

1 heard in their questioning, all of them, most of them being
2 mandatory reporters, they go look at the footage and see what
3 they can find. They also have an employee, Kurt Ahart, who
4 saw what he described as touching between the two of them.
5 He also found himself on the video and you can see touching
6 between the two of them. Let me remind you. None of this is
7 criminal.

8 And Deputy Williams then arrived and watched the
9 video. And, he agrees, none of this is criminal. But the
10 investigation that follows is what finds out that the conduct
11 between GW and Mr. Jenkins was criminal.

12 The rec center goes forward to try and find any
13 more surveillance footage that they can. But, as you heard
14 Scott Doerr testify, they have miles of surveillance footage.
15 And we're talking about Mr. Jenkins who is at the rec center
16 multiple times a week. So what they found are two days. And
17 we know these aren't the only two days that the two of them
18 were there. We heard that from testimony from himself and GW
19 and Alyssa. So we know that this isn't the only conduct that
20 they had at that rec center during the summer of 2018.

21 As I said, other employees made observations.
22 The recreation center looked through surveillance. They
23 contact Mr. Jenkins, who is very upset. He doesn't want to
24 not attend the rec center or he's worried that he's been

1 caught acting inappropriately with Ms. GW.

2 So more surveillance footage is reviewed. And
3 this, again, the closet that we've heard about, the equipment
4 closet, you can look at that picture. You actually heard
5 Scott Morgan who works for the rec center say that picture,
6 that's not organized to him. He likes it very organized.
7 But that picture shows you can go in to the equipment room
8 and find what you're looking for. You heard a witness for
9 defense say it takes ten minutes. But he's also getting ping
10 pong tables and he's also Mr. Jenkins' friend.

11 But you can see here they're not coming out with
12 equipment. And there is nothing to go in to that closet for
13 other than equipment for whatever sport you may be playing.

14 And, during this time, they're in the closet, the
15 same closet GW will later testify and through interviews tell
16 that Mr. Jenkins touched her butt and put his hands down her
17 pants, asked her to leave before him.

18 And, now, we will admit in this video she leaves
19 before him, he leaves before her. But you also heard
20 testimony that this is the point when Mr. Jenkins kind of
21 cooled off with his touching of her. He knew that he had
22 been caught by the principal. He knew that Tamera Woodbridge
23 had actually talked to him. So this may not be the point
24 when he's told her you need to go out in front of me.

1 Now, that ball of bins he comes out with, you can
2 see that in the photo. It's very easy to access in that
3 closet. We're not asking you to take my word for it because
4 you have those photos and you have the testimony of people
5 who actually work for the rec center.

6 And you can also watch more video of them on the
7 court. Now, Ladies and Gentlemen, Ms. Ristenpart will say,
8 well Nick Lonnegren is in that video and you can see them
9 come out with equipment. But he also testified that many
10 times he didn't see them come out with equipment.

11 And now, Ladies and Gentlemen, another video, one
12 of the many. And you can watch them all as you make your
13 deliberation in this case. And your deliberation where you
14 see they go in to the closet for many minutes at a time. You
15 see they go in the closet with nothing and come out with
16 nothing. And then you can also see, as we've discussed, this
17 portion where they go in to or they leave the rec center and
18 then they come back in, we played this video before.

19 So now the investigation continues. And
20 Investigator Chrzanowski is assigned. At this point, Deputy
21 Williams, now Sergeant Williams, had taken the case. He
22 provided it on to investigations. She reviews the
23 surveillance footage that Deputy Williams obtained. She then
24 goes on to interview persons. And, as she indicated, many

1 persons, maybe ten or more. In this case she did that
2 through investigation. And defendant was not placed under
3 arrest immediately when she was assigned in September of
4 2018. That was in November of 2018. She actually requested
5 additional surveillance footage. She doesn't work for the
6 rec center. She doesn't go in and get that. She requested
7 surveillance footage that was relevant and surveillance
8 footage that coincided with the reports that were made.

