

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

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Elizabeth A. Brown
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CHARLES JOSEPH MAKI,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Sup. Ct. Case No. 84485

Case No. CR94-0345

Dept. 8

RECORD ON APPEAL

VOLUME 3 OF 10

DOCUMENTS

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DISTRICT CASE NO: CR94-0345
STATE OF NEVADA vs CHARLES JOSEPH MAKI
DATE: APRIL 14, 2022

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DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

4/11/94
HONORABLE
STEVEN R.
KOSACH
DEPT. NO. 8
L. Romero
(Clerk)
I. Zihn
(Reporter)JURY TRIAL

Plaintiff, State of Nevada, was being represented by Deputy District Attorney, Dan Greco. The defendant, Charles Joseph Maki, was present with counsel, Deputy Public Defender, Janet Cobb Schmuck.

Counsel Schmuck presented her motions in limine to exclude any evidence as to the defendant's prior convictions and/or bad acts. COURT ORDERED: Motions granted.

Counsel Schmuck addressed the Court as to the pictures from the SAINTS exam. Counsel Schmuck moved for a continuance or in the alternative, that the pictures not be admitted.

Opposition and argument by counsel Greco.

COURT ORDERED: Motion for continuance denied. Motion for the admittance of the pictures taken under advisement.

At 10:45 a.m. the prospective jurors were brought into the courtroom. Court addressed the prospective jurors. Roll of the prospective jurors was called. Court explained the elements to the prospective jurors. Prospective jurors were sworn to answer questions touching upon their qualifications to serve as trial jurors in this case.

The Information was read by the Clerk.

Jurors were polled and questioned by the Court.

At 12:00 Court ordered recess. Prospective jurors admonished.

At 12:10 p.m. Court reconvened with all parties and prospective jurors present.

Following the process of jury selection, the persons listed below were sworn to try this case:

Marianne Dortch	Jill Young
Terry Bradley	Randall Reed
Merrilee Soileau	Vincent Cordi
Joe Sambrano	James Roets
Loretta McNabb	Patricia Hedges-Johnson
Leann Morgan	Sharon Suarez
Nancy Fritz-Alternate	

At 12:50 p.m. Court ordered recess. Jurors were admonished and excused.

At 2:20 p.m. Court reconvened with all parties present. Court noted that the Jury was present.

State's exhibits 1, 2 & 3 were marked for identification.

Defendant's exhibits A-F were marked for identification.

Counsel Greco presented opening statements.

Counsel Schmuck presented opening statements.

At 2:42 p.m. the jurors were admonished and excused. Outside the presence of the jury. Desiree Menees was called by counsel Greco; sworn and testified. Counsel Greco moved for competency; no objections; SO ORDERED.

At 2:45 p.m. the jury was brought back into the courtroom.

Desiree Menees, heretofore sworn, resumed the stand. Counsel

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DC-9900039406-059
STATE VS CHARLES JOSEPH MAKI 5 Pages
District Court 04/11/1994 02:13 PM
Washoe County MTN .1YOC

Greco continued with direct examination. Cross examination by counsel Schmuck. Redirect examination; recross examination and excused.

At 2:20 p.m. the jurors were admonished and excused. Outside the presence of the jury, Summer Menees was called by counsel Greco; sworn and testified. Counsel Greco moved for competency; no objections; SO ORDERED.

The jury was brought back into the courtroom. Summer Menees, heretofore sworn, resumed the stand. Counsel Greco continued with direct examination; cross examination.

Gary Menees was called by counsel Greco; sworn and testified; cross examined; redirect examined and excused.

At 4:20 p.m. Jurors were admonished and excused. Court ordered recess.

At 4:30 p.m. Court reconvened with all parties present.

Kathy Peele was called by counsel Greco; sworn and testified; cross examination; redirect examination; recross examination and excused.

State's exhibits 4 & 5 were marked for identification; offered into evidence; objections; overruled; ordered admitted and so marked.

At 5:30 p.m. Jurors were admonished and excused. Court ordered recess.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE 3

APPEARANCES-HEARING

4/12/94
HONORABLE
STEVEN R.
KOSACH
DEPT. NO. 8
L. Romero
(Clerk)
I. Zihn
(Reporter)

JURY TRIAL CONTINUED

At 10:00 a.m. Plaintiff, State of Nevada, was being represented by counsel, Deputy District Attorney, Dan Greco. Defendant, Charles Joseph Maki, was present with counsel, Deputy Public Defender, Janet Cobb Schmuck.

Court noted that the jury was present.

Detective Jim Stegmaier was called by counsel Greco; sworn and testified.

State's exhibit 2 previously marked for identification was offered into evidence; no objections; ordered admitted and so marked. State's exhibit 2 was played for the jury.

State's exhibit 3 previously marked for identification was offered into evidence; objections; overruled; ordered admitted and so marked, State's exhibit 3 was played for the jury.

Cross examination by counsel Schmuck. Redirect examination. State rested.

At 11:30 a.m. Jurors were admonished and excused. Court ordered recess.

At 1:30 p.m. Court reconvened with all parties present. Court noted that the jury was present.

Michael O'Brien called by counsel Schmuck; sworn and testified. Defendant's exhibits A-F previously marked for identification were offered into evidence; no objections; ordered admitted and so marked.

Danielle Johnson was called by counsel Schmuck; sworn and testified; cross examined.

Defense rested.

Summer Menees, heretofore sworn, was called to the stand as a rebuttal witness by counsel Greco. Counsel Greco began direct examination.

Desiree Menees, heretofore sworn, was called to the stand as a rebuttal witness by counsel Greco. Counsel Greco began direct examination.

At 1:52 p.m. Jurors were admonished and excused. Outside the presence of the jury, Counsel Greco addressed the Court stating that he had hearsay evidence that he wanted to present through the witness, Gary Menees. Opposition and argument by counsel Schmuck. Counsel Greco withdrew his request.

At 1:55 p.m. the jury entered the courtroom. Court noted that the jury was present.

State rested.

At 2:00 p.m. Jurors were admonished and excused. Court and counsel met in chambers to discuss and settle jury instructions.

At 2:45 p.m. in chambers, Court and counsel settled on jury instructions 1-33.

At 3:00 p.m. All parties were present. Court noted that the jury was present.

Court read instructions 1-33.

4/12/94

JURY TRIAL CONTINUED

Cont'd
HONORABLE
STEVEN R.
KOSACH
DEPT. NO. 8
L. Romero
(Clerk)
I. Zihn
(Reporter)

Counsel Greco presented closing arguments.
Counsel Schmuck presented closing arguments.
Counsel Greco presented rebuttal arguments.
At 4:05 p.m. the Bailiff was sworn to take the jury into deliberation.
At 11:30 p.m. All parties were present. The jury entered the courtroom. Court noted that the jury was present.
The following verdicts were read by the Clerk:

We, the jury in the above entitled matter, find the defendant, Charles Joseph Maki, not guilty of Count I: Sexual Assault On a Child Under The Age of Fourteen Years.

Dated this 12th day of April, 1994.

Vincent Cordi
Foreman

We, the jury in the above entitled matter, find the defendant, Charles Joseph Maki, guilty of Count III: Sexual Assault On A Child Under The Age Of Fourteen Years.

Dated this 12th day of April, 1994.

Vincent Cordi
Foreman

We, the jury in the above entitled matter, find the defendant, Charles Joseph Maki, guilty of Count IV: Sexual Assault On A Child Under The Age Of Fourteen Years.

Dated this 12th day of April, 1994.

Vincent Cordi
Foreman

We, the jury in the above entitled matter, find the defendant, Charles Joseph Maki, guilty of Count V: Sexual Assault On A Child Under The Age Of Fourteen Years.

Dated this 12th day of April, 1994.

Vincent Cordi
Foreman

We, the jury in the above entitled matter, find the defendant, Charles Joseph Maki, guilty of Count VI: Lewdness With A Child Under The Age Of Fourteen Years.

Dated this 12th day of April, 1994.

Vincent Cordi
Foreman

PAGE 5

4/12/94

JURY TRIAL CONTINUED

Cont'd
HONORABLE
STEVEN R.
KOSACH
DEPT. NO. 8
L. Romero
(Clerk)
I. Zihn
(Reporter)

We, the jury in the above entitled matter, find the defendant,
Charles Joseph Maki, guilty of Count VII: Lewdness With A Child
Under The Age of Fourteen Years.

Dated this 12th day of April, 1994.

Vincent Cordi
Foreman

We, the jury in the above entitled matter, find the defendant,
Charles Joseph Maki, guilty of Count VIII: Lewdness With A
Child Under The Age Of Fourteen Years.

Dated this 12th day of April, 1994.

Vincent Cordi
Foreman

We, the jury in the above entitled matter, find the defendant,
Charles Joseph Maki, guilty of Count IX: Lewdness With A Child
Under The Age Of Fourteen Years.

Dated this 12th day of April, 1994.

Vincent Cordi
Foreman

We, the jury in the above entitled matter, find the defendant,
Charles Joseph Maki, guilty of Count X: Lewdness With A Child
Under The Age Of Fourteen Years.

Dated this 12th day of April, 1994.

Vincent Cordi
Foreman

At 11:36 p.m. the Jury was thanked and excused. Sentencing was
set for May 13, 1994 at 9:00 a.m.

FILED

JUD. BAILEY, Clerk

Deputy Clerk

APRIL 3-1994

TO HIS HONOR.

SIR:

MY NAME IS, CHARLES JOSEPH, MAKI, COMING UP ON APRIL 11-1994,
I'm do in your COURT ROOM, ON SEXUAL ABUSE ALLEGATIONS.

DURING THE COURSE OF EVENTS IN MY CASE OVER THE PAST FEW
WEEKS, I FEEL THAT, MY PUBLIC DEFENDER (JANET, SMUCK) IS NOT THE
PERSON FOR MYSELF. ALTHOUGH I'M SURE CAPABLE TO HANDLE MOST,
THIS IS NOT ONE TO HER EXPERTISE, I'M REQUESTING A CHANGE IN
ATTORNEYS, IN ORDER TO BEST COVER MYSELF AND MY REPUTATION
AND TO DISPROVE THESE ALLEGATIONS AGAINST ME.

FOR, EXAMPLE:

"THAT THE FURY WILL BE MADE AT HER FOR CROSS EXAMING,
SOME OF THE WITNESSES.

"IN TURN THE FURY," SHE SAYS "WON'T BELIEVE ME."

SIR:

IN PASSING, AN ATTORNEY CARL, HYLANS NAME WAS MENTIONED
TO BE EXPERIENCED IN THESE MATTERS.

IF AGREEABLE WITH THE COURT AND TIME PERMITS, I WOULD
LIKE FOR HIM TO BE APPOINTED TO MY CASE.

THANKS FOR THE CONSIDERATION
IN THIS MATTER.

CHARLES J. MAKI

911 PARK BULD. RENO, NV.
UNIT 8-36A

CR94-0345 DC-9900039406-067
STATE VS CHARLES JOSEPH MAKI 1 Page
District Court 04/11/1994 02:33 PM
Washoe County 1930
JVS
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FILED

JUDI BAILEY, Clerk

By _____
Deputy Clerk

No. CR94-0345

Dept. No. 8

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE.

THE STATE OF NEVADA,

Plaintiff,

v.

CHARLES JOSEPH MAKI,

Defendant.

LADIES AND GENTLEMEN OF THE JURY:

It is my duty as judge to instruct you in the law that applies to this case, and it is your duty as jurors to follow the law as I shall state it to you, regardless of what you may think the law is or ought to be. On the other hand, it is your exclusive province to determine the facts in the case, and to consider and weigh the evidence for that purpose. The authority thus vested in you is not an arbitrary power, but must be exercised with sincere judgment, sound discretion, and in accordance with the rules of law stated to you.

Instruction No. 1

1 The defendant in this matter, CHARLES JOSEPH MAKI,
2 is being tried upon an Information which was filed on the
3 10th day of February, 1994, in the Second Judicial District
4 Court, charging the said defendant, CHARLES JOSEPH MAKI,
5 with:

6 COUNT I. SEXUAL ASSAULT ON A CHILD UNDER THE AGE
7 OF FOURTEEN YEARS, a violation of NRS 200.366, a felony, in
8 the manner following:

9 That the said defendant on or between the 15th day
10 of November A.D. 1993, and the 18th day of January A.D.
11 1994, or thereabout, and before the filing of the
12 Information, at and within the County of Washoe, State of
13 Nevada, did willfully and unlawfully subject DESIREE M., a
14 child under the age of fourteen years, to sexual penetration
15 against her will or under conditions in which the said
16 defendant knew or should have known that the victim was
17 mentally or physically incapable of resisting or
18 understanding the nature of his conduct by reason of her
19 young age, in that the said defendant inserted his penis
20 into the victim's vagina.

21 COUNT II: SEXUAL ASSAULT ON A CHILD UNDER THE AGE
22 OF FOURTEEN YEARS, a violation of NRS 200.366, a felony, in
23 the manner following:

24 That the said defendant on or between the 15th day
25 of November A.D. 1993, and the 18th day of January A.D.
26 1994, or thereabout, and before the filing of the

1 Information, at and within the County of Washoe, State of
2 Nevada, did willfully and unlawfully subject DESIREE M., a
3 child under the age of fourteen years, to sexual penetration
4 against her will or under conditions in which the said
5 defendant knew or should have known that the victim was
6 mentally or physically incapable of resisting or
7 understanding the nature of his conduct by reason of her
8 young age, in that the said defendant inserted his penis
9 into the victim's vagina.

10 COUNT III. SEXUAL ASSAULT ON A CHILD UNDER THE AGE
11 OF FOURTEEN YEARS, a violation of NRS 200.366, a felony, in
12 the manner following:

13 That the said defendant on or between the 15th day
14 of November A.D. 1993, and the 18th day of January A.D.
15 1994, or thereabout, and before the filing of the
16 Information, at and within the County of Washoe, State of
17 Nevada, did willfully and unlawfully subject DESIREE M., a
18 child under the age of fourteen years, to sexual penetration
19 against her will or under conditions in which the said
20 defendant knew or should have known that the victim was
21 mentally or physically incapable of resisting or
22 understanding the nature of his conduct by reason of her
23 young age, in that the said defendant inserted his penis
24 into the victim's vagina.

25 ///

26 ///

1 COUNT IV. SEXUAL ASSAULT ON A CHILD UNDER THE AGE
2 OF FOURTEEN YEARS, a violation of NRS 200.366, a felony, in
3 the manner following:

4 That the said defendant on or between the 15th day
5 of November A.D. 1993, and the 18th day of January A.D.
6 1994, or thereabout, and before the filing of the
7 Information, at and within the County of Washoe, State of
8 Nevada, did willfully and unlawfully subject DESIREE M., a
9 child under the age of fourteen years, to sexual penetration
10 against her will or under conditions in which the said
11 defendant knew or should have known that the victim was
12 mentally or physically incapable of resisting or
13 understanding the nature of his conduct by reason of her
14 young age, in that the said defendant inserted his finger
15 into the victim's vagina.

16 COUNT V. SEXUAL ASSAULT ON A CHILD UNDER THE AGE
17 OF FOURTEEN YEARS, a violation of NRS 200.366, a felony, in
18 the manner following:

19 That the said defendant on or between the 15th day
20 of November A.D. 1993, and the 18th day of January A.D.
21 1994, or thereabout, and before the filing of the
22 Information, at and within the County of Washoe, State of
23 Nevada, did willfully and unlawfully subject SUMMER M., a
24 child under the age of fourteen years, to sexual penetration
25 against her will or under conditions in which the said
26 defendant knew or should have known that the victim was

1 mentally or physically incapable of resisting or
2 understanding the nature of his conduct by reason of her
3 young age, in that the said defendant inserted his penis
4 into the victim's vagina.

5 COUNT VI. LEWDNESS WITH A CHILD UNDER THE AGE OF
6 FOURTEEN YEARS, a violation of NRS 201.230, a felony, in the
7 manner following:

8 That the said defendant on or between the 15th day
9 of November A.D. 1993, and the 18th day of January A.D.
10 1994, or thereabout, and before the filing of the
11 Information, at and within the County of Washoe, State of
12 Nevada, did willfully, unlawfully, and lewdly commit a lewd
13 or lascivious act upon and with the body of DESIREE M., a
14 female child under the age of fourteen years, in that the
15 said defendant sucked or kissed the victim's breasts with
16 the intent of arousing, appealing to, or gratifying the
17 lust, passions, or sexual desires of himself or the child.

18 COUNT VII. LEWDNESS WITH A CHILD UNDER THE AGE OF
19 FOURTEEN YEARS, a violation of NRS 201.230, a felony, in the
20 manner following:

21 That the said defendant on or between the 15th day
22 of November A.D. 1993, and the 18th day of January A.D.
23 1994, or thereabout, and before the filing of the
24 Information, at and within the County of Washoe, State of
25 Nevada, did willfully, unlawfully, and lewdly commit a lewd
26 female child under the age of fourteen years, in that the

1 said defendant touched or rubbed the exterior of the
2 victim's vagina with the intent of arousing, appealing to,
3 or gratifying the lust, passions, or sexual desires of
4 himself or the child.

5 COUNT VIII. LEWDNESS WITH A CHILD UNDER THE AGE OF
6 FOURTEEN YEARS, a violation of NRS 201.230, a felony, in the
7 manner following:

8 That the said defendant on or between the 15th day
9 of November A.D. 1993, and the 18th day of January A.D.
10 1994, or thereabout, and before the filing of the
11 Information, at and within the County of Washoe, State of
12 Nevada, did willfully, unlawfully, and lewdly commit a lewd
13 or lascivious act upon and with the body of DESIREE M., a
14 female child under the age of fourteen years, in that the
15 said defendant caused the victim to touch or fondle his
16 penis and/or testicles with the intent of arousing,
17 appealing to, or gratifying the lust, passions, or sexual
18 desires of himself or the child.

19 COUNT IX. LEWDNESS WITH A CHILD UNDER THE AGE OF
20 FOURTEEN YEARS, a violation of NRS 201.230, a felony, in the
21 manner following:

22 That the said defendant on or between the 15th day
23 of November A.D. 1993, and the 18th day of January A.D.
24 1994, or thereabout, and before the filing of the
25 Information, at and within the County of Washoe, State of
26 Nevada, did willfully, unlawfully, and lewdly commit a lewd

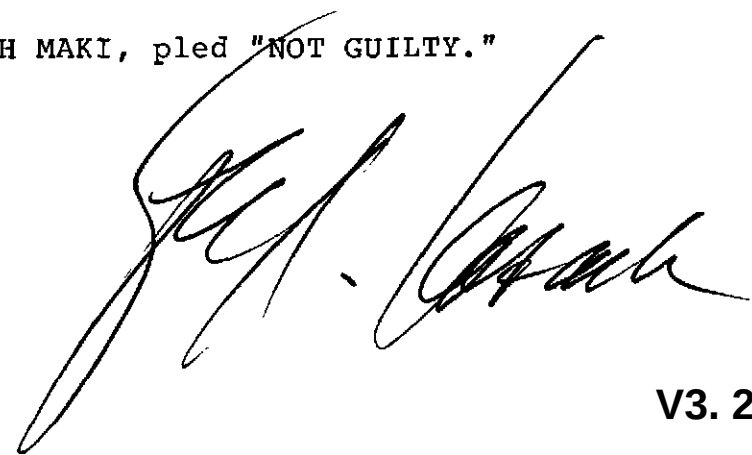
1 or lascivious act upon and with the body of SUMMER M., a
2 female child under the age of fourteen years, in that the
3 said defendant touched or rubbed the exterior of the
4 victim's vagina with the intent of arousing, appealing to,
5 or gratifying the lust, passions, or sexual desires of
6 himself or the child.

7 COUNT X. LEWDNESS WITH A CHILD UNDER THE AGE OF
8 FOURTEEN YEARS, a violation of NRS 201.230, a felony, in the
9 manner following:

10 That the said defendant on or between the 15th day
11 of November A.D. 1993, and the 18th day of January A.D.
12 1994, or thereabout, and before the filing of the
13 Information, at and with in the County of Washoe, State of
14 Nevada, did willfully, unlawfully, and lewdly commit a lewd
15 or lascivious act upon and with the body of SUMMER M., a
16 female child under the age of fourteen years, in that the
17 said defendant rubbed or touched his penis on or over the
18 exterior of the victim's vagina with the intent of arousing,
19 appealing to, or gratifying the lust, passions, or sexual
20 desires of himself or the child.

21
22 To the charges stated in the Information, the
23 defendant, CHARLES JOSEPH MAKI, pled "NOT GUILTY."
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26 Instruction No. 2



1 An Information is a formal method of accusing a
2 defendant of a crime. It is not evidence of any kind against
3 the accused, and does not create any presumption or permit any
4 inference of guilt.
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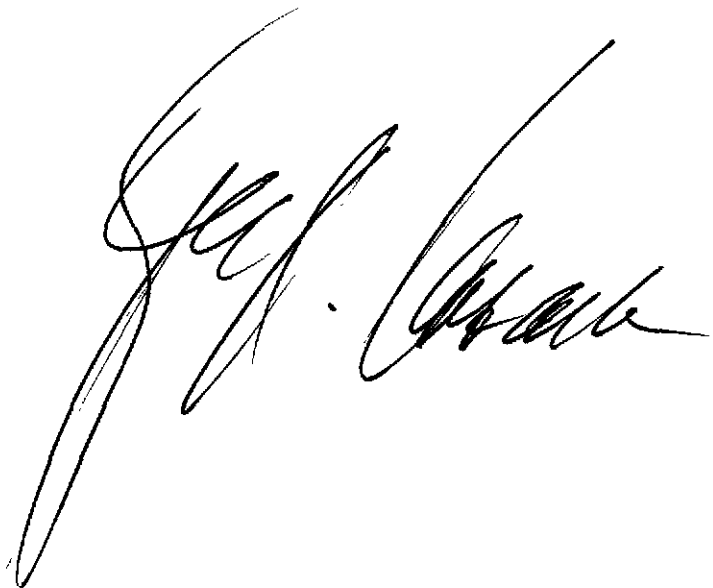
A large, stylized handwritten signature in black ink, likely belonging to a legal professional, is written across the middle of the page. The signature is cursive and somewhat abstract, with long, sweeping strokes.