9 So we have -- The State believes, as we said,
10 that we can prove this case beyond a reasonable doubt and
11 that we have. And you can take a look at Mr. Jenkins himself
12 and his own words in this case. He himself said the
13 relationship between him and GW was weird. You can also look
14 at these photos of the two of them. And defense says, oh,
15 well, Alyssa is hidden behind that person's head. Her head
16 sure isn't on Mr. Jenkins' shoulder. It sure only looks like
17 GW is on his shoulder.

18 And there's actually two photos. And the people
19 who were at the restaurant became concerned enough that they
20 actually took a photo. Did they not report it? No. But I
21 take you back to Nick Lonnegren's testimony about thinking
22 someone else would report it.

23 And, again, like I said, the State believes we
24 can prove this, we have proven this beyond a reasonable

1 doubt. You can look at defendant's conduct too to show that
2 the testimony of GW is bolstered or correct. Took GW on
3 trips, took her rafting, took her to watch him race RC cars,
4 took her to Burger King without Alyssa. But now he didn't
5 send a note, of course. But, as you heard from GW, he
6 provided her a note and said after Alyssa's mom picks her up,
7 do you want to go to Burger King.

8 All things making GW feel special, all things
9 occurring at a time when GW did not feel special. After her
10 father figure in her life, Wayne, had passed away, defendant
11 acted this way with her, paying GW this special attention.
12 Bringing her in close to his family, all things making her
13 feel special. And starting with a hug after his -- her
14 father passed away, making her feel comfortable with the
15 touch between the two of them.

16 And now, Ladies and Gentlemen, the Court just
17 gave you the evidence in this case and I would like to just
18 go over the elements which the State has to prove in this
19 case. And, when you're making your decision in this case,
20 the State would ask you to look at this instruction regarding
21 common sense. You do not have to throw your common sense out
22 when you're deliberating in this case. You can use your
23 common sense making a decision in this case and looking at
24 all of the evidence in this case.

1 Now, the elements the State must prove, as I
2 indicated, the elements as outlined here, the State believes
3 we have absolutely proven beyond a reasonable doubt it was
4 Richard Jenkins.

5 You heard testimony from GW, you heard testimony
6 from persons from the rec center, you heard testimony from
7 Mr. Jenkins' family and friends. He is the person that was
8 close with GW.

9 And, now, we've also proven beyond a reasonable
10 doubt that GW was under the age of 16. You heard her
11 birthday. She turned 16 -- Excuse me. She turned 14 in
12 September of 2018, so she was 13 over the summer of 2018.
13 The State has proven those elements beyond a reasonable
14 doubt.

15 As I indicated, we know that Mr. Jenkins is the
16 person that unlawfully touched GW. He was identified in
17 court. He was then identified on the date of her interview,
18 her first, her second, her third interview. It was all
19 Mr. Jenkins.

20 Now, the remaining elements that the State must
21 prove beyond a reasonable doubt, that Mr. Jenkins committed
22 any lewd or lascivious act other than acts constituting the
23 crime of sexual assault upon or with the body or any part or
24 member thereof and, as we know, of GW.

1 And, Ladies and Gentlemen, I would ask you to
2 look at the instruction of lewd and lascivious that the Court
3 has given to you in this case. In that instruction, you're
4 instructed that it involves a sexual connotation. And I ask
5 you to look back at those videos. What is Mr. Jenkins entire
6 body pressed up against? GW. How close is Mr. Jenkins
7 holding GW? Now also combined with the parts of GW's body
8 that are involved, her butt and her pubic area. Those are,
9 as she described, her private area. Yes, Ms. Ristenpart said
10 she had trouble defining private areas. But you can also use
11 your common sense on a 13 year old touching her butt and her
12 pubic area.

13 Now, that's defendant's conduct in how he
14 conducted himself while watching movies with GW at his home.
15 And we know that she was actually only on one side of
16 Mr. Jenkins because Alyssa and her had a thing. They always
17 had to be on each side. So we know that GW was alone on one
18 side of Mr. Jenkins. And Mr. Jenkins started by putting his
19 arm over her shoulder when she would lean on him, and then
20 touching her butt, and then putting his hands down her pants
21 and asking GW if she was uncomfortable.

22 We also can look at defendant's reactions to how
23 he's just acting in those few videos we can see. He's
24 looking around to make sure no one is watching. Watch his

1 reactions as he walks out of the closet. Those actions show
2 that his actions were lewd and lascivious in this case. So
3 the State believes that we have met element two and proven it
4 beyond a reasonable doubt.