Instruction No. 3

1 Although you are to consider only the evidence in the
2 case in reaching a verdict, you must bring to the consideration
3 of the evidence your everyday common sense and judgment as
4 reasonable men and women. Thus, you are not limited solely to
5 what you see and hear as the witnesses testify. You may draw
6 reasonable inferences which you feel are justified by the
7 evidence, keeping in mind that such inferences should not be
8 based on speculation or guess.

9 A verdict may never be influenced by sympathy,
10 passion, prejudice, or public opinion. Your decision should be
11 the product of sincere judgment and sound discretion in
12 accordance with these rules of law.

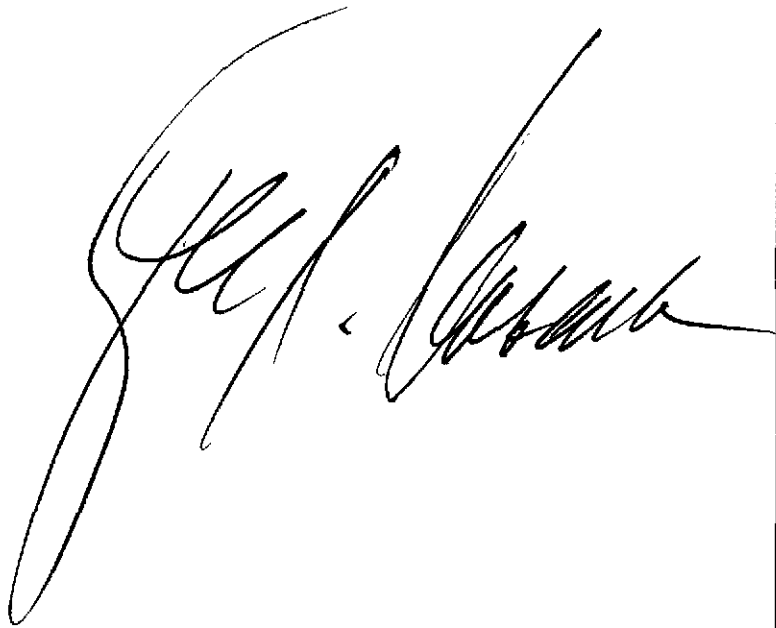
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Instruction No. 4

1 Every person charged with the commission of a crime
2 shall be presumed innocent unless the contrary is proved by
3 competent evidence beyond a reasonable doubt.

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Instruction No. 5

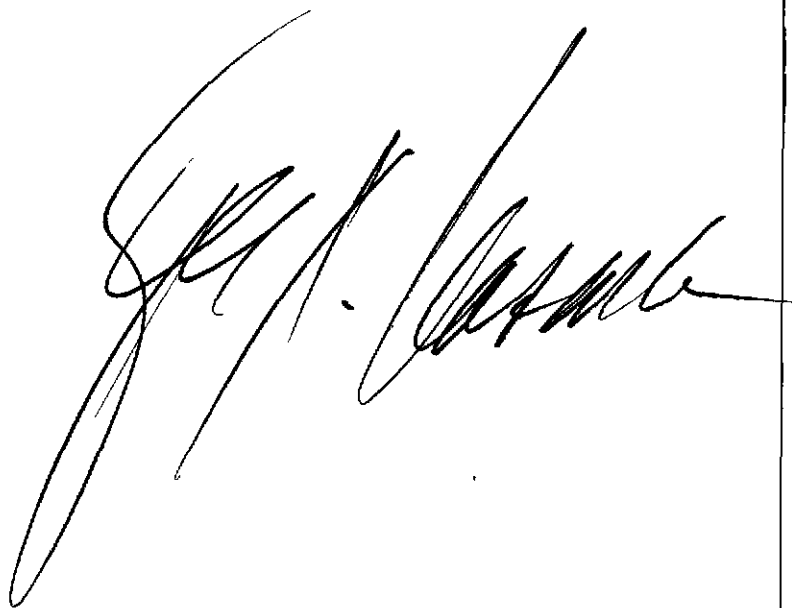
1 A reasonable doubt is one based on reason. It is not
2 mere possible doubt, but is such a doubt as would govern or
3 control a person in the more weighty affairs of life. If the
4 minds of the jurors, after the entire comparison and considera-
5 tion of all the evidence, are in such a condition that they can
6 say they feel an abiding conviction of the truth of the charge,
7 there is not a reasonable doubt. Doubt to be reasonable, must
8 be actual, not mere possibility or speculation.
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Instruction No. 6

1 The burden rests upon the prosecution to establish
2 every element of the crime with which the defendant is charged,
3 and every element of the crime must be established beyond a
4 reasonable doubt.
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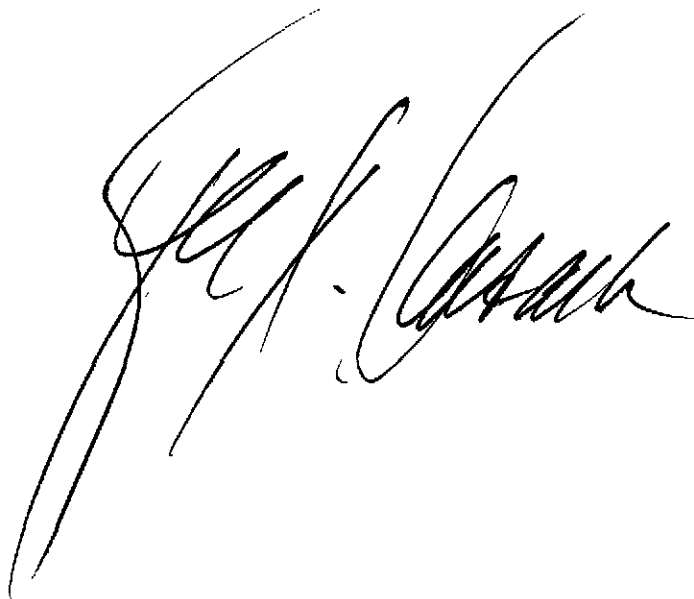
A large, stylized handwritten signature in black ink, likely belonging to a judge or official, is written across the middle of the page. The signature is cursive and somewhat illegible due to its speed and style.

Instruction No. 7

1 Intent may be proved by circumstantial evidence. It
2 rarely can be established by any other means. While witnesses
3 may see and hear and thus be able to give direct evidence of
4 what a defendant does or fails to do, there can be no
5 eyewitness account of a state of mind with which the acts were
6 done or omitted, but what a defendant does or fails to do may
7 indicate intent or lack of intent to commit the offense
8 charged.

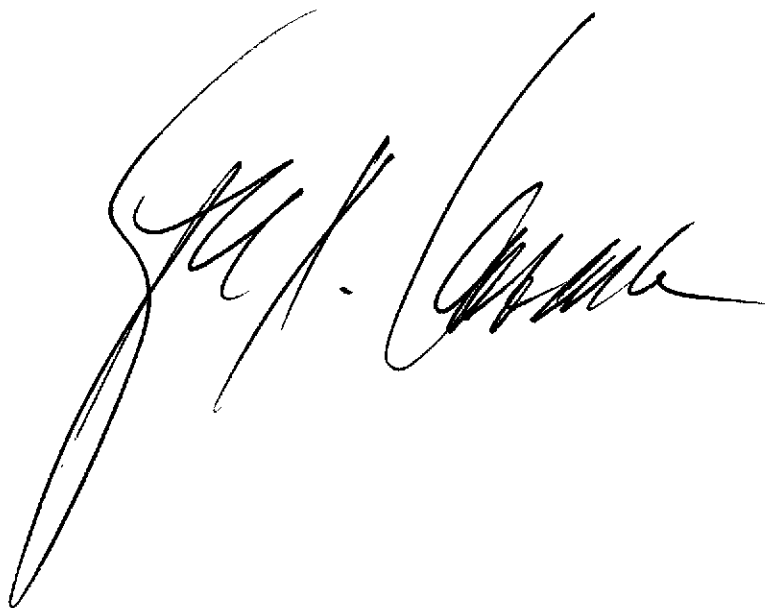
9 In determining the issue as to intent, the jury is
10 entitled to consider any statements made and acts done or
11 omitted by the accused, and all facts and circumstances in
12 evidence which may aid determination of state of mind.

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Instruction No. 

1 The penalty provided by law for the offense charged is
2 not to be considered by the jury in arriving at a verdict.
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A large, stylized handwritten signature in black ink, appearing to read "J. P. [unclear]", is written across the middle of the page.

Instruction No. 9

1 It is your duty as jurors to consult with one another
2 and to deliberate, with a view of reaching an agreement, if you
3 can do so without violence to your individual judgment. You
4 each must decide the case for yourself, but should do so only
5 after a consideration of the case with your fellow jurors, and
6 you should not hesitate to change an opinion when convinced
7 that it is erroneous. However, you should not be influenced to
8 vote in any way on any question submitted to you by the single
9 fact that a majority of the jurors, or any of them, favor such
10 a decision. In other words, you should not surrender your
11 honest convictions concerning the effect or weight of evidence
12 for the mere purpose of returning a verdict or solely because
13 of the opinion of the other jurors.

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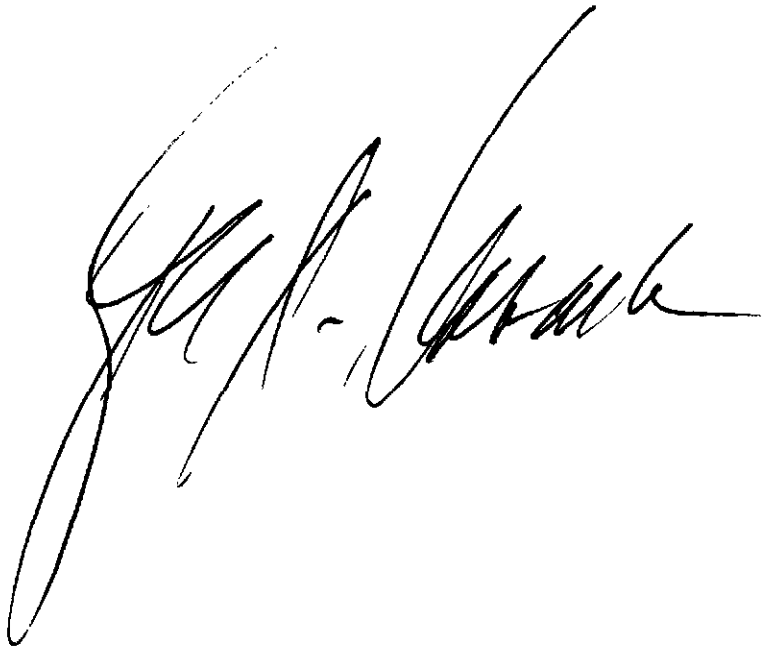
A large, stylized handwritten signature in black ink, likely belonging to a juror or official, is written across the middle of the page.

Instruction No. 10

1 If, during this trial, I have said or done anything
2 which has suggested to you that I am inclined to favor the
3 position of either party, you will not be influenced by any
4 such suggestion.

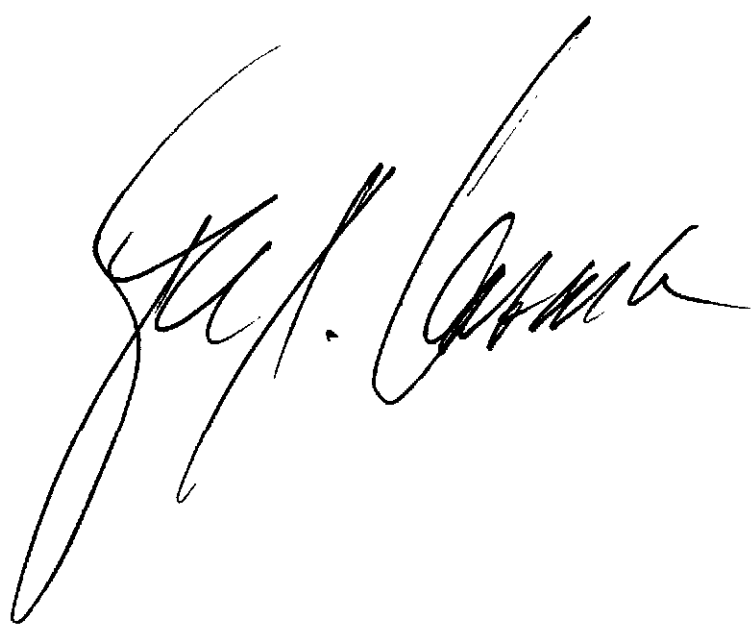
5 I have not expressed, nor intended to express, nor
6 have I intended to intimate, any opinion as to which witnesses
7 are or are not worthy of belief, what facts are or are not
8 established, or what inference should be drawn from the
9 evidence. If any expression of mine has seemed to indicate an
10 opinion relating to any of these matters, I instruct you to
11 disregard it.

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Instruction No. 11

1 Neither the prosecution nor the defense is required to
2 call as witnesses all persons who may appear to have some
3 knowledge of the matters in question in this trial.
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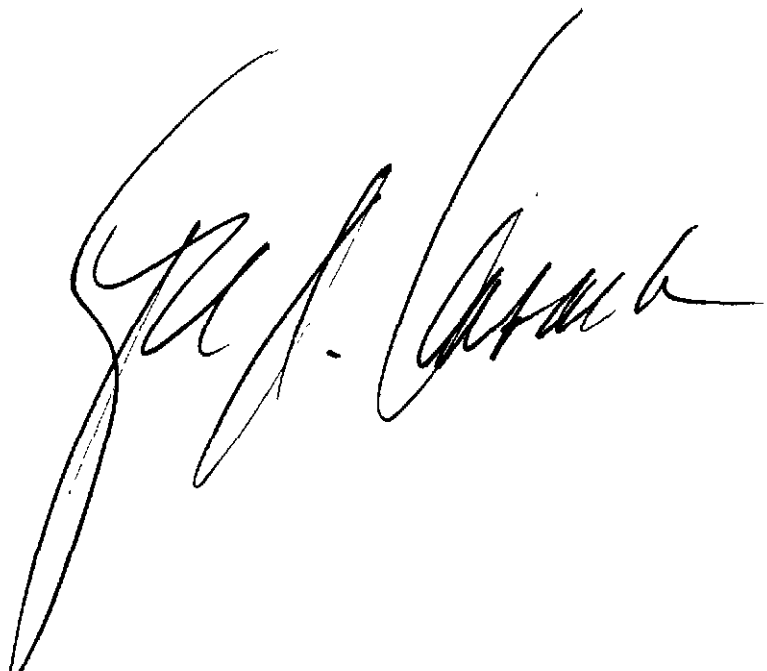
A large, stylized handwritten signature in black ink, likely belonging to a legal professional, is written across the middle of the page. The signature is cursive and somewhat abstract, with long, sweeping strokes.

Instruction No. 12

1 To the jury alone belongs the duty of weighing the
2 evidence and determining the credibility of the witnesses. The
3 degree of credit due a witness should be determined by his or
4 her character, conduct, manner upon the stand, fears, bias,
5 impartiality, reasonableness or unreasonableness of the
6 statements he or she makes, and the strength or weakness of his
7 or her recollections, viewed in the light of all the other
8 facts in evidence.

9 If the jury believes that any witness has willfully
10 sworn falsely, they may disregard the whole of the evidence of
11 any such witness.

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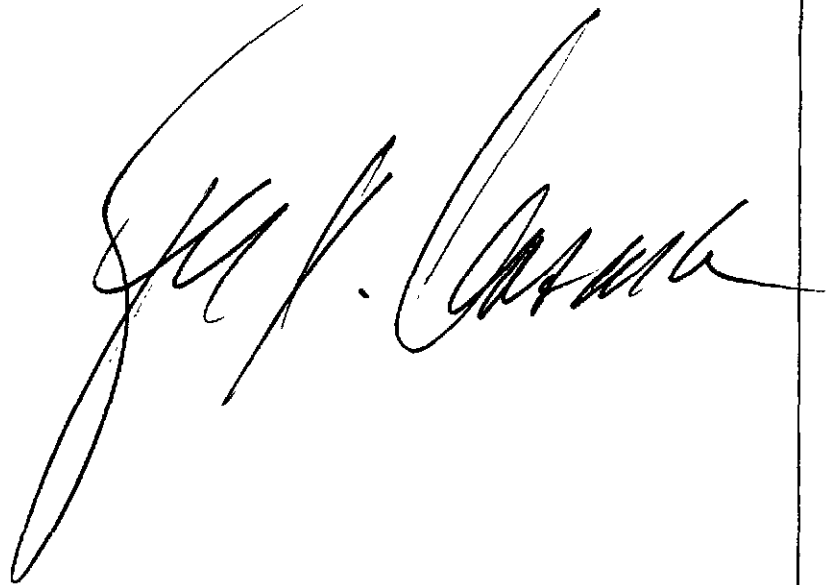


Instruction No. 13

1 It is the duty of attorneys on each side of a case to
2 object when the other side offers testimony or other evidence
3 which counsel believes is not admissible.

4 When the court has sustained an objection to a
5 question, the jury is to disregard the question and may draw no
6 inference from the wording of it or speculate as to what the
7 witness would have said if permitted to answer.

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Instruction No. 14

1 In every crime there must exist a union or joint
2 operation of act and intent.

3 The burden is always upon the prosecution to prove
4 both act and intent beyond a reasonable doubt.
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A large, stylized handwritten signature in black ink, appearing to read "J. P. C. Smith", is written across the middle of the page.

Instruction No. 15

1 Nothing that counsel say during the trial is evidence
2 in the case.

3 The evidence in a case consists of the testimony of
4 the witnesses and all physical or documentary evidence which
5 has been admitted.
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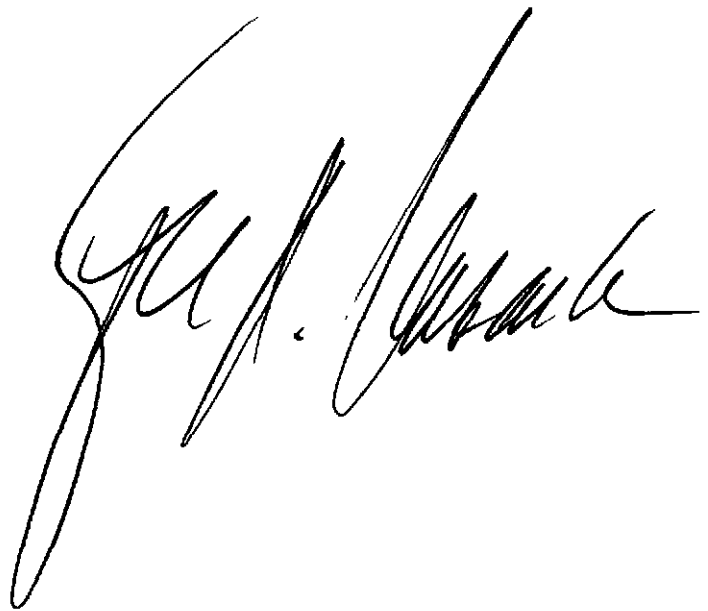
A large, stylized handwritten signature in black ink, likely belonging to a judge or official, is written across the middle of the page. The signature is cursive and somewhat illegible due to its speed and style.

Instruction No. 16

1 There are two types of evidence from which a jury may
2 properly arrive at a verdict. One is direct evidence, such as
3 the testimony of an eyewitness. The other is circumstantial
4 evidence, the proof of a chain of circumstances pointing to the
5 commission of the offense.

6 The law makes no distinction between direct and
7 circumstantial evidence, but requires that before convicting a
8 defendant, the jury be satisfied of the defendant's guilt
9 beyond a reasonable doubt from all the evidence in the case.

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A large, stylized handwritten signature in black ink, likely belonging to a judge or official, is written across the middle of the page. The signature is cursive and somewhat abstract, with long, sweeping strokes.

Instruction No. 17

1 If in these instructions, any rule, direction or idea
2 is stated in varying ways, no emphasis thereon is intended by
3 me and none must be inferred by you. For that reason, you are
4 not to single out any certain sentence, or any individual point
5 or instruction, and ignore the others, but you are to consider
6 all the instructions as a whole and to regard each in the light
7 of all the others.
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Instruction No. 18

1 The defendant is charged in Counts I through V of the
2 Information with Sexual assault on a Child Under the Age of
3 Fourteen Years. In order to convict the defendant of this
4 crime the State must prove that:

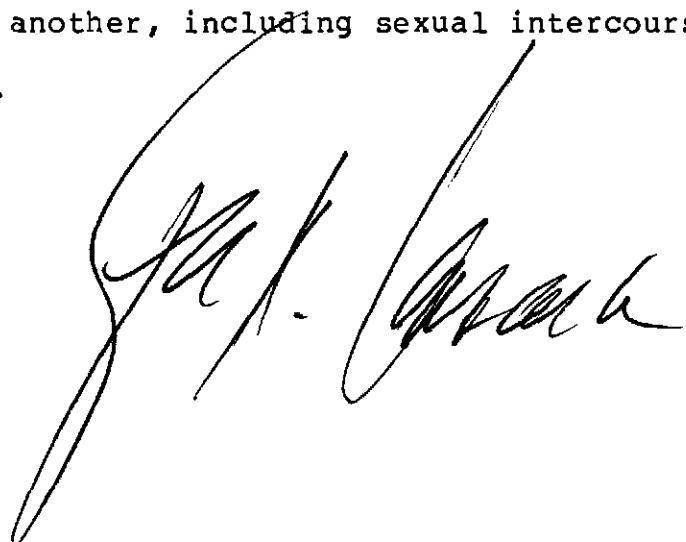
5 1) The defendant did willfully and unlawfully;

6 2) Subject another person to sexual penetration
7 against the victim's will, or under conditions in which the
8 defendant knew or should have known that the victim was
9 mentally or physically incapable of resisting or understanding
10 the nature of the defendant's conduct; and

11 3) The victim was under the age of 14 years at the
12 time the crime was committed.

13 "Sexual penetration" for the purposes of this
14 instruction means cunnilingus, fellatio, or any intrusion,
15 however slight, of any part of a person's body or any object
16 manipulated or inserted by a person into the genital or anal
17 openings of the body of another, including sexual intercourse
18 in its ordinary meaning.

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Instruction No. 19

1 The State is not required to prove that the defendant
2 used force in the commission of the crime of Sexual Assault.
3 The State is only required to prove the elements set forth in
4 the preceding instruction.
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A large, stylized handwritten signature, likely "J. M. Graham", is written across the middle of the page. The signature is in black ink and is quite fluid and cursive.

Instruction No. 20

1 The defendant is charged in Counts VI through X of
2 the Information with Lewdness With a Chld Under the Age of
3 Fourteen Years. In order to convict the defendant of this
4 crime the State must prove that:

5 1) The defendant did willfully, unlawfully, and
6 lewdly;

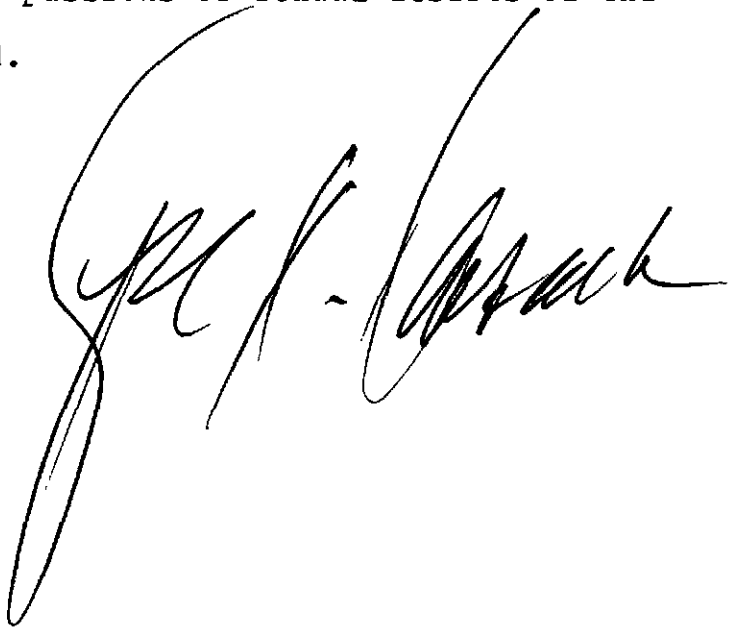
7 2) Commit any lewd or lascivious act;

8 3) Upon or with the body, or any part or member
9 thereof;

10 4) Of any child under the age of 14 years; and

11 5) With the intent of arousing, appealing to, or
12 gratifying the lust or passions or sexual desires of the
13 defendant or the child.

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A large, stylized handwritten signature in black ink, appearing to read 'J. P. Smith', is written over the right side of the page, partially obscuring the text of the fifth instruction.

Instruction No. 21

1 To constitute a lewd or lascivious act it is not
2 necessary that the bare skin be touched. The touching may be
3 through the clothing of the child.
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Instruction No. 22

1 A defendant may be properly convicted of multiple
2 counts where separate acts are committed on the victim,
3 regardless of whether the acts were all committed within a
4 short period of time, and regardless of whether all the acts
5 were part of one continuous activity.
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Instruction No. 23

1 A person is qualified to testify as an expert if he or
2 she has special knowledge, skill, experience, training, or
3 education sufficient to qualify him or her as an expert on the
4 subject to which his or her testimony relates.

5 Duly qualified experts may give their opinions on
6 questions in controversy at a trial. To assist you in deciding
7 such questions, you may consider the opinion with the reasons
8 given for it, if any, by the expert who gives the opinion. You
9 may also consider the qualifications and credibility of the
10 expert.

11 You are not bound to accept an expert opinion as
12 conclusive, but should give to it the weight to which you find
13 it to be entitled. You may disregard any such opinion if you
14 find it to be unreasonable.

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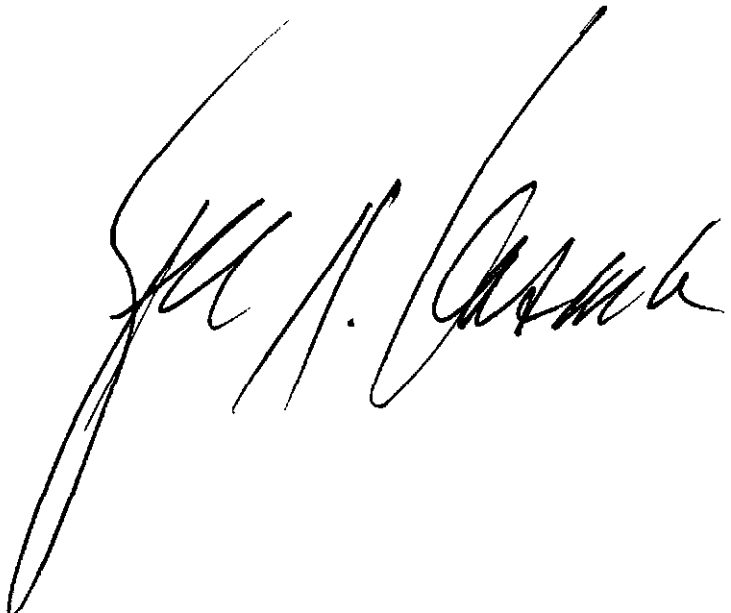
A large, stylized handwritten signature in black ink, appearing to read 'J. P. ...', is written over the right side of the page, partially overlapping the numbered lines.

Instruction No. 24

1 Intent may be proved by circumstantial evidence. It
2 rarely can be established by any other means. While witnesses
3 may see and hear and thus be able to give direct evidence of
4 what a defendant does or fails to do, there can be no
5 eyewitness account of a state of mind with which the acts were
6 done or omitted, but what a defendant does or fails to do may
7 indicate intent or lack of intent to commit the offense
8 charged.

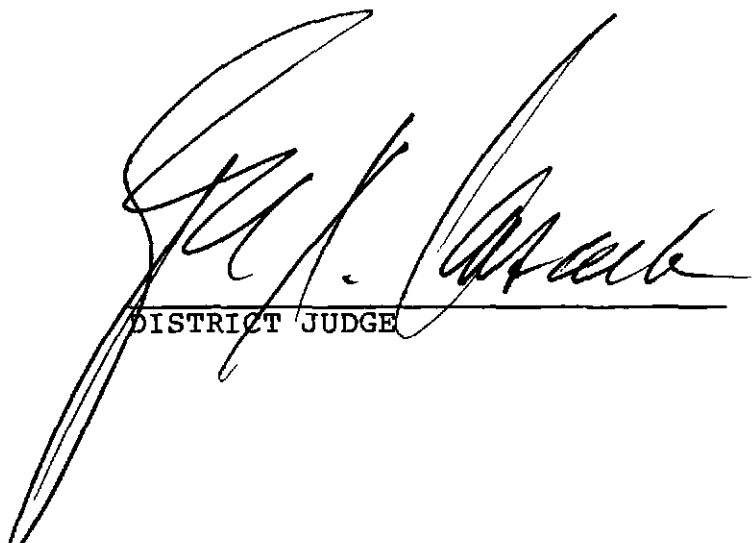
9 In determining the issue as to intent, the jury is
10 entitled to consider any statements made and acts done or
11 omitted by the accused, and all facts and circumstances in
12 evidence which may aid determination of state of mind.

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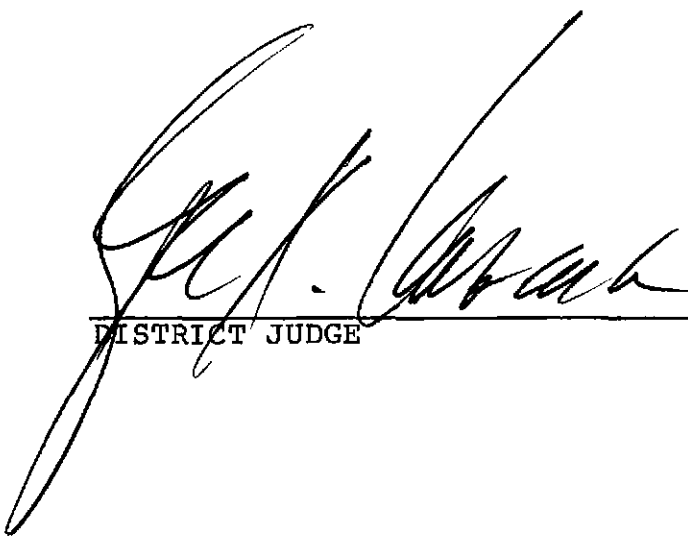
Instruction No. 25

1 No act committed by a person while in a state of vol-
2 untary intoxication shall be deemed less criminal by reason of
3 his condition, but whenever the actual existence of any partic-
4 ular purpose, motive, or intent is a necessary element to con-
5 stitute a particular species or degree of crime, the fact of his
6 intoxication may be taken into consideration in determining such
7 purpose, motive, or intent.

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13 DISTRICT JUDGE
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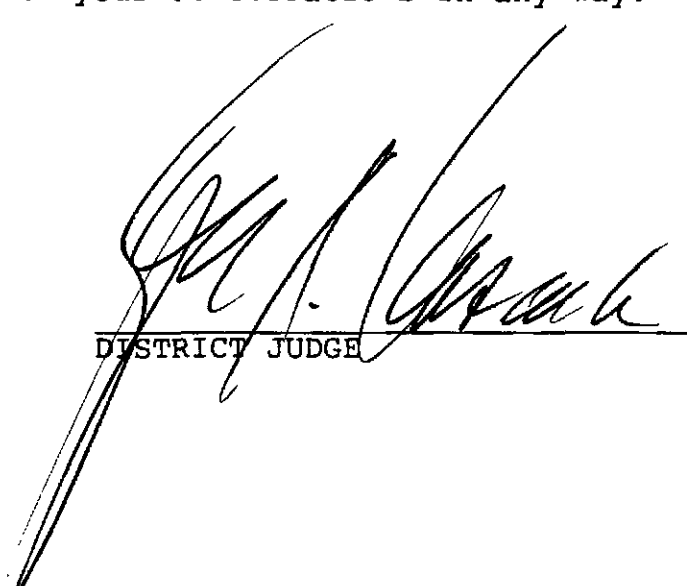
Instruction No. 26

1 You have heard evidence with respect to Mr. Maki's
2 reputation for good character. Such evidence should be
3 considered with the other facts of this case. When so
4 considered, it may, like the other facts, generate a reasonable
5 doubt which would justify acquittal.

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Instruction No. 27

1 It is a constitutional right of a defendant in a crim-
2 inal trial that he or she may not be compelled to testify.
3 Thus, the decision as to whether he or she should testify is
4 left to the defendant on the advice and counsel of his or her
5 attorney. You must not draw any inference of guilt from the
6 fact that he or she does not testify, nor should this fact be
7 discussed by you or enter into your deliberations in any way.
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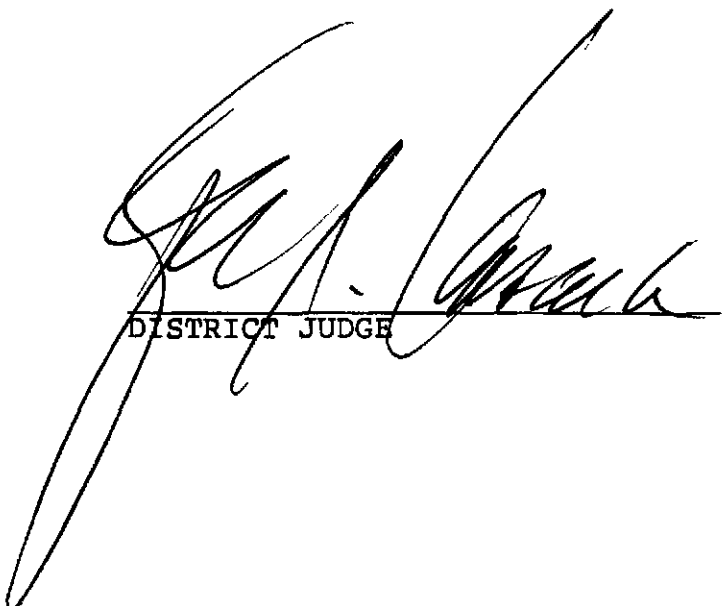
DISTRICT JUDGE

Instruction No. 28

~~DISTRICT JUDGE~~

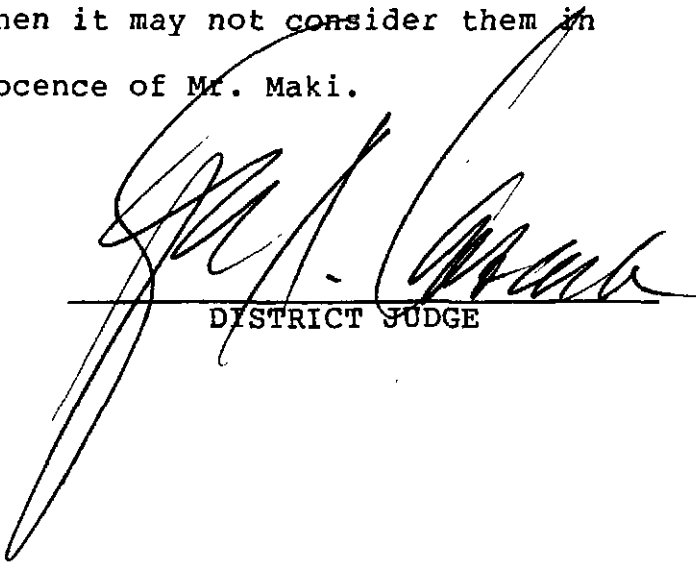
Instruction No. 29

1 The word "willfully," when applied to the intent with
2 which an act is done or omitted and as used in my instructions,
3 implies simply a purpose or willingness to commit the act or to
4 make the omission in question. The word does not require in its
5 meaning any intent to violate law, or to injure another, or to
6 acquire any advantage.

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12 DISTRICT JUDGE
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Instruction No. 30

1 Statements of the defendant have been admitted into
2 evidence. Before the Jury may take such statements into
3 consideration it must decide whether or not they were given
4 voluntarily. If the jury decides that the statements were made
5 voluntarily then it may consider them in determining the guilt or
6 innocence of Mr. Maki. If the jury decides that the statements
7 were not made voluntarily, then it may not consider them in
8 determining the guilt or innocence of Mr. Maki.


DISTRICT JUDGE

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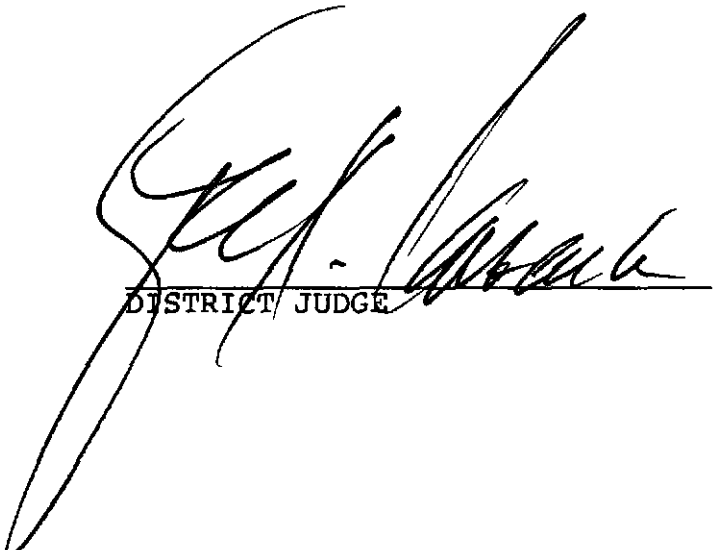
1 The evidence which you are to consider in this case
2 consists of the testimony of the witnesses, the exhibits, and
3 any facts admitted or agreed to by counsel.

4 Statements, arguments and opinions of counsel are not
5 evidence in the case. However, if the attorneys stipulate as to
6 the existence of a fact, you must accept the stipulation as
7 evidence and regard that fact as proved.

8 You must not speculate to be true any insinuations
9 suggested by a question asked a witness. A question is not
10 evidence and may be considered only as it supplies meaning to
11 the answer.

12 You must disregard any evidence to which any objection
13 was sustained by the court and any evidence ordered stricken by
14 the court.

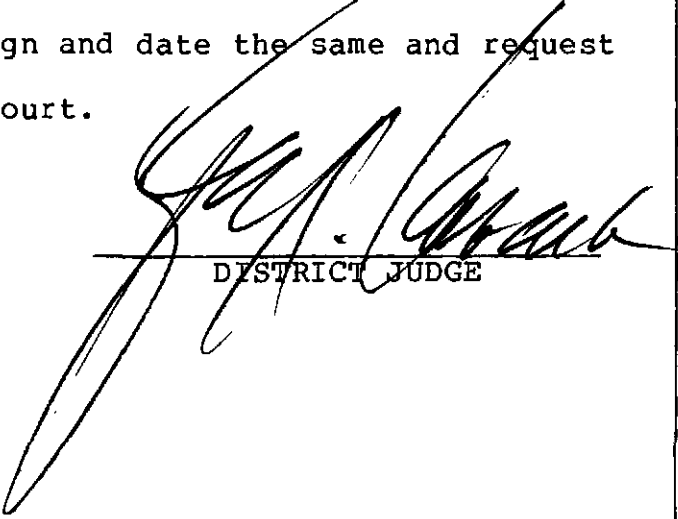
15 Anything you may have seen or heard outside the court-
16 room is not evidence and must also be disregarded.

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22 DISTRICT JUDGE
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26 Instruction No. 32

1 Upon retiring to the jury room you will select one of
2 your number to act as foreman, who will preside over your
3 deliberations and who will sign a verdict to which you agree.

4 When all twelve (12) of you have agreed upon a
5 verdict, the foreman should sign and date the same and request
6 the Bailiff to return you to court.


DISTRICT JUDGE

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26 Instruction No. 33

CR94-0345
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STATE VS CHARLES JOSEPH MAKI 9 Pages
District Court 04/12/1994 02:46 PM
Washoe County 4235
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FILED
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JOSEPH BAILEY, Clerk
By [Signature]
Deputy Clerk

1 No. CR94-0345
2 Dept. No. 8
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,
10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,
13 Defendant.
14

15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT I: SEXUAL
17 ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this _____ day of _____, 19____.

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1 No. CR94-0345

2 Dept. No. 8

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT III:
17 SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this _____ day of _____, 19____.

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1 No. CR94-0345

2 Dept. No. 8

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5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____/
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT IV:
17 SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this _____ day of _____, 19____.

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1 No. CR94-0345

2 Dept. No. 8

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____/
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT V: SEXUAL
17 ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this _____ day of _____, 19____.

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1 No. CR94-0345

2 Dept. No. 8

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14

15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT VI:
17 SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

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DATED this _____ day of _____, 19____.

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FOREMAN

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1 No. CR94-0345

2 Dept. No. 8

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____/

15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT VII:
17 LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this _____ day of _____, 19____.

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1 No. CR94-0345

2 Dept. No. 8

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____/
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT VIII:
17 LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this _____ day of _____, 19____.

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1 No. CR94-0345

2 Dept. No. 8

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____/
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT IX:
17 LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this _____ day of _____, 19____.

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1 No. CR94-0345

2 Dept. No. 8

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14

15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT X:
17 LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS.

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DATED this _____ day of _____, 19____.

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CR94-0345
 DC-9900039406-073
 STATE VS CHARLES JOSEPH MAKI 2 Pages :
 District Court 04/12/1994 02 48 PM
 Washoe County 4235
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1 No. CR94-0345

2 Dept. No. 8

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 By [Signature]
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 6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
 7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14
 15 We, the jury in the above-entitled matter, find the
 16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT II:
 17 SEXUAL ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this _____ day of _____, 19____.

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 21 FOREMAN
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1 No. CR94-0345

2 Dept. No. 8

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT II: SEXUAL
17 ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this _____ day of _____, 19____.

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20 _____
21 FOREMAN
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CR94-0345
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STATE VS CHARLES JOSEPH MAKI 1 Page
District Court 04/12/1994 02:48 PM
Washoe County 4245
DOC JYOS

1 No. CR94-0345

2 Dept. No. 8

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JUDITH L. LAY, Clerk

Deputy Clerk

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT X: LEWDNESS
17 WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this 12 day of April, 1994

19
20 Vernon E. Calkins
21 FOREMAN
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DC-9900039406-075
CR94-0345
STATE VS CHARLES JOSEPH MAKI 1 Page
District Court 04/12/1994 02:50 PM
Washoe County 4245
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1 No. CR94-0345

2 Dept. No. 8

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JUDITH BAILEY CLERK

Deputy Clerk

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____/
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT IX: LEWDNESS
17 WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this 12 day of April, 1994.

19
20 Vernon R. Kelly
21 FOREMAN
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DC-9900039406-076
CR94-0345
STATE VS CHARLES JOSEPH MAKI, Page
District Court 04/12/1994 02 50 PM
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2 Dept. No. 8

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JUDITH BAILEY, Clerk

Deputy Clerk

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6 THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT VIII:
17 LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this 12 day of April, 1994.

19
20 Vernon Bailey
21 FOREMAN
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CR94-0345
 DC-9900039406-077
 STATE VS CHARLES JOSEPH MAKI 1 Page
 District Court 04/12/1994 03 05 PM
 Washoe County 4245
 DOC JYGS

1 No. CR94-0345

2 Dept. No. 8

FILED

JUDITH BAILEY, Clerk

By [Signature]
 Deputy Clerk

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 6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
 7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14
 15 We, the jury in the above-entitled matter, find the
 16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT VII: LEWDNESS
 17 WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this 12 day of April, 1994.

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 20 [Signature]
 21 FOREMAN
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CR94-0345 DC-9900039406-078
 STATE VS CHARLES JOSEPH MAKI 1 Page
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1 No. CR94-0345

2 Dept. No. 8

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7
8 IN AND FOR THE COUNTY OF WASHOE.

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT VI: LEWDNESS
17 WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this 12 day of April, 1994.