5 And now next we need to prove that Mr. Jenkins
6 acted with the intent of arousing, appealing to, or
7 gratifying the lust or passions or sexual desires of the
8 child, GW, or of himself. And, Ladies and Gentlemen, I urge
9 you to look at the instruction provided to you by the Court.
10 We cannot prove intent except if you look for and look at
11 other factors surrounding this case and Mr. Jenkins' conduct
12 with GW.

13 As I said, Mr. Jenkins looking around before he
14 even gives GW a hug, someone he describes as his family
15 friend, we mentally adopted her, a kid who has a dad, has a
16 mom. But he's looking around before he even gives her a hug
17 or running his hand through her hair like a romantic
18 relationship. He asked GW if she was uncomfortable.
19 Absolutely all showing his intent and that his intent in this
20 case was to gratify his lust or passions or that of GW.

21 Again, you can watch these videos. Look at his
22 conduct leaving the closet. Look at his conduct going in to
23 that outcove, all of this after he had kind of stepped back
24 because he had been caught by the principal and GW's mom.

1 And, with that, your Honor, Ladies and Gentlemen,
2 the State believes we have proven every element of these four
3 charges beyond a reasonable doubt. And I'll take you back to
4 the four locations.

5 We've heard about the squishy room or the silo
6 room. It's now a rock wall room. You cannot see the corners
7 of that room on video surveillance. You also probably know
8 that, as Mr. Jenkins, when you walk in to the community
9 center every single time and see the surveillance monitors.
10 You've seen that photo. It shows you what monitors are
11 around the gym and what they show.

12 And now Mr. Jenkins is going to say, well, all of
13 this conduct is because she's my family friend, she's like a
14 daughter, I was coaching her. I would just ask you to use
15 your common sense on that. We did not hear from any single
16 coach in this case saying it's normal to put your hands on a
17 child, a girl's hips teaching them how to serve. Why not put
18 your hand on their arm, help them with that. Think of any
19 sport, basketball, football, do you need to touch a child's
20 hips or is that because you're comfortable with that person
21 and you've helped them become comfortable with the touch of
22 you?

23 We believe we've proven the four locations
24 because you can see the testimony of GW. It happened in

1 Case No. 2019-CR-00188

2 Dept. No. II

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ROBERT E. WILLIAMS

Douglas County
District Court Clerk

RYAN M. DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

INSTRUCTIONS TO THE JURY

12 RICHARD ALEXANDER JENKINS,

13 Defendant.

14
15 MEMBERS OF THE JURY:

16 It is my duty as Judge to instruct you in the law that
17 applies to this case. It is your duty as jurors to follow the law
18 as instructed regardless of any personal opinion you may have as
19 to what the law is or ought to be. It is, however, the exclusive
20 province of the jury to determine the facts in the case by
21 considering and weighing all of the evidence presented.

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28 Jury Instruction 1

1 If in these instructions any rule, direction or idea is
2 repeated or stated in different ways, no emphasis thereon is
3 intended by me and none may be inferred by you. For that reason
4 you are not to single out any certain sentence or any individual
5 point or instruction and ignore the others. You are to consider
6 all the instructions as a whole and regard each in the light of
7 all the others.

8 The order in which the instructions are given has no
9 significance as to their relative importance.

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28 Jury Instruction 2

1 Nothing I have said or done during the course of the trial
2 should be taken by you as a suggestion that I favor the claims of
3 either party or have formed opinions regarding the credibility of
4 witnesses or the strength of the evidence. To the extent that any
5 expression of mine has seemed to indicate an opinion relating to
6 any of these matters, I instruct you to disregard it.

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Jury Instruction 3

1 An Information is a formal document accusing a defendant of a
2 crime. It is not evidence of any kind against the accused, and
3 you should not infer or presume any inference of guilt from this
4 document.