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21 Foreman
FOREMAN
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CR94-0345
STATE VS CHARLES JOSEPH MAKI
District Court
Washoe County
DC-9900039406-079
JOSEPH MAKI 1 Page
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1 No. CR94-0345

2 Dept. No. 8

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Deputy Clerk

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT V: SEXUAL
17 ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this 12 day of April, 1994.

19
20 [Signature]
21 FOREMAN
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DC-9900039406-080
CR94-0345 JOSEPH MAKI 1 Page
STATE VS CHARLES JOSEPH MAKI 03 06 PM
District Court 04/12/1994 4245
Washoe County
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1 No. CR94-0345

2 Dept. No. 8

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By [Signature]
Deputy Clerk

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT IV: SEXUAL
17 ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this 12 day of April, 1994.

19 [Signature]
20 FOREMAN
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CR94-0345 DC-9900039406-081
 STATE VS CHARLES JOSEPH MAKI 1 Page
 District Court 04/12/1994 03:06 PM 4245
 Washoe County 11057
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1 No. CR94-0345

2 Dept. No. 8

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JUDITH BAILEY, Clerk

By [Signature]
 Deputy Clerk

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 6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
 7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14 _____/

15 We, the jury in the above-entitled matter, find the
 16 defendant, CHARLES JOSEPH MAKI, GUILTY of COUNT III: SEXUAL
 17 ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this 12 day of April, 1994.

19
 20 [Signature]
 21 FOREMAN

22

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CR94-0345 DC-9900039406-082
STATE VS CHARLES JOSEPH MAKI 1 Page
District Court 04/12/1994 03 07 PM
Washoe County 4245
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1 No. CR94-0345

2 Dept. No. 8

FILED

JUDI BAILEY, Clerk

Deputy Clerk

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE.

8 ***

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

V E R D I C T

12 CHARLES JOSEPH MAKI,

13 Defendant.

14
15 We, the jury in the above-entitled matter, find the
16 defendant, CHARLES JOSEPH MAKI, NOT GUILTY of COUNT I: SEXUAL
17 ASSAULT ON A CHILD UNDER THE AGE OF FOURTEEN YEARS.

18 DATED this 12 day of April, 1994.

19
20 Vincent Cook
21 FOREMAN
22
23
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DC-990039406-083
CR94-0345
STATE VS CHARLES JOSEPH MAKI
District Court
Washoe County
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Case No. CR94-0345

Dept. No. 8

FILED
4/12/94
JUDI BAILEY, Clerk
By [Signature]
Deputy Clerk

IN THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

vs.

CHARLES JOSEPH MAKI,

Defendant.

Reporter: I. Zihn

J U D G M E N T

No sufficient cause being shown by the State of Nevada as to why judgment should not be pronounced for the Defendant and against the State, the Court rendered judgment as follows:

That Charles Joseph Maki is Not Guilty of Sexual Assault On A Child Under The Age Of Fourteen Years as charged in Count I of the Information.

Dated this 12th day of April, 1994.

[Signature]
DISTRICT JUDGE

FILED

JUDITH BAILEY, Clerk

By

Deputy Clerk

No. CR94-0345

Dept. No. 8

CR94-0345
 DC-9900039406-084
 STATE VS CHARLES JOSEPH MAKI 5 Pages
 District Court 04/12/1994 03 09 PM
 Washoe County 1890
 nnc

IN THE SECOND JUDICIAL DISTRICT COURT
 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

vs.

CHARLES JOSEPH MAKI,

Defendant.

Reporter: I. Zihn

JURY'S QUESTIONS

17:40 - 04/12/94

Need clarification on counts
#7 and #9 on what touch or rubbed
the exterior of the victim's vagina

Vince Condi

Finger

John A. Condi

334-A

Jury has come to a verdict on 9 of
the 10 charges and are deadlock
or unable to reach a unanimous
Decision on count #2. Have
spent hours on this one question

Time 22:45

Date 04/12

Vince (Coul)

334-B

count #7 who is victim.

4/12/94 17:20.

Vivie Cordy

Attached is the original
information. Read count #7

J. A. Vatah

Sory 'bout
that

SRK

Case No. CR94-0345

Department No. 8

'94 MAY -9 48:04

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

HONORABLE STEVEN R. KOSACH

THE STATE OF NEVADA,

Plaintiff,

vs.

Suppression hearing

9

10

CHARLES JOSEPH MAKI,

11

Defendant.

12

-----/

13

14

TRANSCRIPT OF PROCEEDINGS

15

April 1, 1994

16

Reno, Nevada

17

APPEARANCES:

18

19

For the State:

Dan Greco
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

20

21

For the Defendant:

Janet Schmuck
Deputy Public Defender
195 South Sierra Street
Reno, Nevada

22

23

24

Reported by:

Isolde Zihn, CCR #87

1 RENO, NEVADA, FRIDAY, APRIL 1, 1994, 9:00 A.M.

2 THE COURT: State of Nevada versus Charles Maki.

3 MS. SCHMUCK: Janet Schmuck here on behalf of Mr.
4 Maki, your Honor.

5 THE COURT: Morning, Miss Schmuck.

6 All right. Let the record show that Charles Maki
7 is present with counsel, Miss Janet Smuck--Schmuck. Excuse
8 me. Mr. Dan Greco is representing the State.

9 We're here on two matters. One, a motion to
10 confirm an April 11th trial date; and, two, a motion to
11 dismiss--excuse me--motion to suppress statements made by
12 Mr. Maki.

13 I want to take the motion to suppress up first.

14 MR. GRECO: Your Honor, there have been some
15 negotiations in this matter, and I think Miss Schmuck wants
16 to address you on that. I think we have a resolution.

17 THE COURT: Okay. I was going to say I was ready
18 to hear the arguments and summation because I'm ready to
19 decide on the motion. But go ahead.

20 MS. SCHMUCK: Your Honor, that's true. We do have
21 negotiations. I have spoken to Mr. Maki about this
22 yesterday and today. At this point we're prepared to go
23 forward.

24 If the Court would like, I would state the

1 negotiations at this point. And that is that Mr. Maki will
2 be pleading guilty to two counts of sexual assault on a
3 child below the age of 14 and two counts of lewdness, your
4 Honor.

5 The negotiations are that the State and the defense
6 will be free to argue at sentencing, and the State will not
7 be pursuing the habitual criminal charge at sentencing. And
8 all other charges will be dropped at the time of sentencing,
9 your Honor.

10 MR. GRECO: That's correct, your Honor.

11 And specifically the counts he's going to be
12 pleading to are Count I, which is sexual assault on Desiree;
13 Count V, which is sexual assault on Summer; Count VI, which
14 is lewdness involving Desiree; and Count IX, which is
15 lewdness involving Summer.

16 THE COURT: Okay. If you would, please, Ms.
17 Schmuck, repeat--just repeat the negotiations. They just
18 flew by me. I was following along with something else.

19 Number one, guilty to Count I, Count V, Count VI,
20 Count IX. And that covers the sexual assault on each child
21 and that covers the lewdness on each child.

22 MS. SCHMUCK: That is correct, your Honor.

23 THE COURT: Okay. Now, the negotiations are,
24 again, please?

1 MS. SCHMUCK: The negotiations are, first of all,
2 that the State and the defense will be free to argue at
3 sentencing.

4 THE COURT: Okay.

5 MS. SCHMUCK: The State has agreed to dismiss all
6 other charges at the time of sentencing.

7 And the State has agreed not to pursue the habitual
8 criminal charge.

9 THE COURT: Okay. Mr. Maki, do you understand the
10 negotiations?

11 THE DEFENDANT: I don't understand nothing here,
12 your Honor. I understand--

13 THE COURT: One of the reasons that I asked that
14 Miss Schmuck repeat is because you're shaking your head no.
15 It's my duty, my obligation, to make sure that you
16 understand everything that's going on right now.

17 Now, you shake your head no. Why are you shaking
18 your head no? Let me kind of define it. Are you shaking
19 your head no, I can't believe I'm here under these
20 circumstances? Or are you shaking your head no, you don't
21 understand? Do you see the difference? Do you see what I'm
22 saying?

23 THE DEFENDANT: You got five minutes I can explain
24 it to you?

1 THE COURT: Go ahead.

2 THE DEFENDANT: Your Honor, my lawyer is doing the
3 best she can. I have no doubt. I've been telling people
4 I've been innocent. There's no facts to what I can see. I
5 mean, there's no medical evidence. There's no physical
6 evidence. I didn't do a damn thing. The kids over here
7 even said nothing happened. And now, because I have a
8 criminal history, I'm being threatened with all this here.

9 My lawyer is telling me I'm looking at 60 years
10 plus a habitual criminal act of life without because I've
11 been convicted twice before. And the best deal I can come
12 up with is two life sentences.

13 If I plead to this because of a scare bargain--and
14 I'm scared to death. I don't want the bitch for something I
15 didn't do. I'm man enough to, if I did something, your
16 Honor, hey, I can admit that I did something wrong. I'm not
17 afraid of that.

18 I took a shower in my own house. A girl came in.
19 She washed my back. I'm man enough to admit that. I'll
20 take the punishment for that. I have no problem with that.

21 But this other stuff that's going on, I can't deal
22 with that, your Honor. That's what I'm shaking my head
23 about. I don't understand what's going on with this.
24 That's why I'm shaking my head.

1 THE COURT: You've got one of two choices. You go
2 to trial April 11th, tell the jury exactly what you said--

3 THE DEFENDANT: Yes, your Honor, I understand
4 that. She's telling me--

5 THE COURT: No. No. But she's your lawyer.

6 THE DEFENDANT: I understand that, your Honor. She
7 is telling me I would lose because of there's--doesn't
8 matter if there's any medical evidence or any other kind of
9 evidence. Doesn't matter in this trial.

10 I have a tatoo that's nine inches long and four
11 inches wide. It's as bright as orange as I have on. That
12 is inadmissible because I have tatoos that is up above my
13 body. No one can mention the one down below. No one has
14 ever mentioned that one. You can see it from right where
15 you're at, your Honor, with sunglasses on. But because
16 somebody said I have tatoos from up above me and all over my
17 arms, then it's inadmissible. I don't understand.

18 THE COURT: You're taking things out of context.
19 You're taking things totally--you're being a little bit
20 desperate right now. I can respect that. I understand.
21 You are facing nine felony charges.

22 THE DEFENDANT: Yes, I am.

23 THE COURT: You are facing two little girls that
24 I've already said that are going to be--videotape is going

1 to make some credible witnesses. You're facing a--you've
2 got a motion. You've got a motion right now to suppress
3 this.

4 I will tell you this: Exactly what you're doing
5 right now is exactly what you did with the police. You see
6 what I'm saying? You're talking. You're expressing
7 yourself. You're out there telling the world what's going
8 on.

9 You better start facing up to some reality. And I
10 think that's what your attorney is trying to have you do.

11 THE DEFENDANT: I understand that, your Honor. I'm
12 facing reality the best I can.

13 When I talked to the cops, I was high. Hey, I
14 can't help that. That's not an excuse. That's just a
15 reality, as you put it. What's going on now, my problem is
16 maybe I do face things in a different perspective. I talk
17 because that's the only thing I know.

18 I'm not scared to face something that I did wrong,
19 your Honor. I'm man enough to admit, hey, I did something
20 wrong, fine. I have no problem with that. But I'm also man
21 enough to say if I didn't do something wrong, don't accuse
22 me of something. Because someone comes out and they are mad
23 at me, for whatever reason they did it I don't know, and say
24 "Prove me wrong," I have no witnesses to come to my

1 defense. That's what I was told. They can't find nobody.
2 And the people they did find will say: Hey, even though we
3 know him, we are not going to come to his defense. I don't
4 understand that.

5 THE COURT: It's a tough nut to crack. Tough to
6 swallow. I understand that.

7 THE DEFENDANT: I don't know. That's why I'm
8 shaking my head.

9 THE COURT: I'm not arguing with you. I'm not--you
10 know, if I were in your position, I'd probably feel the same
11 way. But you've got to sit there and take the best advice
12 you possibly can get from Miss Schmuck, a good lawyer. She
13 knows what she's doing. If this--personally, if this saves
14 a habitual criminal on your part, you've got to take a look
15 at that as being positive.

16 THE DEFENDANT: I have no sexual history of any
17 type at all in 40 years I've been born, your Honor.

18 MR. GRECO: Your Honor, with what he is saying here
19 I'm uncomfortable going forward. If he's innocent, he's
20 innocent. I agree with him-- Well, I don't agree with him.
21 If he's innocent, though, he should not go forward with the
22 plea.

23 The State is prepared to go forward with the motion
24 hearing, your Honor. The State is prepared to go forward

1 with the trial in this matter. In my assessment, the proof
2 of guilt is overwhelming.

3 But, your Honor, if he thinks he is innocent, we
4 should simply go forward. Given what he said, I don't think
5 we should go forward with the plea at this time because he
6 says he's not guilty. And that's his right, and he has the
7 right to a trial. I think we should simply proceed to
8 trial.

9 One last thing. I should apprise you that the
10 negotiations, the offer was made, and it expires as soon as
11 we commence the suppression hearing, because, of course,
12 both sides will be rolling the dice a little bit, like in
13 any other hearing. And so I wanted to make that clear to
14 him. I know Janet Schmuck has already made that clear to
15 him.

16 But, Judge, if he's innocent, he should not enter a
17 plea. If he has any questions, he should not enter a plea.
18 We should simply go forward with the suppression hearing.

19 THE DEFENDANT: I don't know, Judge. Hey, my
20 lawyer says that's the best thing for me to do, because she
21 feels that in my behalf the best interest because there's
22 nothing that I can say or do; that I should go with this
23 deal.

24 THE COURT: All right. Why don't you listen to

1 these questions that I'm asking you and answer them as
2 intelligently as you can. What I mean by "As intelligently
3 as you can," just listen to the question, because I think
4 the questions are proper under the circumstances. Listen to
5 my questions. And if you have any questions, ask me. We'll
6 discuss them. But try not to get confused with what is
7 happening versus what these questions are.

8 THE DEFENDANT: Okay.

9 THE COURT: Because they're designed, if you--they
10 are designed to make sure that you understand what you're
11 doing. Okay.

12 THE DEFENDANT: Okay.

13 THE COURT: Do you feel that you-- Do you have any
14 questions about the negotiations? In other words, what does
15 it mean? What do the negotiations mean? Do you have any
16 questions about that, or do you understand them?

17 THE DEFENDANT: I'm not sure I understand them
18 fully. My lawyer explained to me--

19 THE COURT: What don't you understand about the
20 negotiations? In other words, free to argue. Do you know
21 what free to argue means?

22 THE DEFENDANT: Kind of.

23 THE COURT: Okay. That means that if you change
24 your plea to guilty, you will be investigated by the

1 Division of Parole and Probation. This gentleman I'm
2 pointing at, Mr. Rountree. He's going to interview you. He
3 is going to run a background check on you. He is going to
4 run a criminal check on you, an educational check on you,
5 military check on you, family check, whatever, to come up
6 with a recommendation to me.

7 THE DEFENDANT: Right.

8 THE COURT: I follow recommendations, because, you
9 know, they're the people that work with you.

10 THE DEFENDANT: Right. I understand that.

11 THE COURT: Give you about a month. You'll see him
12 a couple times, that type of thing. They send that to me
13 about a day or two before the sentencing. And I read it
14 before I go--before I come in in court.

15 THE DEFENDANT: Right.

16 THE COURT: So what free to argue means is your
17 attorney may argue as freely as she wishes. "Judge, don't
18 follow the recommendation." "Judge, follow the
19 recommendation." See, we can't talk about it before it
20 happens.

21 THE DEFENDANT: Right.

22 THE COURT: We've got to talk about it in a vacuum.
23 Let's say he recommends prison. Your attorney says, "Judge,
24 this person doesn't deserve prison. He needs some

1 counseling. He needs some help. Judge, don't send him to
2 prison." You know, that kind of thing.

3 The district attorney is also free to argue.
4 That's what free to argue means. The district attorney is
5 going to get up there and, "Send him to life in prison,
6 Judge. This is no good. This is terrible. Send him--" Do
7 you follow me? That's what free to argue means.

8 THE DEFENDANT: Okay.

9 THE COURT: That's exactly what it means. Now, do
10 you have any questions about what free to argue means?

11 THE DEFENDANT: No. That wasn't explained to me
12 quite like that yesterday. It was explained to me that what
13 I understood--maybe I misunderstood--but from what I
14 understood is that I'm going to get 10 years minimum, and
15 she is going to say she is--my lawyer was going to try to
16 get both these life sentences to run together.

17 THE COURT: Well, that's what--that's free to
18 argue. You see, I can run them consecutive or concurrent.
19 Consecutive means you serve one life, and then when that
20 life is done--that's pretty stupid, isn't it? But that's
21 the way it is--when that life term is done, you serve the
22 other life. So it's double time. You've got to serve
23 something like 12 years, I think--

24 MR. GRECO: Your Honor, I think what he was

1 referring to, on a sexual assault on a child under the age
2 of 14 there is only one possible sentence you can impose,
3 and that's life.

4 Now, the statute provides that parole eligibility
5 begins to run when 10 years is served. So on those two
6 sentences the time is already cast in stone. It's just a
7 matter of: Do you want to run them consecutively or
8 concurrently?

9 On the lewdness charges--

10 THE COURT: Hang on just a second.

11 Do you understand that?

12 THE DEFENDANT: I'm not sure what he said.

13 THE COURT: Two lives. Let's say it's a
14 recommendation, two lives. You say we are going to get to
15 the statute, is what it is. The district attorney is going
16 to explain it. But you have to serve at least 10 years--

17 THE DEFENDANT: Right.

18 THE COURT: --on the life. If I run it
19 consecutive, I can tack on another ten years. If I run it
20 concurrent, meaning at the same time, you only serve 10
21 years. That is what concurrent and consecutive mean.

22 Free to argue means she is going to try to convince
23 me to run it concurrent. He's going to try to convince me
24 to run it consecutive. Division of Parole and Probation is

1 going to make a recommendation.

2 THE DEFENDANT: So either way, whether I'm right or
3 wrong, I'm going to have to do at least 10 years.

4 THE COURT: Yes. Yes.

5 THE DEFENDANT: See, that's what I don't
6 understand. I see a guy in here who gets 200 sexual
7 assaults, admits to it, and he gets six years. I admit to
8 one lewdness thing or whatever because some girl washed my
9 back, which I admit was wrong-- And I even told the dad:
10 Hey, I didn't think it was right. That is why I told him I
11 didn't want the kids around me no more, so they didn't have
12 freedom to walk in there. And here I'm getting 10 years
13 minimum.

14 THE COURT: I have to tell you that sentencing has
15 nothing to do with trial. You go to trial, found not
16 guilty, you walk out of that door.

17 THE DEFENDANT: Sure.

18 THE COURT: You go to trial, be found guilty,
19 you're in the same position--excuse me--not in the same
20 position--

21 THE DEFENDANT: I'd be in 60 years or more.

22 THE COURT: Nine positions worse than you were in
23 before.

24 THE DEFENDANT: Just seems like a catch-22.

1 THE COURT: Well, of course, it's a catch-22.
2 That's what you have to determine in your mind. Nobody is
3 playing games.

4 THE DEFENDANT: I understand that, your Honor.
5 This is very serious to me.

6 THE COURT: That's right. That's why we are going
7 through it.

8 THE DEFENDANT: I know it's no game. It's my life
9 I'm looking at here. I'm either going to take a chance, you
10 know, that the evidence that's presented, someone is going
11 to believe me, which he dresses these kids up to make them
12 look nice, and they're going to believe them over someone
13 who looks like me.

14 Or I have got to plead guilty to something that
15 never happened and go to prison anyway. No matter what, I
16 am going to prison for something I didn't do.

17 THE COURT: Mr. Maki, if you start believing that
18 stuff, then you're in Never Never Land already.

19 THE DEFENDANT: Well, your Honor, all I know--

20 THE COURT: Listen to me. I know this record--

21 THE DEFENDANT: I admit--

22 THE COURT: It's between you and your maker.
23 Between you and your maker. If you want to go to trial, go
24 to trial. If you want to plead guilty to this, plead guilty

1 to this. Because you and your maker are the ones that are
2 the important ones, period. Do you understand what I am
3 saying?

4 THE DEFENDANT: I understand that, your Honor. You
5 asked me a question why I was shaking my head. I tried to
6 answer the best I could.

7 THE COURT: You do understand what free to argue
8 means, right?

9 THE DEFENDANT: Basically, yes.

10 THE COURT: Now, you do understand what they mean
11 by: They'll dismiss the other charges?

12 THE DEFENDANT: Yeah. If I plead to two of these
13 here, then they get rid of the rest of them. I understand
14 that.

15 THE COURT: Basically one sexual assault for each
16 child and one lewdness for each child. The rest of them go
17 away. Okay.

18 THE DEFENDANT: Yeah.

19 THE COURT: And then--now, do you have any other
20 questions about the negotiations? Do you want me to
21 continue? Do you want to change your plea today?

22 THE DEFENDANT: No, your Honor. It don't matter.
23 I've already been told. I can see the facts coming up in my
24 face. There's nothing I can do about it. There ain't no

1 one going to come to my defense. I live by myself, me and
2 my dog. I have some girl that says: Hey, I'm mad at him.
3 Prove me wrong. Nobody is going to come to my defense and
4 say: Well, we didn't see him, or we did see him.

5 I have tatoos all over me. Nobody can identify me
6 properly. The best thing I'm going to get out of this no
7 matter what is go with this thing here. So, yeah. Whatever
8 she wants I'm going to have to do. I have no choice. It's
9 whatever the courts feel they can do. I just ask the Court
10 will do whatever is fair. And I'm sure you will. You seem
11 like a fair judge.

12 THE COURT: Do you feel that you have had enough
13 time to discuss this whole thing with your attorney?

14 THE DEFENDANT: Well, yeah. I mean, she discussed
15 it with me yesterday, and she discussed it with me last
16 night on the phone, and she again discussed what she told me
17 here. I have no way to defend myself. She is doing the
18 best she can. I have no gripe with that. For what she's
19 got to work with, and, you know, no one can come and help
20 me, and like she says, hey, no one is going to believe me.
21 So I just--whatever, whatever. You know.

22 THE COURT: Are you satisfied with the legal
23 services by the Public Defender's Office?

24 THE DEFENDANT: I don't want to say yes, I don't

1 want to say no, your Honor, because I know she's trying to
2 do what she can. But I just feel that for some reason I can
3 get-- I don't know. I just feel that for some reason I can
4 do better. I don't know why. But I just feel that I
5 am--it's not right for me.

6 I'm not saying she's a bad attorney. Don't get me
7 wrong, Judge. I'm saying she does what she can. She's
8 never had a case like this before. And I'm not saying she's
9 a bad attorney, by no means. I'm sure she is doing what she
10 can with what she has. But for some reason I just think
11 with the evidence that I see in my mind, there should be
12 something better than this. When I see other people
13 going--you know, I don't know.

14 THE COURT: You know, you're not other people.

15 THE DEFENDANT: That's true. I'm not.

16 THE COURT: This is this case.

17 THE DEFENDANT: That's true. I'm not.

18 THE COURT: A lot of people live their whole life
19 and not realize that. This is this case, not other people.
20 Don't know what you're talking about when it says 200
21 charges. You know what I mean. I know you're
22 exaggerating. But it's not in the paper. You're not
23 reading anybody. This is Charles Maki.

24 THE DEFENDANT: I understand that, your Honor.

1 THE COURT: And you've got to do what you've got to
2 do. Your attorney has done a good job from the standpoint
3 of filing a suppression motion to--as far as whether or not
4 the girls are credible. I decided they were. I'm the bad
5 guy, if you want to look at it that way.

6 THE DEFENDANT: No, no. I have no gripe with that.

7 THE COURT: She's filed--

8 THE DEFENDANT: If I were you, your Honor, I would
9 agree with that, too, even.

10 THE COURT: She has filed a motion to suppress some
11 of the statements you made. We have not heard that because
12 of this revelation that you might change your plea.

13 THE DEFENDANT: I don't know, your Honor. I
14 just--I'm not saying she's a bad attorney. I can't say
15 that. I am pleased with what she's doing. I have got to
16 give her credit where credit goes. She has done what she
17 could with what she has.

18 THE COURT: You have the absolute right to a jury
19 trial on all nine of these counts. Do you understand that?

20 THE DEFENDANT: I understand that, your Honor.

21 THE COURT: You have the right to an attorney to
22 represent you at that trial. Do you understand that?

23 THE DEFENDANT: I understand that.

24 THE COURT: You have the right to confront the

1 witnesses. That means you have the absolute right to bring
2 the witnesses here on this witness stand and have your
3 attorney cross-examine the girls. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: You have also the right to use the
6 Court's powers to subpoena witnesses on your own behalf.
7 That means that if you have witnesses out there, the Court
8 can drag them in here basically. Do you understand that?

9 THE DEFENDANT: Everybody who says they know me
10 already said they don't want to either get involved or they
11 don't know me. So--

12 THE COURT: You understand you have that right?

13 THE DEFENDANT: I understand that.

14 THE COURT: Now, if you change your plea today,
15 you're giving up those rights. Do you understand that?
16 You're not going to have a trial. You're not going to
17 confront the witnesses. You're giving those up. Do you
18 understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: And also you have the privilege against
21 self-incrimination. That means that at the trial, if you
22 maintain your not-guilty plea, at the trial the district
23 attorney cannot make you take the witness stand, cannot
24 force you to take the witness stand. They've got to have

1 independent evidence to convict you. Something other than
2 out of your mouth. Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Even if you don't take the witness
5 stand, the district attorney cannot comment to the 12 people
6 that are sitting there: Ladies and gentlemen, he must be
7 guilty because he didn't even take the witness stand in his
8 defense. See how devastating that is? He can't do that.

9 But if you change your plea today, you are
10 incriminating yourself, and you don't have to do that. Do
11 you understand that?

12 THE DEFENDANT: If I change my plea, I am
13 incriminating myself?

14 THE COURT: Yes, sir. You're telling me you're
15 guilty. If you change your plea right this second, you're
16 telling me you're guilty. And you don't have to do that.
17 But if you do, you are incriminating yourself. You're
18 saying: Judge, I'm guilty.

19 THE DEFENDANT: I'm not guilty.

20 THE COURT: Then why are you going to change your
21 plea?

22 THE DEFENDANT: I don't understand that. Now I'm
23 confused on that. I don't know, Judge. Whatever she says--

24 THE COURT: No. See, you're not going to lay it on

1 her. See?

2 THE DEFENDANT: I'll just go with whatever the
3 recommendation is. I'll plead to these things here.

4 THE COURT: Okay. I'm going to ask you a magic
5 question. And it's very difficult, it's very difficult to
6 answer if you're not being honest with yourself.

7 THE DEFENDANT: I'm being as honest with everybody,
8 and including myself mostly, Judge.

9 THE COURT: We are going to go on with this thing.
10 I mean, as long as you understand that if you change your
11 plea today, you are incriminating yourself. Do you
12 understand that? Does it sound like a bad word or
13 something?

14 THE DEFENDANT: Kind of, because I don't want to
15 incriminate myself with something I didn't do. I don't want
16 to put myself saying that I did this and this, and plead to
17 this and this when it didn't happen. But then if I change
18 my plea to not guilty, then all of a sudden I am guilty. It
19 just--

20 THE COURT: Listen. You come to court on April
21 11th, 1994. The burden of proof is on the State of Nevada
22 to prove your guilt beyond a reasonable doubt in front of 12
23 people. You can sit there and do nothing. You can take the
24 witness stand if you want. Whatever you want to do that

1 day. This is your trial.

2 THE DEFENDANT: Right. I understand that.

3 THE COURT: Parade those two little girls on the
4 witness stand, they say what you did, what they say you
5 did.

6 THE DEFENDANT: Yeah.

7 THE COURT: Your attorney can cross-examine them.
8 "That didn't happen, did it?" Whatever. I'm not making
9 this stuff up. You're putting the show on in front of 12
10 people. It's totally up to the 12 people. If they think
11 you did it twelve-oh, then you're guilty. If they're hung
12 up, or if they feel that you didn't do it, the district
13 attorney didn't prove beyond a reasonable doubt, it's all
14 totally up to them. That's our system. There is no way.
15 We can't ask God. We can't ask you. Do you see what I'm
16 saying?

17 THE DEFENDANT: I don't understand, Judge, what one
18 girl says--both girls at first say I did something, then one
19 girl says I didn't do nothing, and now you said that we have
20 to use these tapes because the girls might not be here or
21 whatever. I'm not even sure because I can't hear half of
22 that. That's what confuses me.

23 I don't know. I don't know anymore. I just don't
24 know. I mean, I just don't know.

1 THE COURT: Do you want me to go on with these
2 questions, or do you want to--

3 THE DEFENDANT: No. Let's just go on with this
4 here, Judge, because it's just going to go to a dead-end, I
5 believe, no matter what. My lawyer is--

6 THE COURT: But, remember, if you plead to this,
7 you're the one that's going to have to live with it the rest
8 of your life. That's number one.

9 Number two, you can't come back because of these
10 questions, you can't come back and say: Well, the judge is
11 a fool. My lawyer is lousy. The D.A. made me do this. Do
12 you follow me? Because my questions are designed to make
13 sure that you understand that you don't have to do this.

14 THE DEFENDANT: No, Judge, I wouldn't say you were
15 a fool.

16 THE COURT: That was my words.

17 THE DEFENDANT: You know, I got better respect for
18 the Court than that. And my lawyer, she does fine. I'm
19 sure the D.A. is doing what he thinks is right. I just
20 have--I have no defense.

21 THE COURT: You're caught between a rock and a hard
22 spot.

23 THE DEFENDANT: Very much so. Very much so.

24 THE COURT: I understand.

1 THE COURT: Okay. Now, do you understand that if
2 you change your plea today, you are incriminating yourself?

3 THE DEFENDANT: Yes, I guess so, your Honor. It
4 just--like you say, I'm caught between a rock and a hard
5 spot. And I have nobody to come to my defense. I have no
6 way of proving-- I'm just wondering, in three months, you
7 know, when somebody comes up, and they both say, "Hey, well,
8 ha, ha, the joke's on you," what am I going to do then? Do
9 I still have to be in prison?

10 THE COURT: Oh, absolutely.

11 THE DEFENDANT: Yeah?

12 THE COURT: I mean, absolutely. That's part of
13 this whole thing. That's what you have to face. That's
14 what you have to realize. Whether you're going to make a
15 better deal for yourself by accepting this, or whether or
16 not you maintain your innocence and face a jury.

17 THE DEFENDANT: Well, apparently, your Honor, like
18 my lawyer stated, that with a jury I'm going to have no
19 chance because there's nobody that can come to my defense.
20 So this here apparently is supposed to be the best deal I
21 can get for something that--for something that didn't even
22 happen.

23 MR. GRECO: Your Honor--

24 THE DEFENDANT: So--

1 MR. GRECO: If I could--

2 THE COURT: Mr. Maki, you've said enough. If it
3 didn't happen, you're going to trial.

4 Okay. Let's go on with the suppression hearing.
5 Let's take about a 10-minute break.

6 MS. SCHMUCK: Thank you, your Honor.

7 THE COURT: In other words, I am not going to
8 accept a guilty plea right now.

9 (Recess.)

10 THE COURT: All right. We're on the record in
11 CR94-0345, State of Nevada versus Charles Maki.

12 Mr. Maki is present with counsel, Ms. Janet Schmuck
13 from the Public Defender's Office. And Mr. Dan Greco is
14 representing the State.

15 This is a hearing on a motion to suppress
16 statements pursuant to Jackson v. Denno and Miranda versus
17 Arizona.

18 I received the motion on the 25th of March. And I
19 received the response on the 31st of March. I am prepared,
20 after having read the motion and the response and the law on
21 this matter, I am prepared to go forward. And I've asked
22 the attorneys to go ahead and sum up their arguments.

23 So with that in mind, go ahead, Mr. Greco.

24 MR. GRECO: Your Honor--

1 THE COURT: Excuse me. I'm sorry. The moving
2 party is the defendant, so I'll ask the defendant to sum up
3 first.

4 MR. GRECO: Your Honor, we have a stipulation
5 regarding the evidence to be presented at the suppression
6 hearing. And that stipulation is this, your Honor: The
7 parties stipulate that the preliminary hearing transcript
8 regarding Detective Stegmaier's testimony is admissible for
9 the purposes of this suppression hearing and it comes in for
10 the purposes of this suppression hearing as if he had been
11 on the stand here. We are stipulating that that is the
12 evidence to be presented.

13 THE COURT: Is that right, Miss Schmuck?

14 MS. SCHMUCK: That is correct, your Honor.

15 THE COURT: Go ahead.

16 MS. SCHMUCK: Thank you, your Honor.

17 I will be brief.

18 Basically our argument on the motion to suppress is
19 that my statements, my client's statements to the police,
20 were not made voluntarily, your Honor.

21 I divided the argument into statements that were
22 made to the police prior to the Miranda warning and
23 arguments for after the Miranda warnings were given.

24 Basically the argument for prior to the Miranda

1 warning is that my client was contacted, he was asked if he
2 would come to the police station because his name had come
3 up in an investigation. He agreed to go to the police
4 station. On the tape it's--it becomes very clear that my
5 client thought he had gone down to the police station for a
6 totally different matter than anything involving this
7 offense that we're here on today. And through the course of
8 the time in talking to the police he had to be told why he
9 was there.

10 It's also clear from the questions that were asked
11 by the police that he was the subject of the investigation.
12 That there was no one else who was subject to investigation
13 here. It was the police. They were there questioning him
14 about this particular incident.

15 Prior to that the police had talked to the two
16 girls. They had made statements saying that my client had
17 sexually molested them. They were unequivocal in their
18 statements. They did not identify anyone else. Only Mr.
19 Maki. The police were not investigating anyone else.

20 It is our contention because of that the police had
21 probable cause to arrest Mr. Maki. They stated that on the
22 tape. I believe Detective Stegmaier stated several times on
23 the tape: We have enough to arrest you out in the field.
24 We just want to hear what you have to say about this.

1 So our argument is that this indeed was a custodial
2 interrogation. That because of that my client should have
3 been Mirandized immediately. Given that he wasn't, any
4 statements that he made were done involuntary because, one,
5 he didn't know why he was there; and, two, he was the
6 subject of the investigation, and that wasn't told to him
7 until much later on.

8 Our argument for the statements that were made
9 following Miranda is that my client was informed of his
10 Miranda rights. He immediately invoked. He said: I don't
11 want to talk to you anymore.

12 The police did stop questioning him except to ask
13 questions--they did--had some comments, they questioned him
14 about searching his apartment. I'm not so concerned about
15 that.

16 My concern goes to the fact that all of this was on
17 videotape. The police left. The videotape was still
18 running. The videotape should have been stopped, your
19 Honor. And my client was talking to himself.

20 Any of those statements that he made talking to
21 himself when the police left the room should not be shown to
22 the jury because he had invoked his rights under Miranda.

23 Thank you, your Honor.

24 THE COURT: Thank you, Miss Schmuck.

1 Mr. Greco.

2 MR. GRECO: Your Honor, in regard to the first
3 prong of Miss Schmuck's argument, all the statements prior
4 to the invocation of his rights, your Honor, in terms of the
5 voluntariness argument, I don't see much of an issue here.

6 When Stegmaier approached him out by--when he was
7 working on his truck, they simply asked him: Would you be
8 willing to come down to the station, answer some questions?
9 He responded: Yes, right away. They also told him: You
10 don't have to come down if you don't want to. He got into
11 their vehicle because his truck was being worked on, and
12 they drove down.

13 Your Honor, once they get there the tape is begun.
14 Again at the very beginning of the tape Detective Stegmaier
15 asked him if he was here voluntarily, and he responded:
16 Yes. He asked him: And you don't have to answer any
17 questions if you don't want to. He says: Yes.

18 And the tape is remarkable in the first half
19 because prior to the invocation the questioning is very
20 calm, very polite, given how serious the discussions are.
21 There's none of the type of coercion or lack of sleep or
22 deprivation of food or anything like that going on like
23 there was in Jackson v. Denno and in all the cases under
24 Jackson v. Denno. This defendant speaks matter-of-factly

1 and answers all the questions asked.

2 Judge, I don't think there's much of an issue
3 there, either on voluntariness or custodial interrogation.
4 It was not custodial interrogation. It was only when he
5 started making all of these admissions that Stegmaier
6 started thinking about arresting him. He testified at the
7 preliminary hearing, your Honor, that once he had heard all
8 these admissions, he started to think about arresting him,
9 and so as a courtesy, he provided him with his Miranda
10 warnings. So he clearly was not under custodial
11 interrogation. I don't think there's any voluntariness
12 issue whatsoever.

13 Your Honor, I think the more difficult issue is the
14 second issue, and that is after the invocation, what happens
15 then?

16 Your Honor, the two segments after the invocation
17 where he makes most of his admissions, in fact, virtually
18 all of them, are in two parts. One, where he's left alone
19 in that room, and then, two, at the end of the interview
20 after he has been placed under arrest Detective John Bohatch
21 comes in and asks him the routine questions to fill out his
22 booking or probable-cause form, his name, date of birth,
23 Social Security, all those things you need for the booking
24 form.

1 Judge, in regard to those statements made when he
2 was alone, the Fifth Amendment and Miranda and its progeny
3 only apply to police-initiated questioning. And the cases
4 I've cited in my brief, your Honor, talk about that.

5 If somebody simply makes spontaneous statements,
6 your Honor, that are made when he's alone, or even when the
7 police are there, but are not responding to the questioning
8 by the police, that is not custodial interrogation.

9 Judge, the cases I cite talk about spontaneous
10 statements that don't answer the questions that the police
11 asked. So the police are saying one thing; he's talking
12 about something else. That didn't even happen here, Judge.
13 They weren't even in the room. This is as spontaneous as
14 you can get.

15 And the case law clearly allows that. I've cited--
16 Miranda allows it and numerous other cases allow it from the
17 circuit courts. I've cited you all those cases in my
18 brief.

19 When someone is alone simply looking up in the sky,
20 as he was, and saying, "Oh, my God, why did I do this? Why
21 did I do this?" that is as spontaneous as you can get. Of
22 course, your Honor, like in every other interview-- Well,
23 strike that, your Honor.

24 As to the second part, your Honor, the statements

1 made to John Bohatch, the cases I cite in my brief, your
2 Honor, of course, explain the routine booking exception.
3 And that routine booking exception as well is approved. I
4 know of no cases from any jurisdiction that have disregarded
5 that exception.

6 Your Honor, that exception applies at answers given
7 in response to routine booking questions, name, date,
8 location, residence, are admissible. But, Judge, we don't
9 even have that here. He didn't respond to Bohatch's
10 questions. He started making spontaneous statements again,
11 general admissions of guilt. They weren't even responding
12 to Bohatch's. They come under the case law I cited earlier
13 about spontaneous admissions. Even if they were not
14 spontaneous admissions, even if they were responses to
15 Bohatch's questioning, they still come in under the routine
16 booking exception, your Honor.

17 Your Honor, other than that, I would submit it.

18 May I just have a moment with counsel?

19 And, Judge, when I gave you our stipulation
20 earlier, I neglected to mention the second half.

21 The second half of our stipulation is that the tape
22 of the interview also be admissible in evidence. Miss
23 Schmuck mentioned it several times, and I believe I
24 mentioned it once or twice. So we've stipulated that be

1 deemed admissible in evidence for the purposes of this
2 hearing.

3 THE COURT: Okay. Let's go ahead and roll the
4 tape.

5 MR. GRECO: Your Honor, the record should probably
6 reflect that I have fast-forwarded it to the portion where
7 the interview begins. The first two-thirds of the tape is
8 the little girls' interviews.

9 THE COURT: How long is it; do you know?

10 MR. GRECO: Your Honor, total running time is about
11 40 minutes, although I think we'll be able to fast-forward
12 through the various spots where there's no sound or he's
13 sitting alone and not saying anything.

14 (Whereupon the videotape was
15 played.)

16 THE COURT: Do you have the booking statements on
17 tape?

18 MR. GRECO: Your Honor, what I was referring to
19 there is Detective Bohatch was filling out the booking
20 probable-cause form. The defendant made those spontaneous
21 statements. Those are the ones you saw.

22 THE COURT: At the very end.

23 MR. GRECO: Yes, your Honor.

24 THE COURT: I thought for some reason there was

1 something maybe upstairs or at the jail as far as booking.

2 MR. GRECO: No, your Honor.

3 THE COURT: That is the booking statement.

4 MR. GRECO: Yes. Detective Bohatch is filling out
5 the booking probable-cause form. Those are the only
6 statements I was referring to.

7 THE COURT: Anything else, either one of you?

8 MS. SCHMUCK: I have nothing further, your Honor.

9 MR. GRECO: Nothing further, your Honor, other than
10 that the playing of the tape corroborates I think the
11 arguments I made earlier and the factual assertions I made
12 earlier.

13 THE COURT: The motion to suppress the statement is
14 denied.

15 I feel that all of the statements made by Mr. Maki
16 are admissible. The tape is admissible.

17 We could separate into three different stages, but
18 I'm allowing the entire tape to come in.

19 First stage is clearly admissions voluntarily,
20 getting it off his chest kind of thing.

21 Even after the Miranda, Mr. Maki continued to make
22 statements that were voluntary, getting it off his chest. I
23 think when he was alone, he is talking to nobody in
24 particular. But very clear, no questions. He's again

1 trying to cleanse--my word--cleanse himself, get it off his
2 chest, get it off his chest.

3 Clearly the last part, again he's continuing on the
4 conversation.

5 Very similar--this is not criticism, but this
6 helped me in my decision--very similar to what went on this
7 morning.

8 You want to talk; you want to talk; you want to
9 talk; you want to talk. You want to get it off your chest.
10 And I find that all of that is voluntary.

11 All right. Trial for April 11th is confirmed.

12 Any motions in limine we'll have at 9:00 a.m. prior
13 to the trial. Voir dire will start at 10:00 a.m.

14 I have to say this because I am a human being, and
15 I want to say it. If you want to continue the negotiations,
16 I understand. I understand that you withdrew--the district
17 attorney withdrew that particular offer. But if you want to
18 continue negotiations, feel free to do so. What I mean by
19 that is, you know, I'll be gone next week, but, of course,
20 you can communicate with the secretary.

21 MR. GRECO: May the tape admitted in evidence at
22 this hearing be released to the State pending trial?

23 THE COURT: You don't have any objection?

24 MS. SCHMUCK: I don't have any problems.

1 THE COURT: Of course.

2 MS. SCHMUCK: Your Honor, I did have one other
3 matter that I just need to bring to the Court's attention.
4 And that is that Mr. Maki, as we talked about before, is
5 hard of hearing, has a hearing loss.

6 At this point he has one functioning hearing aid in
7 his right ear. From what he told me, he has another hearing
8 aid in his left ear--for his left ear. He doesn't have it
9 now.

10 I would just like for the Court to on the record
11 order that if the hearing aid is in his personal property,
12 that it be given to him from the people in the jail. It's
13 unclear to me exactly where the hearing aid is at this
14 point.

15 So I would just like the Court to recognize that
16 and--

17 THE COURT: That's fair. If it's in his property,
18 in the inventory, in his property, have it produced so we
19 have it at the trial. Or has it now. What I mean by "now,"
20 from now on after it's released. If it isn't, maybe you can
21 make a phone call or something like that, Miss Schmuck, as
22 far as finding it or something like that.

23 MS. SCHMUCK: Thank you, your Honor.

24 MR. GRECO: Since the bailiff is here, could we ask

1 her guidance?

2 Is it possible for you to check on that, call them
3 or tell them that? I can do it if you want.

4 THE BAILIFF: It's not going to be any easier
5 whether you call to inquire or whether I call to inquire.

6 MR. GRECO: Your Honor, I will call. If it's in
7 her property, I will tell them that you've ordered--if it's
8 in his property, that you order he receive that. If it's
9 not in his property, then I will let your Honor and Miss
10 Schmuck know.