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28 Jury Instruction 4

1 The Defendant in this case is being charged upon an
2 Information duly and regularly filed by the District Attorney of
3 Douglas County, Nevada, charging the Defendant, Richard Alexander
4 Jenkins, with committing the crimes of FOUR COUNTS of LEWDNESS
5 WITH A CHILD UNDER 16 YEARS OF AGE, category B felonies, a
6 violation of NRS 201.230(1)(a) and (3), on or between July 1,
7 2018, and September 25, 2018, in Douglas County, Nevada, in the
8 following manner:

9
10 COUNT 1: LEWDNESS WITH A CHILD UNDER 16 YEARS OF AGE, a
11 violation of NRS 201.230(1)(a) and (3), a
category B felony

12 being a person who was 18 years of age or older, did
13 willfully, unlawfully and lewdly commit any lewd or
14 lascivious act, other than acts constituting the crime
15 of sexual assault, upon or with the body, or any part
16 or member thereof, with a child under the age of 16
17 years, with the intent of arousing, appealing to, or
18 gratifying the lust or passions or sexual desires of
19 the defendant or the child, to-wit: did place his hand
20 or hands down the front of the pants or shorts, and
21 underneath the underwear, of "Kory Collins," a 14-year-
old child, and did touch and/or rub her pubic area,
and/or did touch and/or rub his hand or hands on her
buttocks while they were together at the defendant's
residence, with the intent of arousing, appealing to,
or gratifying his own lust, passion or sexual desires,
all of which occurred in the County of Douglas, State
of Nevada,

22 COUNT 2: LEWDNESS WITH A CHILD UNDER 16 YEARS OF AGE, a
23 violation of NRS 201.230(1)(a) and (3), a
category B felony

24 being a person who was 18 years of age or older, did
25 willfully, unlawfully and lewdly commit any lewd or
26 lascivious act, other than acts constituting the crime
27 of sexual assault, upon or with the body, or any part
28 or member thereof, with a child under the age of 16
years, with the intent of arousing, appealing to, or
gratifying the lust or passions or sexual desires of
the defendant or the child, to-wit: did place his

1 hand or hands down the front of the pants or shorts,
2 and underneath the underwear, of "Kory Collins," a 14-
3 year-old child, and did touch and/or rub her pubic
4 area, and/or did touch and/or rub his hand or hands on
5 her buttocks while they were together inside the
6 equipment room at the Douglas County Community Center,
7 with the intent of arousing, appealing to, or
8 gratifying his own lust, passion or sexual desires, all
9 of which occurred in the County of Douglas, State of
10 Nevada,

11
12 COUNT 3: LEWDNESS WITH A CHILD UNDER 16 YEARS OF AGE, a
13 violation of NRS 201.230(1)(a) and (3), a
14 category B felony

15
16 being a person who was 18 years of age or older, did
17 willfully, unlawfully and lewdly commit any lewd or
18 lascivious act, other than acts constituting the crime
19 of sexual assault, upon or with the body, or any part
20 or member thereof, with a child under the age of 16
21 years, with the intent of arousing, appealing to, or
22 gratifying the lust or passions or sexual desires of
23 the defendant or the child, to-wit: did place his hand
24 or hands down the front of the pants or shorts, and
25 underneath the underwear, of "Kory Collins," a 14-year-
26 old child, and did touch and/or rub her pubic area,
27 and/or did touch and/or rub his hand or hands on her
28 buttocks while they were together in the multi-purpose
silo room, commonly referred to as the "squishy floor
room," inside the Douglas County Community Center, with
the intent of arousing, appealing to, or gratifying his
own lust, passion or sexual desires, all of which
occurred in the County of Douglas, State of Nevada,

COUNT 4: LEWDNESS WITH A CHILD UNDER 16 YEARS OF AGE, a
violation of NRS 201.230(1)(a) and (3), a
category B felony

being a person who was 18 years of age or older, did
willfully, unlawfully and lewdly commit any lewd or
lascivious act, other than acts constituting the crime
of sexual assault, upon or with the body, or any part
or member thereof, with a child under the age of 16
years, with the intent of arousing, appealing to, or
gratifying the lust or passions or sexual desires of
the defendant or the child, to-wit: did place his hand
or hands down the front of the pants or shorts, and
underneath the underwear, of "Kory Collins," a 14-year-
old child, and did touch and/or rub her pubic area,
and/or did touch and/or rub his hand or hands on her

1 buttocks while they were together behind a set of
2 stairs inside the Douglas County Community Center, with
3 the intent of arousing, appealing to, or gratifying his
own lust, passion or sexual desires, all of which
occurred in the County of Douglas, State of Nevada,

4 Richard Jenkins entered pleas of "NOT GUILTY" to all the
5 allegations in the Information.

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28 Jury Instruction 5

1 Richard Jenkins is presumed to be innocent until the contrary
2 is proven beyond a reasonable doubt. The State has the burden of
3 proving beyond a reasonable doubt every material element of the
4 alleged crimes charged in each Count and that Richard Jenkins is
5 the person who committed the offense.

6 A reasonable doubt is one based on reason. It is not mere
7 possible doubt, but is such a doubt as would govern or control a
8 person in the more weighty affairs of life. If the minds of the
9 jurors, after the entire comparison and consideration of all the
10 evidence, are in such a condition that they can say they feel an
11 abiding conviction of the truth of the charge, there is not a
12 reasonable doubt. Doubt to be reasonable must be actual, not mere
13 possibility or speculation.

14 If you have a reasonable doubt as to the guilt of Richard
15 Jenkins, you should find him not guilty.

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28 Jury Instruction 6

1 You will note that the Information charges that the offenses
2 were committed "on or between" a specified date. The State does
3 not have to prove that the crime was committed on that exact date,
4 so long as the State establishes that the crime was committed on a
5 date reasonably between July 1, 2018 and September 25, 2018, the
6 dates stated in the Information.

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28 Jury Instruction 7

1 To constitute the crime charged, there must exist a union or
2 joint operation of an act forbidden by law and an intent to do the
3 act. The intent with which an act is done is shown by the facts
4 and circumstances surrounding the case. The burden is always upon
5 the State to prove both act and intent beyond a reasonable doubt.

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28 Jury Instruction 8

1 The law recognizes two classes of evidence: direct and
2 circumstantial. Direct evidence is evidence that, if found to be
3 true, directly establishes a fact. For example, if a witness
4 testifies she saw a jet plane flying across the sky, that
5 testimony is direct evidence that a jet plane flew across the sky.

6 Circumstantial evidence is evidence that, if found to be
7 true, indirectly establishes a fact. For example, if a witness
8 testifies that he saw only the white trail that jet planes often
9 leave, that testimony is circumstantial evidence that a jet plane
10 flew across the sky.

11 As far as the law is concerned, it makes no difference
12 whether evidence is direct or circumstantial. You may choose to
13 believe or disbelieve either kind. Whether it is direct or
14 circumstantial, you should give every piece of evidence whatever
15 weight you think it deserves.

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28 Jury Instruction 9

1 Intent may be proved by circumstantial evidence. It rarely
2 can be established by any other means. The prosecution is not
3 required to present direct evidence of a defendant's state of mind
4 as it existed during the commission of a crime.

5 While witnesses may see and hear and thus be able to give
6 direct evidence of what a defendant does or fails to do, there can
7 be no eyewitness account of a state of mind with which the acts
8 were done or omitted, but what a defendant does or fails to do may
9 indicate intent or lack of intent to commit the offense charged.
10 You may infer the existence of a particular state of mind from the
11 circumstances disclosed by the evidence.

12 In determining the issue as to intent, you are entitled to
13 consider any statements made and acts done or omitted by the
14 accused, and all facts and circumstances in evidence which may aid
15 in the determination of state of mind.

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28 Jury Instruction 10

1 The evidence which you are to consider in this case consists
2 of the testimony of witnesses and exhibits. Statements, arguments
3 and opinions of counsel are not evidence in the case.

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28 Jury Instruction 11

1 Neither side is required to call as witnesses all persons who
2 may have been present at any of the events disclosed by the
3 evidence or who may appear to have some knowledge of these events.
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Jury Instruction 12

1 A witness who has special knowledge, skill, experience,
2 training or education in a particular science, profession or
3 occupation may testify as an expert witness. An expert witness
4 may give an opinion as to any matter in which the witness is
5 skilled.