11 MS. SCHMUCK: Thank you.

12 THE COURT: We'll be in recess.

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1 STATE OF NEVADA)

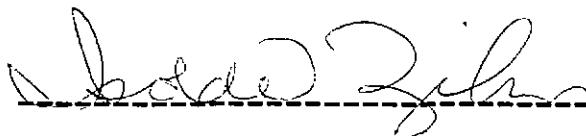
2 COUNTY OF WASHOE)

3
4 I, ISOLDE ZIHN, a Certified Shorthand Reporter of
5 the Second Judicial District Court of the State of Nevada,
6 in and for the County of Washoe, do hereby certify:

7 That I was present in Department 8 of the
8 above-entitled court on Friday, the 1st day of April, 1994,
9 at the hour of 9:00 a.m. Of said day, and took verbatim
10 stenotype notes of the proceedings had upon the matter of
11 THE STATE OF NEVADA, Plaintiff, versus CHARLES JOSEPH MAKI,
12 Defendant, Case No. CR94-0345, and thereafter reduced to
13 writing by means of computer-assisted transcription as
14 herein appears;

15 That the foregoing transcript, consisting of pages,
16 1 through 39, all inclusive, contains a full, true and
17 complete transcript of my said stenotype notes, and is a
18 full, true and correct record of the proceedings had at said
19 time and place.

20
21 Dated at Reno, Nevada this 1st day of April, 1994.

22 
23 _____

24 Isolde Zihn, CSR #87

'94 MAY 12 P4:06

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,
Plaintiff,
CHARLES JOSEPH MAKI,
Defendant.

NOTICE OF INTENT TO OFFER
UNCHARGED MISCONDUCT
EVIDENCE AT
SENTENCING HEARING.
BUSCHAUER V. STATE,
106 Nev. 890 (1990).

COMES NOW, the State of Nevada, by and through DOROTHY NASH HOLMES, District Attorney of Washoe County, and DANIEL J. GRECO, Deputy District Attorney, and offers its Notice of Intent to Offer Uncharged Misconduct Evidence At Penalty/Sentencing Hearing.

This Notice is based upon the attached Points and Authorities, the pleadings and papers on file herein, and any

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1 oral or documentary evidence that may be admitted at the
2 sentencing hearing.

3 DATED this 12th day of May, 1994.

4 DOROTHY NASH HOLMES
5 District Attorney

6
7 By *Daniel J. Greco*

8 DANIEL J. GRECO
9 Deputy District Attorney
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0511-7161

POINTS AND AUTHORITIES

FACTS

On or about April 29, 1994, the undersigned was contacted by telephone by Joslyn Coombes. Ms. Coombes is the half-sister of the defendant herein, Charles Joseph Maki. Ms. Coombes related to the undersigned that she had just learned of the prosecution and conviction of Charles Joseph Maki. She learned of the case through a relative who had in turn learned of the case through the Reno media coverage of the trial. See Affidavit of Daniel J. Greco, attached hereto.

Ms. Coombes relayed that she had important information to give to the undersigned that she felt was relevant in this matter. She then went on to relay in some detail numerous instances of sexual assault committed upon her by Charles Joseph Maki during the period when she was approximately four to nine years old.

The undersigned then instructed Ms. Coombes to immediately reduce her memories of the events to a detailed, written statement and to send it to the undersigned as soon as it was completed. Said statement was received by the undersigned on May 9, 1994, and a Xeroxed copy was immediately provided to defense counsel, JANET SCHMUCK, by interoffice mail. On the same date the undersigned also informed Ms. SCHMUCK of his intent to draft and file the instant Notice. The written statement of Ms. Coombes sets forth in great detail the incidents of sexual assault that she was subjected to by

1 Charles Joseph Maki. It is attached hereto and hereby
2 incorporated by reference into the instant Notice as well as
3 the attached Affidavit of DANIEL J. GRECO. The State intends
4 to place Ms. Coombes on the stand at sentencing to testify to
5 the foregoing matters.

6 DISCUSSION

7 Uncharged misconduct evidence is admissible at
8 sentencing. Williams v. New York, 337 U.S. 241 (1949);
9 Williams v. Oklahoma, 358 U.S. 576 (1959); U.S. v. Gracon, 438
10 U.S. 41 (1978). In Buschauer v. State, 106 Nev. 890 (1990),
11 the Nevada Supreme Court held the due process requires that
12 reasonable notice of the prior acts and an opportunity to
13 cross-examine the declarant must be provided to the defendant
14 prior to the admission of the uncharged misconduct evidence at
15 sentencing. Although Buschauer was limited by its facts to the
16 situation where the uncharged misconduct evidence was in the
17 form of victim impact evidence pursuant to NRS 176.015, the
18 State believes that in fairness it should be extended to other
19 forms of uncharged misconduct evidence offered at sentencing.
20 Thus, the instant Notice is being provided to the defendant in
21 this case.

22 CONCLUSION

23 Pursuant to the foregoing, the defense is hereby put
24 on notice that the State, subject to Court approval, will put

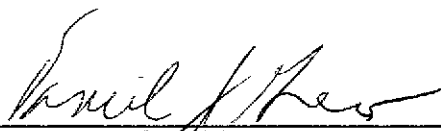
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1 Ms. Coombes on the stand at the penalty/sentencing hearing, to
2 testify to the foregoing matters.

3 Respectfully submitted this 12th day of May, 1994.

4 DOROTHY NASH HOLMES
5 District Attorney

6
7 By 
8 DANIEL J. GRECO
9 Deputy District Attorney
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0511-7161

May 4, 1994

Honorable Judge Steve Kosach
Washoe County Court
ATTN: Dan Greco, Prosecutor
P.O. Box 111301
Reno, Nevada 895 20-0021

re: Charles J. Maki, Criminal
Sentencing, May 17, 1994

Dear Sirs:

This letter comes to the attention of the Washoe County Court, following the conviction of the above referenced criminal. My name is Mrs. Joslyn Michele Coombes. The referenced is a relative - we have the same mother. I have never in any way had a brother-sister relationship with this person. I have held such disregard for him, to the point that I have never in my adult life referred to him nor acknowledged him as a relative or brother.

I am responding to the case and conviction of Chuck after hearing only days ago of the horrors he continues to commit against young girls. I am also his victim as a young girl. Following are examples of the many incidents and betrayals he held against me. The emotional task which now lies before me in writing the graphic details of these hideous acts is the most difficult writing I have ever encountered. I write this as witness to the fact that Chuck is Pedophile. Not only in the most recent year or years, but has been such for at least twenty five years. I am thirty years old as of the date of this writing.

My earliest recollection of fondling by Chuck was at the age of four. My family was still living in Oceanside, California. I remember him standing and bouncing on the bed in my parents bedroom, and he'd ask me to jump on the bed with him. I bounced along with him, he then pushed me down onto the bed. Lying next to me he put his hand up my dress, touching me chest and putting his hands into my underpants. It was upsetting to me at the time and I remember getting anxious. He told me he was just playing and stopped immediately.

According to my father and mother Chuck has been delinquent in his behavior since a very young child. Accordingly, my father and mother sought advise from many child psychiatrists. In following the advise of one psychologists, Chuck was sent away to a juvenile delinquent camp somewhere in Texas. According to my father, guilt set in for both of my parents and they brought Chuck home to live with my family again. By this time, I was in kindergarten and my family was living in Illinois. I was five.

There were frequent encounters of abuse in the next two years to follow. Initially, much of the molesting occurred while I was in the bathroom, when taking a bath or using the toilet. Chuck

would use the standard threats given to a child to keep them quiet, such as, 'If you tell mom I will hurt you real bad' or 'mom will hate you for making her mad'. While I bathed he would come into the bathroom and disrobe from the waist down, exposing himself to me and have me perform oral sex or 'watch him jerk himself off.' He would make a game of ejaculating and have me pull the plug on the bathtub and he'd have wide eyes while grinning and watching the sperm float toward and eventually down the drain. This type of 'bathroom visit' was frequent. I eventually learned to lock the door so he could not let himself in. He would stand outside the door and tell me how bad he'd beat me if I didn't unlock the door. One time I decided not to give in to his threats and never unlocked the door. He stood outside the bathroom until I had to come out, then he chased me down the hall and into the bedroom I shared with my younger brother, who was still an infant, and my older sister. I was afraid of him and he knew it. He closed the door and I tried to hide under the bed, but I could not get away. Afterall, he is at least ten years older than me. He sprawled himself on top of me and stroked my vagina, calling it a pussy. I remember asking him why he called it a pussy, he said it (my vagina) is called a pussy because it soft like a pussy cat. I was able to get out from under his hold and hid under the crib. My older sister and older brother must have heard the commotion, they came barging into the room and my sister was very angry...at me. So angry in fact she used the threat of telling our mother what 'I was doing with Chuck' over my head for many years to come. It was at that point, through all the confusion, I was convinced that all of this was my fault and felt no strength to resist. The fondling and molesting by him became more daring. He would use foreign objects like sticks, magnifying glasses and bobby-pins in more daring places like the backyard, basement and kitchen. Once he even tried to take me out of school, coming directly to my kindergarten classroom. Of course the teacher did not allow me to leave, but I remember becoming so distraught the teacher sent me to the nurses office to calm down. It was at that point I believe my studies became my strength and private solace.

On into the first grade, the molesting continued. I was now six. I remember the time he used a small tree branch and inserted it into my anus; naturally I was torn and sore. I could not sit comfortably in class and remember being so embarrassed because I would constantly fidget. Then there was the time he had forced his penis painfully into my throat and forced me to perform oral sex on him. The next day me jowls, cheeks and throat were so swollen, my teacher and school nurse thought I had contracted the mumps. I wasn't sure when, where or why he left, but I know there was a time when Chuck was no longer living with my family.

I was in the second grade when Chuck reappeared into our lives. We were living in Camp Legune, North Carolina. He would come into my bedroom at night and fondle me, or kneel next to my low bed and have me perform oral sex on him. The most horrible of these nights was my first night at home after being in the hospital for a tonsillectomy. He made his usual visit to my bed and forced his penis into my throat with hard continued thrusting. When he noticed blood coming from my mouth he said with wide eyes, 'It's like your on the rag' I woke up the next morning with my pillow covered in blood.

My father returned from duty, some time later and for whatever reasons, kicked Chuck out. Perhaps he was usually kicked out of the house, but this was the first time I remember my father

yelling at him. Chuck struck down my father, and wanted to fight him. I remember my father grabbed a huge chain to defend himself. Chuck backed off and left, vowing he'd return whenever he wanted.

We moved again to Moses Lake, Washington. My best friend was the little girl next door, Kitty. One day, as quick as he had vanished, Chuck reappeared. Knowing my father was now overseas he stayed with my family, against my mothers wishes. Chuck quickly acquainted himself with Kitty and would always track us down and interrupt us during our play sessions. He used dildos and other foreign objects on each of us; usually whatever he could find on the dresser or in the cupboard (candlesticks, bottles..). He spoke with lewd language to us about his girlfriends, sexual acts & hitchhiking. Kitty and I were in the third grade. For whatever reason, Chuck vanished again, and I did not see him again until we were living in Quantico, Virginia.

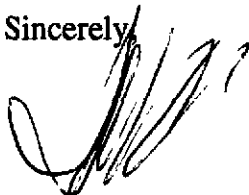
I was in the fifth grade by now, and he did not try to live with my family, but would always come to our house to wash his clothes, shower or mooch whatever he could. He no longer made attempts to molest me, but was always attempting to glamorize his life by telling tales of his thefts and fights. One time he had hot-wired and stolen a car. Since he had no key for the ignition, he just left it running in our driveway, and ^{he} eventually drove off. Chuck vanished again, and I am not really sure where he was for the many years to come.

My father retired and we moved to Reno, Nevada. It was at the age of thirteen when I next saw Chuck. He had a wife and two little girls. He always smoked pot, even around his children. I saw him make the oldest girl, Dina, inhale pot smoke from a bong.

At the age of thirteen, I was very withdrawn and shy and to be around boys made me very confused. As I grew older I would not accept dates from boys at school and even into my young adulthood, my relationships with men have always been strained. The years and uncountable incidents of sexual abuse altered my childhood, girlhood and an important piece of my womanhood. It has only been these most recent years of my life, and after ongoing therapy am I able to know these tragic sexual acts he forced upon me were not my fault.

It is only out of pure unselfishness that I am sending this letter, this being the most difficult emotional task I, or my husband, have ever faced. I want those little girls to know it wasn't their fault. I would like the Court to acknowledge that it was not just one tragic day out of their little lives, but that this violent act has altered the course of their lives, forever.

Sincerely,



Joslyn M. Coombes

AFFIDAVIT OF DANIEL J. GRECO

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

I, DANIEL J. GRECO, do hereby swear under penalty of perjury that the assertions of this affidavit are true.

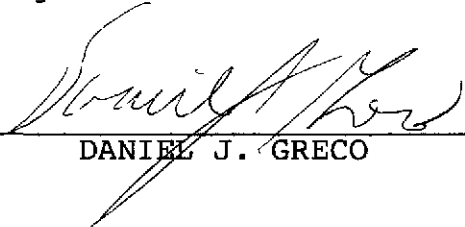
1. On or about April 29, 1994, affiant was contacted by telephone by Joslyn Coombes. Ms. Coombes is the half-sister of the defendant herein, Charles Joseph Maki. Ms. Coombes related to affiant that she had just learned of the prosecution and conviction of Charles Joseph Maki. She learned of the case through a relative who had in turn learned of the case through the Reno media coverage of the trial.

2. Ms. Coombes relayed that she had important information to give to affiant that she felt was relevant in this matter. She then went on to relay in some detail numerous instances of sexual assault committed upon her by Charles Joseph Maki during the period when she was approximately four to nine years old.

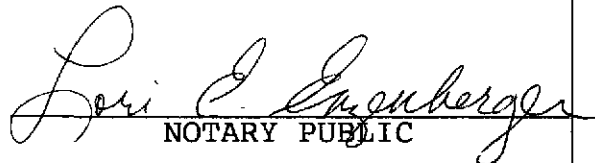
3. Affiant then instructed Ms. Coombes to immediately reduce her memories of the events to a detailed, written statement and to send it to affiant as soon as it was completed. Said statement was received by affiant on May 9, 1994, and a Xeroxed copy was immediately provided to defense counsel, JANET SCHMUCK, by interoffice mail. On the same date affiant also informed Ms. SCHMUCK of his intent to draft and file the instant Notice. The written statement of Ms. Coombes

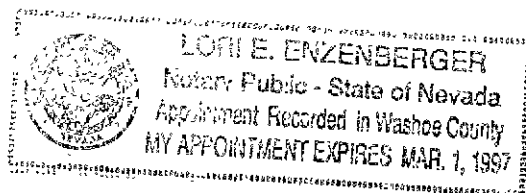
1 sets forth in great detail the incidents of sexual assault
2 that she was subjected to by Charles Joseph Maki. It is
3 attached hereto and hereby incorporated by reference into this
4 Affidavit.

5 Further, your affiant saith naught.

6
7 
8 DANIEL J. GRECO

9
10 Subscribed and sworn to before me this 12th day of
11 May, 1994.

12
13 
14 NOTARY PUBLIC



0511-7161

1
2
3 **CERTIFICATE OF FORWARDING**

4 I hereby certify that I am an employee of the Washoe County District Attorney's
5 Office, Reno, Washoe County, Nevada, and that, on this date, I forwarded a true copy of the
6 foregoing document, through the Washoe County Interagency mail, addressed to:

7 JANET SCHMUCK

8 DEPUTY PUBLIC DEFENDER

9
10 DATED this 12th day of MAY, 19 94.

11
12 Sherry Birtell

CASE NO. CR94-0345

STATE OF NEVADA -VS- CHARLES MAKI

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

05/17/94
HONORABLE
STEVEN R.
KOSACH
DEPT. NO. 8
S. Hopper
(Clerk)
I. Zihn
Reporter

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE

Deputy District Attorney Dan Greco was present for the State. Defendant present with counsel, Deputy Public Defender Janet Cobb Schmuck. Officer Robert Tucker was present for the State Dept of Parole and Probation.

Counsel Greco addressed the Court and reviewed motion for other bad acts evidence to be admitted. Counsel Schmuck addressed the Court regarding motion as entered and presented objections with arguments thereto; Counsel Greco presented response.

COURT ORDERED: Motion for other bad acts evidence to be admitted granted.

Joslyn Coombs was called by Counsel Greco, sworn and testified.

During testimony under direct examination, court took recess and ordered Defendant's mouth taped shut.

Witness was further direct examined.

State's Exhibit 1 was marked for identification and offered; objections and arguments presented thereto; COURT ORDERED ADMITTED.

Witness was further direct examined; cross examined; re-direct examined and excused.

Counsel Schmuck addressed the Court regarding P.S.I. corrections and presented arguments regarding sentencing; presented letters from the Defendant to the Court.

Counsel Greco presented arguments for sentencing.

Officer Tucker addressed the Court.

Defendant addressed the Court after tape was removed.

COURT ORDERED: Judgment entered. The Defendant is sentenced to Life with the possibility of Parole in the Nevada State Prison for Sexual Assault On A Child Under The Age Of Fourteen Years as charged in Count III of the Information; sentenced to Life with the Possibility of Parole in the Nevada State Prison to run consecutive to Count III for Sexual Assault On A Child Under The Age Of Fourteen Years as charged in Count IV of the Information; sentenced to Life with the Possibility of Parole in the Nevada State Prison to run consecutive to Count III for Sexual Assault On A Child Under The Age Of Fourteen Years as charged in Count V of the Information; sentenced to ten (10) years in the Nevada State Prison to run consecutive to Count III for Lewdness With A Child Under The Age Of Fourteen Years as

DC-990039406-060
CR94-0345
STATE VS CHARLES
JOSEPH MAKI 2 Pages
District Court
Washoe County
05/17/1994 02:17 PM
JYOC-
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CASE NO. CR94-0345

STATE OF NEVADA -VS- CHARLES MAKI

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

05/17/94

Cont'd.

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE -CONTINUED

charged in Count VI of the Information; sentenced to ten (10) years in the Nevada State Prison to run consecutive to Count III for Lewdness With A Child Under The Age Of Fourteen Years as charged in Count VII of the Information; sentenced to ten (10) years in the Nevada State Prison to run consecutive to Count III for Lewdness With A Child Under The Age Of Fourteen Years as charged in Count IX of the Information; and, sentenced to two (10) years in the Nevada State Prison to run consecutive to Count III for Lewdness With A Child Under The Age Of Fourteen Years as charged in Count X of the Information. Defendant is hereby given credit for one hundred eighteen (118) days time served. The Defendant is to pay the Twenty-Five Dollar (\$25.00) administrative assessment fee. Defendant was remanded to the custody of the Sheriff.

DC-990039406-087
CR94-0345 JOSEPH MAKI 2 Pages
STATE VS CHARLES JOSEPH MAKI 05/17/1994 03:16 PM
District Court 1880
Washoe County
nnc

No. CR94-0345
Dept. No. 8

FILED
5/17/94
JUD. BAILEY, Clerk
By [Signature]
Deputy Clerk

IN THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

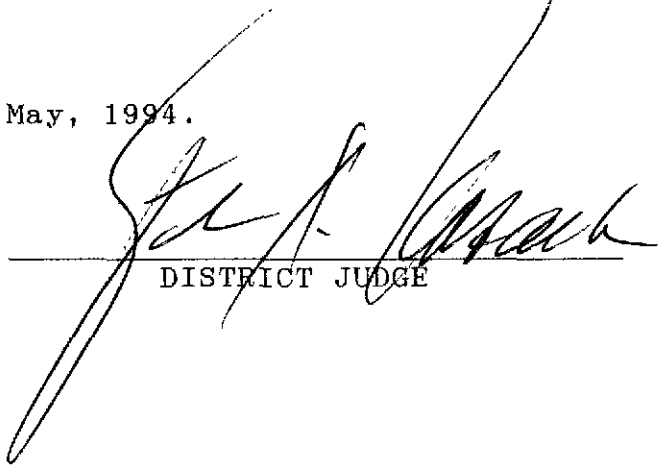
STATE OF NEVADA,	)	Reporter: I. Zihn
	)	
Plaintiff,	)	
	)	
vs.	)	J U D G M E N T
	)	
CHARLES JOSEPH MAKI,	)	
	)	
Defendant.	)	

No sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

That Charles Joseph Maki is guilty of the crimes of Sexual Assault On A Child Under The Age Of Fourteen Years as charged in Counts III, IV & V of the Information and Lewdness With A Child Under The Age Of Fourteen Years as charged in Counts VI, VII, VIII, IX & X of the Information and that he be punished by imprisonment in the Nevada State Prison for the term of Life with the possibility of parole on Count III; that he be punished by imprisonment in the Nevada State Prison for the term of Life with the possibility of parole on Count IV to run consecutive to Count III; that he be punished by imprisonment in the Nevada

State Prison for the term of Life with the possibility of parole on Count V to run consecutive to Count III; that he be punished by imprisonment in the Nevada State Prison for the term of ten (10) years on Count VI to run consecutive to Count III; that he be punished by imprisonment in the Nevada State Prison for the term of ten (10) years on Count VII to run consecutive to Count III; that he be punished by imprisonment in the Nevada State Prison for the term of ten (10) years on Count VIII to run consecutive to Count III; that he be punished by imprisonment in the Nevada State Prison for the term of ten (10) years on Count IX to run consecutive to Count III; that he be punished by imprisonment in the Nevada State Prison for the term of ten (10) years on Count X to run consecutive to Count III; and that he effect restitution in the amount of Five Hundred Twenty-Six Dollars (\$526.00). It is further ordered that the Defendant pay the statutory Twenty-Five Dollar (\$25.00) administrative assessment fee. Defendant is given credit for one hundred eighteen (118) days time served.

Dated this 17th day of May, 1994.