6 You should consider such expert opinion and weigh the
7 reasons, if any, given for it. You are not bound, however, by
8 such an opinion. Give it the weight to which you deem it
9 entitled, whether that be great or slight, and you may reject it,
10 if, in your judgment, the reasons given for it are unsound.

11 The opinions of experts are to be considered by you in
12 connection with all other evidence in the case. The same rules
13 apply to expert witnesses that apply to other witnesses in
14 determining the weight or value of such testimony.

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28 Jury Instruction 13

1 You must not assume or deem to be true any insinuations
2 suggested by a question asked a witness. A question is not
3 evidence and may be considered only as it supplies meaning to the
4 answer.

5 Any evidence as to which an objection was sustained by the
6 Court, and any evidence ordered stricken by the Court, must be
7 entirely disregarded.

8 Anything you may have seen or heard outside the courtroom is
9 not evidence and must also be disregarded.

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28 Jury Instruction 14

1 You are the sole judges of the credibility of the witnesses
2 and of the weight to be given to their testimony. In determining
3 the credit to be given any witness, you may take into account his
4 or her ability and opportunity to observe; his or her memory; his
5 or her manner while testifying; any interest, bias or prejudice he
6 or she may have; and the reasonableness of his or her testimony
7 considered in the light of all the evidence in the case.

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28 Jury Instruction 15

1 Inconsistencies or discrepancies between the testimony of
2 different witnesses, may or may not cause the jury to discredit
3 such testimony. Two or more persons witnessing an incident or
4 transaction may see or hear it differently; an innocent
5 misrecollection, like failure to recollect, is not an uncommon
6 experience. In weighing the effect of a discrepancy, consider
7 whether it pertains to a matter of importance, or an unimportant
8 detail, and whether the discrepancy results from innocent error or
9 willful falsehood.

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28 Jury Instruction 16

1 A witness willfully false in one material part of his or her
2 testimony is to be distrusted in others. The jury may reject the
3 whole of the testimony of a witness who has willfully sworn
4 falsely as to a material point. If you are convinced that a
5 witness has stated what was untrue as to a material point, not as
6 a result of mistake or inadvertence, but willfully and with the
7 design to deceive, then you may treat all of his or her testimony
8 with distrust and suspicion, and reject all unless you shall be
9 convinced that he or she has in other particulars sworn to the
10 truth.

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28 Jury Instruction 17

1 Although you are to consider only the evidence in the case in
2 reaching a verdict, you must bring to the consideration of the
3 evidence your everyday common sense and judgment as reasonable men
4 and women. Thus, you are not limited solely to what you see and
5 hear as the witnesses testify. You may draw reasonable inferences
6 from the evidence that you feel are justified by the evidence,
7 keeping in mind that such inferences should not be based on
8 speculation or guess.

1 Richard Jenkins is charged with four counts of Lewdness with
2 a Child under Sixteen Years of Age. Pursuant to NRS 201.230, the
3 State must prove the following material elements beyond a
4 reasonable doubt:

- 5 1. The defendant willfully, unlawfully, and lewdly,
- 6 2. commits any lewd or lascivious act, other than the
- 7 acts constituting the crime of sexual assault,
- 8 3. upon or with the body, or any part or member
- 9 thereof,
- 10 4. of a child under the age of 16 years, and
- 11 5. with the intent of arousing, appealing to, or
- 12 gratifying the lust or passions or sexual desires
- 13 of that person or of that child.

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28 Jury Instruction 19

1 "Lewdness" has an ordinary, well-established definition: (1)
2 pertaining to sexual conduct that is obscene or indecent; tending
3 to moral impurity or wantonness, (2) evil, wicked or sexually
4 unchaste or licentious, and (3) preoccupied with sex and sexual
5 desire; lustful.

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28 Jury Instruction 20

1 Lascivious is defined as feeling or revealing an overt and
2 often offensive sexual desire.

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28 Jury Instruction 21

1 The crime of lewdness with a minor requires that the State
2 prove beyond a reasonable doubt that Richard Jenkins did commit a
3 lewd and lascivious act with the specific intent of arousing,
4 appealing to, or gratifying the lust or passions or sexual desires
5 of himself or G.W.

6 If you are not convinced beyond a reasonable doubt that
7 Richard Jenkins acted with this required specific intent of
8 arousing, appealing to, or gratifying the lust or passions or
9 sexual desires of himself or G.W., you should find Richard Jenkins
10 not guilty.

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28 Jury Instruction 22

1 In your deliberation you may not discuss or consider the
2 subject of punishment, as that is a matter which lies solely with
3 the Court.
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28 Jury Instruction 24

1 Your verdict may not be influenced by sympathy, prejudice or
2 public opinion. Your decision should be the product of sincere
3 judgment and sound discretion in accordance with these rules of
4 law.

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28 Jury Instruction 25

1 Except for discussing the case with your fellow jurors
2 during your deliberations:

3 Do not communicate with anyone in any way and do not let
4 anyone else communicate with you in any way about the case or its
5 merits. This includes discussing the case in person, in writing,
6 by phone or electronic means, via email, text messaging, or any
7 Internet chat room, blog, website or other feature. This applies
8 to communicating with your family members, your employer, and the
9 media or press. If you are asked or approached in any way about
10 your jury service or anything about this case, you must respond
11 that you have been ordered not to discuss the matter.

12 Do not read, watch, or listen to any news or media accounts
13 or commentary about the case. Do not do any research, such as
14 consulting dictionaries, searching the Internet or using other
15 reference materials. No juror is to make any investigation on
16 your own, test a theory of the case on your own, re-create any
17 aspect of the case on your own, or in any other way try to learn
18 about the case on your own.

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28 Jury Instruction 26

1 It is your duty as jurors to consult with one another and to
2 deliberate with a view toward reaching an agreement, while at the
3 same time maintaining your individual judgment. Each of you must
4 decide the case for yourself, but you should do so only after a
5 consideration of the case with your fellow jurors, and you should
6 not hesitate to change an opinion when convinced that it is
7 erroneous. However, you should not be influenced to vote in any
8 way on any question submitted to you by the single fact that a
9 majority of the jurors, or any of them, favor such a decision. In
10 other words, you should not surrender your honest convictions
11 concerning the effect or weight of evidence for the mere purpose
12 of returning a verdict or solely because of the opinion of the
13 other jurors. Whatever your verdict is, it must be the product of
14 each juror's careful and impartial consideration of all the
15 evidence in the case under the rules of law as given you by the
16 court.

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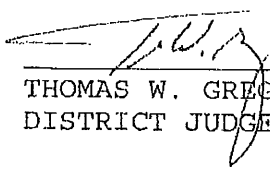
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28 Jury Instruction 27

1 When you retire to consider your verdict, you must select one
2 of your number to act as foreperson who will preside over your
3 deliberation and will be your spokesperson in Court.
4 During your deliberation you will have all the exhibits which
5 were admitted into evidence, these written instructions, and forms
6 of verdict.
7 Your verdict must be unanimous. As soon as you have agreed
8 upon a verdict, have it signed and dated by your foreperson and
9 notify the bailiff that you have reached a verdict. The
10 foreperson will return the verdict to the courtroom.
11 Now you will listen to the argument of counsel, who will
12 endeavor to aid you to reach a proper verdict by refreshing in
13 your minds the evidence, and by showing the application thereof to
14 the law; but, whatever counsel may say, you will bear in mind that
15 it is your duty to be governed in your deliberation by the
16 evidence as you understand it and remember it to be, and by the
17 law as given you in these instructions.

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19 GIVEN:

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22 THOMAS W. GREGORY
23 DISTRICT JUDGE
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Case No. 2019-CR-00188

Dept. No. II

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AUG 13 2021

Douglas County
District Court Clerk

FILED
2021 AUG 13 PM 1:54

BOBBIE R. WILLIAMS
CLERK

[Signature]

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

THE STATE OF NEVADA,
Plaintiff,

vs.

JUDGMENT OF CONVICTION

RICHARD ALEXANDER JENKINS,
Defendant.