DISTRICT JUDGE

DC-9900039406-086
CR94-0345 JOSEPH MAKI 1 Page
STATE VS CHARLES JOSEPH MAKI 05/18/1994 03 15 PM
District Court 3370
Washoe County NV02-
DNC

No. CR94-0345

Dept. No. 8

FILED

5/18/94
JUDITH A. BAILEY, ClerkBy L. R. Brown
Deputy Clerk

**IN THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE**

STATE OF NEVADA,

Plaintiff,

vs.

Charles Joseph Maki

Defendant.

ORDER

The Defendant, having been adjudged Guilty of the charge of ***See Below and having been sentenced in the above-entitled action this date,

IT IS HEREBY ORDERED that the sum of TWENTY-FIVE DOLLARS (\$25.00) be withdrawn from the funds which are currently on his books at the Washoe County Detention Center, and that said amount thereafter be transmitted to the Clerk of the Court for payment of the statutory administrative assessment fee.

Dated this 18 day of May, 1994.[Signature]
DISTRICT JUDGE

***Sexual assault on a Child Under the age of 14 years &
Lewdness with a child under the age of 14 years.

No Money - on Books**FILED**5/18/94
JUDITH A. CLARKBy L. R. Brown
Deputy ClerkNo. CR94-0345

Dept. No. 8

**IN THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE**

STATE OF NEVADA,

Plaintiff,

vs.

Charles Joseph Maki,

Defendant.

ORDER

The Defendant, having been adjudged Guilty of the charge of ***See Below and having been sentenced in the above-entitled action this date,

IT IS HEREBY ORDERED that the sum of TWENTY-FIVE DOLLARS (\$25.00) be withdrawn from the funds which are currently on his books at the Washoe County Detention Center, and that said amount thereafter be transmitted to the Clerk of the Court for payment of the statutory administrative assessment fee.

Dated this 18 day of May, 1994.

[Signature]
DISTRICT JUDGE

***Sexual assault on a Child Under the age of 14 years & Lewdness with a child under the age of 14 years.

CR94-0345
DC-9900039406-088
STATE VS CHARLES JOSEPH MAKI 59 Pages
District Court 06/02/1994 08:09 AM 4185
Washoe County
JVC
ncr

Case No. CR94-0345

Department No. 8

'94 JUN -2 A8:09

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

HONORABLE STEVEN R. KOSACH

DEPUTY

THE STATE OF NEVADA,

Plaintiff,

vs.

Sentencing

CHARLES JOSEPH MAKI,

Defendant.

TRANSCRIPT OF PROCEEDINGS

May 17, 1994

Reno, Nevada

APPEARANCES:

For the State:

Dan Greco
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Defendant:

Janet Schmuck
Deputy Public Defender
195 South Sierra Street
Reno, Nevada

For the Division of
Parole and Probation:

Robert Tucker

Reported by:

Isolde Zihn, CCR #87

INDEX

STATE'S WITNESSES:	Direct	Cross	Redirect	Recross
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Joslyn Michele Coombs	9	34	42	
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STATE'S EXHIBITS:	For identification	In evidence
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1	23	25
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1 RENO, NEVADA, TUESDAY, MAY 17, 1994, 9:00 A.M.

2 THE COURT: Let the record show that we're here on
3 case number CR94-0345, State of Nevada versus Charles Maki.

4 Mr. Maki is present with counsel, Miss Janet
5 Schmuck. The State is represented by Mr. Dan Greco. The
6 Division of Parole and Probation is represented by Mr.
7 Tucker, Mr. Robert Tucker.

8 This is the time and place set for sentencing based
9 on a verdict of guilty to sexual assault on a child under
10 the age of 14 and lewdness with a child under the age of 14,
11 various counts.

12 Now, I have been alerted. Mr. Maki, can you hear
13 me okay?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: So let's go ahead and proceed with the
16 sentencing.

17 I have Mr. Tucker's report and recommendation.

18 I also have a letter in the file from Mr. Menees.
19 And I also have Mr. Maki's letter to me.

20 And I have--we're here in regards to--we also have
21 a statement.

22 Go ahead and pick that up, Mr. Greco.

23 MR. GRECO: Your Honor, I provided notice of intent
24 to introduce other-acts evidence at this hearing, the formal

1 pleading, some time ago. And the other-acts evidence is in
2 the form of witness Joslyn Coombes, your Honor. She is
3 outside. I'd like at this time to call her in and have her
4 sworn in and have her take the stand.

5 THE COURT: Okay. Any comments, Miss Schmuck?

6 MS. SCHMUCK: Your Honor, I would like to be heard
7 on that prior to the testimony by Miss Coombes.

8 THE COURT: Go ahead, please.

9 MS. SCHMUCK: Your Honor, I'd indicate to this
10 Court that I have been given notice, the defense has been
11 given notice by the State that Miss Coombes would be
12 testifying. I do have a copy of her letter.

13 Your Honor, I direct your attention to Nevada
14 Revised Statute 176.015, which provides the statutory
15 guidelines for the imposition of sentence on a defendant.
16 In that particular statute, in Subsection 3 it says that
17 before imposing sentence the Court can afford the victim an
18 opportunity to, A, appear personally or by counsel, and, B,
19 to reasonably express any views concerning the crime, the
20 person responsible, the impact of the crime on the victim,
21 and the need for restitution.

22 Your Honor, Subsection 3 is, of course, what we
23 refer to as the victim impact statement. And in the case of
24 Buschauer v. State, which is a 1990 Nevada Supreme Court

1 case, that particular court held that a victim impact
2 statement can be introduced at sentencing in two ways. One,
3 it can be written in the pre-sentence report. That's
4 pursuant to the Nevada Revised Statute 176.145. Or it can
5 be given in an oral statement to the Court. And that's
6 pursuant to 176.015 (3), as I've just noted.

7 Now, pursuant to, your Honor, to dictates of
8 Buschauer, the State provided me and Mr. Maki notice of what
9 it intends to do today. We would indicate to you that we
10 are totally in objection to Ms. Coombes testifying primarily
11 because under what we have just--I have just outlined for
12 this Court, she's not a victim in this case, your Honor.

13 The statute I've just cited to, which we are
14 obviously noting the victim impact statement, says that the
15 word "victim" will be defined according also by statute in
16 213.005. I would quote for the Court that it defines a
17 victim as a person against whom a crime has been committed,
18 a person who has been injured or killed as a direct result
19 of the commission of a crime, or the surviving spouse,
20 parents or children of such a person. Miss Coombes does not
21 fit into any of these categories, your Honor.

22 The crimes for which Mr. Maki has been convicted by
23 a jury were not committed against her. She has not been
24 injured as a direct result of these crimes, nor is she a

1 surviving spouse, parent or child of such a person.

2 Now, your Honor, what the State is asking is that
3 you take a really expansive view of the Buschauer case. It
4 does not cite to any case law, particularly in Nevada, for
5 providing an expansive view of Buschauer. Buschauer is
6 directly on point with the victim impact statement. It does
7 not address bringing people into court who are, one, not
8 victims, and particularly addressing the subject of
9 uncharged prior misconduct.

10 For that reason, your Honor, we object very
11 strongly to Miss Coombes testifying at this hearing.

12 Thank you.

13 THE COURT: Thank you.

14 Mr. Greco.

15 MR. GRECO: Your Honor, NRS 176.015 is a victim-
16 specific statute. When the Nevada legislation adopted that
17 statute, they gave victims of a crime certain mandatory
18 rights. If a victim of a crime wants to speak to you at
19 sentencing, even if the D.A. and defense attorney don't want
20 them to, even if your Honor does not want them to, that
21 statute gives them the right to. But, your Honor, that
22 statute does not preclude and contains no language
23 whatsoever precluding the State from putting on other
24 evidence that is important for your Honor in terms of

1 general background, general nature, general character of the
2 defendant, all things that are relevant at every
3 sentencing.

4 Judge, I would submit to you that every day such
5 other-acts evidence comes in in the form of PSI reports. As
6 I mentioned in my brief, Buschauer by its very own facts is
7 that it's specifically talking about a victim impact
8 situation in NRS 176.015.

9 But, Judge, other-acts evidence is admissible at
10 sentencing so long as it's relevant. Judge, I don't know
11 what could be more relevant for you to determine whether or
12 not this gentleman can be rehabilitated than to hear that he
13 did similar things to his own sister some time ago. I think
14 it's very relevant for that purpose.

15 But, your Honor, NRS 176.015 does not preclude the
16 State from introducing other-acts evidence involving someone
17 other than the victim. And I challenge Miss Schmuck to show
18 you where in that statute such a preclusion exists. It does
19 not.

20 Judge, most importantly, I gave her notice as soon
21 as I heard from Miss Coombes about these events. She's
22 going to tell you, Judge, that she heard about this through
23 a relative, and then she contacted me. I didn't even know
24 such a woman existed until about two weeks ago. I then

1 filed my notice. I attached a copy of her statement to that
2 notice.

3 She is going to be testifying here, Judge, just to
4 those things. It's going to be no surprise to defense. I
5 am not going to ask her about any additional matters that
6 are outside of that statement. The defense has had it since
7 I've had it. They're on notice. They now have the
8 opportunity to cross-examine her. I'm sure that they will
9 do that effectively.

10 THE COURT: Okay. Thank you.

11 I'll overrule the objection. I think it's relevant
12 testimony. We'll go ahead and call her in.

13 MR. GRECO: The State would call Joslyn Coombes.

14 THE DEFENDANT: Oh, she's gotten older.

15 MR. GRECO: Your Honor, would you instruct the
16 defendant to not talk to this witness, to not open his mouth
17 while she's testifying. And please ask him to make no
18 interruptions like he did at the trial in front of those
19 little girls.

20 THE COURT: I so instruct.

21 Would you please face the clerk and raise your
22 right hand, Miss Coombes.

23 (Witness sworn.)

24 MR. GRECO: Your Honor, may I remain seated during

1 my questioning?

2 THE COURT: Yes.

3 JOSLYN MICHELE COOMBES,
4 called as a witness on behalf of the State,
5 first having been duly sworn,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. GRECO:

9 Q. Miss Coombes, would you please pull that microphone
10 right in front of your mouth.

11 Would you please state your name and spell both
12 your first and last names.

13 A. Mrs. Joslyn Michele Coombes. J-o-s-l-y-n.
14 M-i-c-h-e-l-e. C-o-o-m-b-e-s.

15 Q. And in what city and state do you reside?

16 A. Aurora, Colorado.

17 Q. Miss Coombes, do you know a Charles Joseph Maki?

18 A. Yes, I do.

19 Q. And how do you know him?

20 A. We have the same mother.

21 Q. You're his half-sister?

22 A. Yes.

23 Q. Do you see Charles Joseph Maki in the courtroom?

24 A. Yes, I do.

1 Q. Would you please point him out for the judge.

2 A. He's wearing the green jail uniform.

3 MR. GRECO: Your Honor, can the record reflect she
4 identified the defendant?

5 THE COURT: Yes.

6 Mr. Maki, can you hear? Can you hear?

7 THE DEFENDANT: I can hear her just fine, sir.

8 THE COURT: Go ahead, Mr. Greco.

9 BY MR. GRECO:

10 Q. Miss Coombes, when you were a child, did Mr. Maki
11 live with you during your childhood years?

12 A. When I was about four years old, my parents, after
13 seeking advice from child psychiatrists, according to my
14 parents, they sent him to some type of boys' camp in Texas
15 when I was four.

16 And Chuck, into his teenage years, would hitchhike,
17 I'm assuming, across country and track the family down
18 wherever we were living and make it his own decision to live
19 with us, and would vanish periodically and then show back
20 up.

21 Q. Do you recall a time when you were four living in
22 Oceanside, California?

23 A. Yes, I do.

24 Q. During the time that you lived in Oceanside, did

1 Chuck ever live with you while you lived there?

2 A. It was--that was the period when--just previous to
3 his being sent to Texas.

4 Q. So he did live with you for a period of time?

5 A. Yes.

6 Q. While he lived with you in Oceanside, California,
7 did the defendant ever touch you improper in a sexual way?

8 A. Yes.

9 Q. Tell the judge what happened as best as you can
10 remember.

11 A. I remember Chuck was jumping on the bed in one of
12 the bedrooms, and he asked me to play with him. And I was
13 jumping on the bed with him. And he pushed me down and laid
14 down next to me. And I remember his hands up--him placing
15 his hands under my dress and into my underpants. I became
16 very frustrated and left the room. That was the extent of
17 the touching at that point.

18 Q. And that was prior to the defendant being sent to
19 Texas?

20 A. Yes.

21 Q. Can you recall where you-- Well, did you move often
22 as a child?

23 A. Yes, we did.

24 Q. Why was that?

1 A. My father was in the service.

2 Q. And can you recall, after you lived in Oceanside,
3 California, where was the next city and state you moved to?

4 A. The next city and state we moved to was for a six-
5 month period we did live in Nebraska. And I did start
6 kindergarten in Nebraska. We then moved to Illinois,
7 Wheaton, Illinois, where I continued with kindergarten and
8 finished the first grade.

9 Q. And when you lived in Wheaton, Illinois, did Chuck
10 come back--I'm sorry--did the defendant come back and live
11 in the home?

12 A. Yes, he did.

13 Q. And this was while you were in kindergarten?

14 A. Yes.

15 Q. Now, during that period of time at Wheaton,
16 Illinois, did the defendant ever touch you improperly in a
17 sexual manner?

18 A. Yes. There were frequent encounters.

19 Q. Describe for the Court what happened. Just take
20 your time.

21 A. Initially, in the beginning, when he moved back in
22 with the family, there--the encounters took place in the
23 bathroom. And I believe I referred them--referred to them
24 in my letter to you as bathroom visits. And these were

1 quite frequent.

2 There were games that he would play while I was
3 taking a bath or on the toilet, letting himself into the
4 bathroom. There was many incidents where he made a game out
5 of ejaculating into the bathtub and having me pull the plug,
6 and he would, with wide eyes, and appeared to be very
7 excited, watch the sperm float toward the drain.

8 There were other incidents as well.

9 Q. In regard to the activity you just explained,
10 roughly how many times did that happen while you were living
11 in Wheaton, Illinois?

12 A. I don't recall a specific number of incidents.

13 Q. Was it more than a few?

14 A. Yes.

15 Q. When Chuck played these games with you, did he ever
16 instruct you in terms of whether or not you could tell other
17 people what he had done?

18 A. Yes.

19 Q. What did he tell you?

20 A. That he would get very mad at me or that my mother
21 would get very mad at me and hate me.

22 Q. Oh. And how old are you now?

23 A. I'm 30 years old.

24 Q. And how many years older than you is Charles Maki?

1 A. I'm not sure of his specific birth date. I believe
2 he's at least 10 years older than me.

3 Q. So when these events were occurring in Wheaton,
4 Illinois, when you were five, approximately how old was
5 Charles Maki?

6 A. I'm assuming he was 14 or 15. I believe his
7 birthday is in February.

8 Q. Other than the bathroom games, while you were
9 living in Wheaton, Illinois, did he touch you in any other
10 ways that were inappropriate?

11 A. Yes. The games, so to speak, became more
12 adventurous, and he would--became more creative, so to
13 speak, with other objects. And encounters would occur in
14 other places other than the bathroom, like the kitchen, the
15 backyard.

16 MR. GRECO: Your Honor, again the defendant is
17 continuously making comments and reactions to this woman's
18 testimony. I would ask that you instruct him firmly to keep
19 his mouth shut while she's testifying.

20 THE COURT: Mr. Maki.

21 THE DEFENDANT: Your Honor, I am not saying
22 anything except to my lawyer.

23 THE COURT: Mr. Maki, listen. All right. You can
24 confer with your attorney. Just do it quietly, and don't do

1 it while she's talking.

2 THE DEFENDANT: I'm sorry, your Honor. I was
3 just--I was telling my lawyer something. That's all.

4 THE COURT: Go ahead, Mr. Greco.

5 BY MR. GRECO:

6 Q. Miss Coombes, while you were living in Wheaton,
7 Illinois, did the defendant ever force you to perform oral
8 sex on him?

9 A. Yes.

10 Q. Describe what happened to the judge.

11 A. During many of the bathroom visits Chuck would
12 disrobe from the waist down and have me perform oral sex
13 while I was in the bathtub.

14 Q. Did you want to do that?

15 A. No.

16 Q. Did you try and stop him from doing it?

17 THE DEFENDANT: She's lying out her asshole.

18 THE COURT: Let's take a recess.

19 Get some tape and put some tape over his mouth.

20 You can go ahead and go out in the hall.

21 THE WITNESS: Thank you.

22 MR. GRECO: Your Honor, I don't know if the
23 reporter was able to get that last comment, but I heard it
24 very clearly, and it was "Lying ass" or "Lying asshole," I

1 think, words to that effect.

2 THE COURT: I heard the very same thing. That's
3 why I said put some tape over his mouth.

4 MR. GRECO: Thank you, your Honor.

5 THE COURT: We'll wait for her. We'll take a brief
6 recess.

7 (Recess.)

8 THE COURT: All right. Let the record show that
9 Mr. Maki is present with counsel. His mouth is taped.
10 Anything that he wants to communicate with his attorney he
11 can do so in writing.

12 Mr. Greco is present. Mr. Tucker is present. The
13 witness is present.

14 Miss Coombes-- Is it Coombes?

15 THE WITNESS: Coombes, yes.

16 THE COURT: Excuse me. Miss Coombes is present.
17 We can proceed.

18 Go ahead, Mr. Greco.

19 CONTINUED DIRECT EXAMINATION

20 BY MR. GRECO:

21 Q. Miss Coombes, in regard to these bathroom
22 incidents, did you ever try and keep the defendant outside
23 of that bathroom?

24 A. Yes. I eventually learned to lock the door.

1 Q. And did that work?

2 A. It did. However, he would wait until I would have
3 to come out of the bathroom.

4 Q. And then what would happen?

5 A. Well, there's one specific incident where he chased
6 me down the hallway and into the bedroom that I shared with
7 my then-infant younger brother and sister.

8 Q. And what happened?

9 A. I tried to hide under the bed, but I couldn't fit.
10 It was a low bed. And he chased me around the room, and at
11 one point was lying on top of me.

12 Q. And what did he do to you?

13 A. He would stroke my body and my vagina.

14 Q. Did you want him to do that?

15 A. Of course not.

16 Q. Now, did you remain in Illinois when you moved on
17 into the first grade?

18 A. Yes.

19 Q. Did the incidents you have described so far
20 continue on into the first grade?

21 A. They became more--more involved, I guess is the
22 word.

23 Q. Describe how they became more involved.

24 A. With frequency and different objects, locations.

1 Q. Where was the next location?

2 A. I'm sorry. Could you repeat the question?

3 Q. Where was the next location the family moved to
4 after Illinois?

5 A. I was in the second grade in Camp Legune, North
6 Carolina.

7 Q. And did Chuck live with you at that point?

8 A. He did not move with the family, but he did come
9 and stay with the family at some point.

10 Q. Was that still while you were in the second grade?

11 A. Yes.

12 Q. Did he ever force you to perform oral sex in the
13 second grade when you were living at Camp Legune, North
14 Carolina?

15 A. Yes.

16 Q. Describe what happened.

17 A. I believe that was during the--it was during that
18 point at that age I had a tonsillectomy. And Chuck had
19 frequent visits to my bedroom in the middle of the night and
20 would wake me up. And the one--one incident that I'll
21 describe was the evening of my arrival from the hospital
22 following the tonsillectomy, and he forced me to perform
23 oral sex on him.

24 Q. Was your mouth injured as a result of that?

1 A. Well, I was still healing from a tonsillectomy, so,
2 yes.

3 Q. Did you start bleeding when he did that?

4 A. Yes. I woke up the next morning, and my pillow was
5 covered in blood.

6 Q. Now, at some point while you were still in the
7 second grade did Chuck leave the home?

8 A. Yes. That was the first confrontation that I
9 recall him having with my father.

10 Q. I just want to focus on what he did to you. At
11 some point did the family move to Moses Lake, Washington?

12 A. Yes.

13 Q. When was that?

14 A. I was going into the third grade.

15 Q. And did the molesting continue at that location in
16 Washington?

17 A. Yes. He reappeared to live with the family. I'm
18 assuming he hitchhiked across country.

19 Q. And what specifically did the defendant do to you
20 once he arrived in Moses Lake, Washington?

21 A. The same type of behavior continued. I had a
22 little--my friend, who was also in the third grade, was my
23 next-door neighbor. And he would interrupt our play
24 sessions when we would be having tea parties or other games

1 that girls play, and he would interrupt them and--

2 Q. Tell the judge what he did.

3 A. He would perform the same acts or have us perform
4 the same acts.

5 Q. Did he use any foreign objects to penetrate you?

6 A. Yes. He used what he called dildos. And those
7 being any kind of object that might be on a dresser or a
8 table. Anything from candlesticks to--I remember the
9 container of a Leggs' pantyhose, the egg-shaped pantyhose
10 container. Just odd things.

11 Q. Where did he insert these objects?

12 A. Vaginally. And encouraged us to play with each
13 other--

14 Q. While he watched?

15 A. --in a sexual fashion. Yes.

16 Q. And did those activities in Moses Lake, Washington,
17 occur with frequency?

18 A. Frequency meaning what?

19 Q. More than once or twice?

20 A. Yes.

21 Q. At some point did the family move from there to
22 Quantico, Virginia?

23 A. Yes.

24 Q. Approximately when was that?

1 A. I started the fourth grade in Quantico, Virginia.

2 And it was--

3 Q. Was Mr. Maki with you when you moved there?

4 A. No, he did not move with the family.

5 Q. Did he show up at some point later?

6 A. Yes, he did.

7 Q. Did the molestations continue?

8 A. I can't recall.

9 Q. Was it at about this time that the molestations
10 began--well, ceased?

11 A. I don't recall any occurring. But I just remember
12 he would become quite a braggart about places he had
13 hitchhiked, how he survived on crab apple trees, and talk
14 about theft and stealing cars.