On the 28th day of April 2021, Defendant was found guilty by jury of the following offenses contained within the Amended Information:

COUNT ONE: Lewdness with a Child Under 16 Years of Age, a violation of NRS 201.230(1)(a) and (3), a category B felony; COUNT TWO: Lewdness with a Child Under 16 Years of Age, a violation of NRS 201.230(1)(a) and (3), a category B felony; COUNT THREE: Lewdness with a Child Under 16 Years of Age, a violation of NRS 201.230(1)(a) and (3), a category B felony; COUNT FOUR: Lewdness with a Child Under 16 Years of Age, a violation of NRS 201.230(1)(a) and (3), a category B felony.

On the 12th day of August 2021, Defendant appeared for sentencing. Finding no legal cause why judgment should not be pronounced, judgment was rendered as follows:

1
2 COUNT ONE: Lewdness with a Child Under 16 Years of Age, a
3 violation of NRS 201.230(1)(a) and (3), a category B felony,
4 imprisonment in the state prison for a maximum term of one hundred
5 twenty (120) months and a minimum term of forty-eight (48) months.

6 COUNT TWO: Lewdness with a Child Under 16 Years of Age, a
7 violation of NRS 201.230(1)(a) and (3), a category B felony,
8 imprisonment in the state prison for a maximum term of one hundred
9 twenty (120) months and a minimum term of forty-eight (48) months
10 to run consecutive to the sentence imposed in count one.

11 COUNT THREE: Lewdness with a Child Under 16 Years of Age, a
12 violation of NRS 201.230(1)(a) and (3), a category B felony,
13 imprisonment in the state prison for a maximum term of one hundred
14 twenty (120) months and a minimum term of forty-eight (48) months
15 to run consecutive to the sentences imposed in count one and count
16 two.

17 COUNT FOUR: Lewdness with a Child Under 16 Years of Age, a
18 violation of NRS 201.230(1)(a) and (3), a category B felony,
19 imprisonment in the state prison for a maximum term of one hundred
20 twenty (120) months and a minimum term of forty-eight (48) months
21 to run consecutive to the sentences imposed in count one, count
22 two and count three.

23 The aggregate sentence of imprisonment with the Nevada
24 Department of Corrections is for a maximum term of 480 months with
25 a minimum parole eligibility of 192 months.

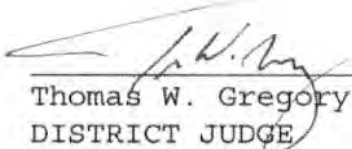
1 Defendant shall be subject to a special sentence of lifetime
2 supervision to commence after any period of probation or any term
3 of imprisonment and/or period of release upon parole. NRS
4 176.0931.

5 Defendant is granted one hundred eleven (111) days credit for
6 pre-sentence confinement.

7 Defendant shall pay statutory fees and assessments of \$25.00
8 (NRS 176.062), \$150.00 (NRS 176.0915), and \$3.00 (NRS 176.0623).

9 This judgment constitutes a lien in like manner as a judgment
10 rendered in a civil action. NRS 176.275.

11 DATED this 13th day of August, 2021.

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15 Thomas W. Gregory
16 DISTRICT JUDGE
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Electronically Filed
Sep 07 2021 01:42 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

David R. Houston, Esq.
Nevada Bar No. 2131

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Attorneys for Defendant

IN THE NINTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

STATE OF NEVADA,

Plaintiff,

Case No.: 19-CR-0188

v.

Dept. No.: II

RICHARD JENKINS,

Defendant.

NOTICE OF APPEAL

TO: The State of Nevada, Plaintiff; and

TO: Douglas County District Attorney's Office and Chelsea Mazza, Deputy District

Attorney, its counsel:

APP1813

1 PLEASE TAKE NOTICE that the Defendant, RICHARD JENKINS, hereby appeals the
2 final judgment of conviction entered on or about August 12, 2021, and all issues subsumed
3 therein, to the Supreme Court of the State of Nevada.
4

5 **AFFIRMATION**
6 **Pursuant to NRS 239B.030**

7 This document does not contain the social security number of any person.

8 DATED this 20 day of August, 2021.
9

10 Respectfully submitted,

11 RICHARD F. CORNELL, P.C.
12 150 Ridge Street, 2nd Floor
13 Reno, Nevada 89501

14 By: 
15 Richard Cornell
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Chelsea Mazza
Douglas County District Attorney's Office
1038 Buckeye Road
Minden, Nevada 89423

Kathryn O'Bryan