15 Q. Okay. Where did the family move after that?

16 A. My father retired, and we moved to Reno, Nevada.

17 Q. In what year?

18 A. 1975, I believe.

19 Q. Did Charles visit the family in Reno?

20 A. Yes.

21 Q. By this point had he married?

22 A. Yes.

23 Q. Did he bring his wife with him when he visited in
24 Reno?

1 A. Yes.

2 Q. Did he have any children?

3 A. Yes.

4 Q. And did any sexual assaults or molestations occur
5 in Reno?

6 A. No.

7 Q. Now, Miss Coombes, did I contact you regarding
8 coming here to court to testify about what Charles Maki did
9 to you?

10 A. No, you did not.

11 Q. How is it that it came about that you're here
12 today?

13 A. I have a brother named Mike, and he was--made many
14 attempts to contact me. Once he did, he informed me that
15 Chuck was either going through at the time or the trial was
16 finished regarding sexual molestation of two young girls.

17 Q. And who was Mike--what is Mike's last name?

18 A. Maki.

19 Q. Is he also Charles Maki's brother?

20 A. Yes.

21 Q. And based upon what you heard, did you then contact
22 me?

23 A. Yes.

24 Q. And can you recall approximately when that was?

1 A. I believe it was about three weeks ago.

2 Q. Now, after you contacted me, did Mr. Charles Maki
3 attempt to threaten you or intimidate you in any way to
4 avoid you from coming out here, to make you avoid coming out
5 here?

6 A. My husband checked the mail, and there was a letter
7 from Chuck about early last week.

8 THE CLERK: State's Exhibit 1 for identification.

9 (State's Exhibit 1 was marked for
10 identification.)

11 BY MR. GRECO:

12 Q. Now, showing you a letter and an attached envelope
13 that has been marked State's Exhibit 1, would you take a
14 moment to look those over.

15 A. This letter was in this envelope when we received
16 it.

17 Q. Is that the one you referred to about receiving a
18 week and a half ago?

19 A. Yes.

20 Q. Did Mr. Maki make certain threats in that letter?

21 A. There are many statements that I interpret as
22 threatening, yes.

23 Q. Do you think it would be important for the judge to
24 see that letter for the purposes of sentencing?

1 A. Yes, I do.

2 MR. GRECO: Your Honor, at this point I would move
3 for admission of the letter and ask that the witness be
4 allowed to read it into the record.

5 THE COURT: Any comments, Miss Schmuck?

6 MS. SCHMUCK: Your Honor, I'm going to object to
7 this letter being admitted right now. We have no foundation
8 this was written by Mr. Maki.

9 THE COURT: Go ahead and lay the foundation, Mr.
10 Greco.

11 BY MR. GRECO:

12 Q. Was there a return address on the envelope?

13 A. Yes, there is.

14 Q. And what was the return address?

15 A. The top line, which was scratched out, says "Washoe
16 County Sheriff's Office." Second line reading, "Detention
17 Facility." Third line, "911 Parr Boulevard." Final line,
18 "Reno, Nevada, 89512-1000."

19 Q. Were you aware when you received the letter that
20 Mr. Maki was, in fact, at that location in jail?

21 A. Yes.

22 Q. Did someone sign the letter?

23 A. Yes.

24 Q. Who signed the letter?

1 A. It is signed "Chuck."

2 Q. And did the letter contain various phrases, unique
3 phrases, that you recognize as Chuck Maki having used in the
4 past?

5 A. Yes.

6 MR. GRECO: Your Honor, again, before she gets into
7 any further content, I would move to admit the letter at
8 this point.

9 THE COURT: Can I see it, please?

10 THE WITNESS: Yes.

11 THE COURT: I've got a letter written to me by Mr.
12 Maki. I'm going to compare the handwriting.

13 It's the same writing.

14 I'll admit the letter.

15 (State's Exhibit 1 was
16 admitted into evidence.)

17 BY MR. GRECO:

18 Q. Now, Miss Coombes, first referring your attention
19 to the envelope, is that envelope addressed to you?

20 A. Yes, it is.

21 Q. Read the first line of the address to you.

22 A. "Joslyn Coombes." Then there's a percentage sign,
23 "DOA."

24 Q. Are the letters "DOA" in capitals?

1 A. Yes, they are.

2 Q. What did you take the letters DOA to mean when you
3 received this letter from Mr. Maki?

4 A. The same term that is used if someone arrives to a
5 hospital dead on arrival.

6 Q. May I see that for a moment?

7 Other than the address to you and a return address,
8 were there any other markings or designations or writings on
9 the front of that envelope?

10 A. Yes. On the front of the envelope is written and
11 circled "Chuck Maki, Unit 2-4A," I believe, is what the
12 number reads. Also a quotation, "Remember me? Game
13 player."

14 Q. And I think the judge was interrupted for a
15 second. Would you please read that quotation again that is
16 on the front of the envelope.

17 A. "Remember me? Game player."

18 Q. Referring your attention to the back of that
19 envelope, were there any writings inscribed on the back?

20 A. Yes. Underlined, it says, "See you soon," with two
21 exclamation points.

22 Q. Now, would you go ahead and read the letter in its
23 entirety into the record.

24 A. "From Reno, Nevada, April 30th, dash, '94. You

1 always did have a good imagination, Joslyn, but you are a
2 better liar. I give you that.

3 "To Joslyn and the D.A. So you want to play
4 stupid, eh? Now this is your payback to me. For what?

5 "Number one, when you were four years old, stupid
6 bitch, you were in California." Or Calif. It's
7 abbreviated.

8 "Also when you think al this bullshit in your mind
9 took place. Think about it now. I was in Texas, 2,800
10 miles away," exclamation point.

11 "Also remember, Joslyn, by of age in Reno you were
12 pimped out in Tahoe by the bartender.

13 "Also when you stole Dad's car and took it to Wash.
14 State, I and Munch went to get it. Plus you being a coke
15 whore for many years, got pregnant, still on drugs, and
16 couldn't have the drugs and responsibility of motherhood, so
17 you gave your baby up at two years old or so. And the
18 family disowned you. So now what's this? A payback for
19 what?" Underlined, "Cause you fucked up your own life.
20 Cause you were a whore at 13 with a pimp doing drugs and
21 getting drugs from niggers for many years, Jos.

22 "Hell, I came to Reno to fight Harry, Munch's
23 husband, from Wash. State because you said he was trying to
24 fuck you for his truck. I found out you wanted to fuck him,

1 but Munch found out, so you used me as a scapegoat.

2 Remember? Come on down, Joslyn.

3 "Col"-- I believe he's trying to spell Colonel--
4 "and Chicken Bob would like to see you. You telling the
5 D.A. all this made-up," underlined, capital letters,
6 "bullshit. I will have some real facts and people in court
7 to show what and who you really are and why the family
8 disowned you 17 to 18 years ago. So come on down, Joslyn,
9 with your lies and imagination both," exclamation point.

10 "Oh, yeah. This case was a railroad job also.
11 There was no evidence to prove I did anything at all." I
12 believe he's trying to spell tatoo. T-a-t dash t-o-e. "On
13 my stomach and back was what got me in this shit. No med
14 evidence cause I was set up and did nothing at all, period.
15 Their own dad been doing them, Jos. Sorry to disappoint
16 you. My lawyer was no good and didn't want the case."
17 Underline, "She thought like you. And I am appealing all
18 this, then suing my attorney and State for false
19 imprisonment and so on," exclamation point. Underline, "I
20 got damn good grounds, too," with three exclamation points.

21 And then circled, it says, "I be out in two-four
22 years." And then there's, "I'll be waiting, little sis, and
23 so will other people in Reno from old days," underline,
24 "with bells on," exclamation point. "Call D.A., Joslynn,"

1 spelled with two N's. "I could care less. The family still
2 won't take you back," underline, exclamation point. And
3 then "Chuck" is written, underlined.

4 Q. Miss Coombes, when the defendant wrote on the
5 second page, "I'll be waiting, little sis, and so will other
6 people in Reno," what did you take that to mean?

7 A. I thought that that would infer bodily harm.

8 Q. Did you take that as a threat?

9 A. Yes, I did.

10 Q. When he wrote, "I'll be out in two to four years,"
11 and then capitalized it in a three-quarters triangle, what
12 did you take that statement to mean?

13 A. I took that to infer that he would look for me.

14 Q. Did you feel this entire letter was an attempt to
15 intimidate you into not coming out here and telling the
16 judge what you knew about Mr. Maki?

17 A. Considering that the entire contents were basically
18 lies and threats, I felt that it was an attempt to
19 intimidate me.

20 Q. Now, I want to go over just a couple of specific
21 phrases in the letter and ask if you have any explanation
22 for them.

23 At the top of the first page, when he says, "Number
24 one, when you were four years old, you stupid bitch, you

1 were living in California," is that true, or is that not
2 true?

3 A. Yes, I was four years old when I lived in
4 California.

5 Q. Okay. And did you also live somewhere else when
6 you were four years old?

7 A. You mean, during that year?

8 Q. Yes.

9 A. Yes. We left California just before my fifth
10 birthday to move to Nebraska.

11 Q. And again in your testimony you referred to living
12 in Oceanside, California, when you were four, correct?

13 A. Yes. That is when my youngest brother was born and
14 where he was born.

15 Q. And you referred to certain acts of sexual
16 misconduct that occurred there while you were living in
17 Oceanside, California, at age four.

18 A. Yes.

19 Q. Do you have any idea what Mr. Maki is getting at
20 when he says, "Number one, when you were four years old, you
21 stupid bitch, you were living in California"? Do you have
22 any idea why he's putting that in the letter?

23 A. His next reference is that he was in Texas. So I
24 believe his recollection is that he was always in Texas.

1 Q. All right. Now, referring a short ways down the
2 first page after that last statement, when Mr. Maki claims
3 you were a prostitute at 13, have you ever been a prostitute
4 in your life?

5 A. No, I have not.

6 Q. Did you associate with pimps or panderers when you
7 were 13?

8 A. No, I did not.

9 Q. Did you ever perform prostitution services in
10 exchange for cocaine?

11 A. No, I did not.

12 Q. Now, towards the bottom of that first page refers
13 to a Colonel and Chicken Bob. Do you have any idea who
14 those characters are?

15 A. No, I have not.

16 Q. Have you ever heard Charles Maki use those names?

17 A. No, I haven't.

18 Q. How is your relationship with the other members of
19 your family besides Mr. Maki today?

20 A. I have two brothers, Mike and Steven. Mike being
21 five years older; Steven being five years younger. They are
22 two of my best friends.

23 Q. Have you been disowned by your family?

24 A. No, I have not.

1 Q. Do you resent that statement?

2 A. Yes, I do.

3 Q. Miss Coombes, why did you contact me and tell me
4 over the phone the various things that Charles Maki had done
5 to you?

6 A. When I heard about the trial from my brother, I
7 realized that this obviously has been an ongoing thing, and
8 I wanted to testify that it was not a one-time incident or
9 an isolated incident for him to commit this type of crime.

10 Q. Are you aware that in the underlying offense he was
11 convicted of here last month there were two little girls
12 involved?

13 A. Yes.

14 Q. Was your purposes in coming forward, did it have
15 anything to do with those two little girls?

16 A. Yes.

17 Q. What specifically did it have to do with them?

18 A. I want them to know that it is not their fault and
19 that they should not feel guilty.

20 Q. And when you were four and five and Charles Maki
21 was doing these things to you, did you feel guilty at that
22 time?

23 A. Yes.

24 Q. Did you feel ashamed?

1 A. Yes.

2 Q. Did you tell your parents immediately what had
3 happened?

4 A. No, I did not.

5 Q. Why was that?

6 A. For several reasons. Feeling ashamed and feeling
7 guilty. And also my sister knew of one of the incidences,
8 and she would use that as a threat. For instance, when I
9 caught her smoking cigarettes, she said, "If you tell Mom
10 and Dad, I'll tell them what you were doing with Chuck."

11 Q. Now, in recent years have you been receiving some
12 therapy for--to deal with these problems from your
13 childhood?

14 A. I made the step to take therapy at 25 and 26.

15 Q. Miss Coombes, in regards to the events that you
16 testified to here today, are those memories independent of
17 the therapy you've received?

18 A. The only references that I made in the letter are
19 memories that I had prior to therapy.

20 Q. Now, since we've had you here, the judge doesn't
21 have that letter because you've been here live testifying,
22 so I just want you to focus on what you testified to here
23 today.

24 A. Yes.

1 Q. Do you remember all those events that you've
2 testified to here today independent of therapy?

3 A. Yes. Clearly.

4 Q. And as a result of your therapy, did you then
5 remember some additional events?

6 A. Yes, I did.

7 Q. Events that we have not had you testify to here
8 today?

9 A. Yes.

10 MR. GRECO: That's all I have, your Honor.

11 THE COURT: Thank you.

12 Miss Schmuck.

13 MS. SCHMUCK: Thank you, your Honor.

14 CROSS-EXAMINATION

15 BY MR. SCHMUCK:

16 Q. Miss Coombes, just so I can have it straight in my
17 mind, during this period of time that you've been
18 describing--

19 A. Which period?

20 Q. The period of time from when you were four years
21 old, I think until you were 10 years old, is that the period
22 in time we're talking about?

23 A. Yes.

24 Q. During that period of time did Mr. Maki live with

1 your family or live with you and your parents and brothers
2 and sisters?

3 A. Not officially. He did not relocate and move with
4 the family. He would track the family down and show up and,
5 so to speak, stay with us.

6 Q. When you used the term, "Track the family down,"
7 that indicates to me that possibly Mr. Maki would not know
8 where the family was.

9 A. It indicates that because he did not move with us,
10 he would have to, I guess, follow us.

11 Q. Would he know where you were at any given time?
12 Were you aware--would he know what your address was?

13 A. I believe he had ongoing communication with my
14 mother.

15 Q. And that's Mr. Maki's mother?

16 A. Yes.

17 Q. Is that correct?

18 A. We have the same mother.

19 Q. When you were four years old, was there a period of
20 time where Mr. Maki was living in Texas?

21 A. Yes. He was sent to Texas when I was four years
22 old.

23 Q. Do you recall how long he was in Texas?

24 A. I'd have to say about a year, nine months to a

1 year.

2 Q. So there was a pretty good period of time that Mr.
3 Maki was gone in Texas?

4 A. That's correct.

5 Q. Did he come back-- This is when you were in
6 California, I think; am I correct?

7 A. When?

8 Q. When you were four years old, that there was--was
9 this in Oceanside, California, when you were four years
10 old?

11 A. I was four years old while we lived in Oceanside,
12 California, yes.

13 Q. Were you there for that entire year?

14 A. No. We moved to Nebraska just prior to my fifth
15 birthday.

16 Q. Mr. Maki was in Texas?

17 A. During that time.

18 Q. During that time.

19 A. Yes.

20 Q. Did he commute to California and to Nebraska?

21 A. No. He was at a boys' camp, a delinquent boys'
22 camp.

23 Q. I think you indicated then you moved to Illinois
24 when you were in the first grade.

1 A. No. When I was entering kindergarten.

2 Q. Kindergarten. I'm sorry.

3 A. Halfway through kindergarten. I started
4 kindergarten in Nebraska, and we were there for only a six-
5 month period living with an aunt. And we moved to Illinois
6 halfway through kindergarten.

7 Q. During that period of time was Mr. Maki living with
8 your family?

9 A. Yes. From what my parents indicate, guilt set in,
10 and they brought him back to live with the family.

11 Q. How long did he live with the family?

12 A. For about a year.

13 Q. And this was in Illinois?

14 A. Yes, it is.

15 Q. After that you indicated that you then moved to
16 North Carolina.

17 A. Yes.

18 Q. Was Mr. Maki still living with you then?

19 A. No.

20 Q. And do you recall or know where he was living?

21 A. No.

22 Q. And the last place, you indicated that you were
23 living in Moses Lake, Washington.

24 A. Last place with reference to what?

1 Q. With reference to--I believe you said that you
2 moved to Quantico--am I correct you moved to Quantico
3 Virginia and then to Moses Lake, Washington?

4 A. No, that is not correct.

5 Q. What is the correct order?

6 A. Camp Legune, North Carolina, to Moses Lake,
7 Washington, to Quantico, Virginia, to Reno, Nevada.

8 Q. Do you recall where--was Mr. Maki living with you
9 when you lived in Quantico, Virginia?

10 A. He was at no point, other than Illinois, officially
11 living with the family.

12 Q. Do you know where he was living at that time?

13 A. No. A vagabond lifestyle.

14 Q. Ms. Coombes, how many brothers and sisters do you
15 have?

16 A. I have one sister and three natural brothers, two
17 that I claim.

18 Q. Three natural brothers, two that you claim.

19 A. Uh-huh.

20 Q. And what are their ages compared to you?

21 A. Mike is five years older, Steven is five years
22 younger, and my sister, Esther, is four years older.

23 Q. Let's take the period of time when you were living
24 in Oceanside, California. Were you living with your older

1 siblings at that point?

2 A. I was living with my family.

3 Q. Were there older siblings in the home? Were your
4 sister and older brother there?

5 A. And my younger brother was born in Oceanside as
6 well.

7 Q. During the course of living in Oceanside or during
8 the period of time that you lived in Oceanside, did you
9 relate to any other members of the family what you claim
10 that Mr. Maki had done to you?

11 A. No. You mean at that time when I was four years
12 old?

13 Q. At that time.

14 A. No, I did not.

15 Q. At that time was your father living in the home?

16 A. Yes, he was.

17 Q. At what point did you tell the other members of
18 your family or tell any one member of your family what Mr.
19 Maki had done to you?

20 A. In 1985.

21 Q. And that's when you were how old?

22 A. 24.

23 Q. And who did you tell?

24 A. We were--I believe Chuck was in jail at the time,

1 and he had called home during the Christmas holidays and
2 was--individually talked to everyone. And I would not talk
3 to him. And when the tele--he was no longer on the
4 telephone with everyone, and that is--it was at that point
5 that I came forward.

6 Q. And told everyone?

7 A. Yes. My younger brother, Steven, my sister,
8 Esther, my brother, Mike, and my mother, Shirley Maki.

9 Q. Thank you. You indicated an incident where you had
10 had a tonsillectomy.

11 A. Yes.

12 Q. And Mr. Maki--you allege that he came home and made
13 you perform oral sex on him?

14 A. Well, it was not his home. He was staying with
15 us.

16 Q. Then he came to visit, and he made you perform oral
17 sex on him?

18 A. He made frequent visits in the middle of the
19 night.

20 Q. Was there any notice of the fact made that there
21 was blood on your pillow the next day as you indicated?

22 A. Notice of?

23 Q. Did your mother notice?

24 A. Yes, of course.

1 Q. Did she ask what had happened?

2 A. She related it to the tonsillectomy.

3 Q. You indicated that your brother, Mike, was a very
4 close friend of yours.

5 A. Yes.

6 Q. Do you know why Mike called you?

7 A. Yes.

8 Q. Why?

9 A. He wanted to tell me himself.

10 Q. Why would he want you to be told by him?

11 A. Because he's very--he's very well informed what
12 I've been through. And he wanted me to know that the--there
13 was a trial going on, or that it was just over. I am not
14 sure what phase the trial was in. But he wanted me to know
15 that he was continuing his crimes against young girls.

16 Q. Were you ever examined by a doctor?

17 A. For?

18 Q. As a result of any of the alleged assaults that
19 you're saying Mr. Maki committed on you. A physician.

20 A. Well, there was the one incident where he had me
21 perform oral sex on him, and it was such violent thrusting
22 that my throat, jowls and cheeks were swollen. The school
23 nurse, my mother, thought that I had the mumps. And the
24 physician verified that I did not.

1 Q. But at that point you did not say anything to your
2 mother--

3 A. No.

4 Q. --about what actually occurred?

5 A. I told my mother in 1985.

6 MS. SCHMUCK: I have no further questions, your
7 Honor.

8 THE COURT: Anything else, Mr. Greco?

9 MR. GRECO: Just very briefly

10 REDIRECT EXAMINATION

11 BY MR. GRECO:

12 Q. Miss Coombes, I neglected to establish a time frame
13 earlier when you were testifying.

14 When you were four years old and living in
15 Oceanside, California, when these events first started, what
16 year was that?

17 A. It was going into--it was the summer of 1967.

18 Q. And so how old are you now?

19 A. I'm 30.

20 Q. So you were born in what year?

21 A. 1963.

22 MR. GRECO: That's all I have, your Honor.

23 THE COURT: Anything else, Miss Schmuck?

24 MS. SCHMUCK: Nothing further, your Honor.

1 THE COURT: Thank you, Mrs. Coombes. You can step
2 down.

3 THE WITNESS: Thank you.

4 (Witness excused.)

5 THE COURT: Anything else, Mr. Greco?

6 MR. GRECO: I have no further evidence, your Honor.

7 THE COURT: Let's address the report and
8 recommendation, Miss Schmuck.

9 MS. SCHMUCK: Thank you, your Honor.

10 Your Honor, first of all, I would--I'm going to
11 need to make some corrections to the report.

12 THE COURT: Excuse me a minute.

13 Officer, go ahead and take the tape off Mr. Maki.

14 THE DEFENDANT: Thank you, Judge.

15 THE COURT: Go ahead, Miss Schmuck.

16 MS. SCHMUCK: Your Honor, I have had an opportunity
17 to go over the report in some depth with Mr. Maki. And he
18 has indicated to me the following corrections.

19 First of all, on page 2, under the arrest date of
20 January 24th, 1981, under the disposition for that case, it
21 indicates that on November 3rd, 1986, that Mr. Maki was
22 paroled.

23 Mr. Maki wishes me to make the Court aware that he
24 was paroled from one sentence to another. At that point he

1 did not leave the prison.

2 THE COURT: Okay. Thank you.

3 MS. SCHMUCK: Also, your Honor, on the date
4 5/13/88, which shows "Expired sentence," Mr. Maki indicates
5 to me that that date should actually be 5/22/88.

6 On page 3, your Honor, under the arrest of 9/16/87,
7 the disposition in that case indicates that Mr. Maki was
8 sentenced to two years in the Nevada State Prison and that
9 was suspended for two years probation. Mr. Maki has
10 indicated to me that he was not placed on probation.

11 On page 5, your Honor--I'm sorry--page 4, your
12 Honor, under "Probation adjustment," the first sentence
13 says, "Mr. Maki was found guilty of the felony offense of
14 burglary on January 30th, 1974, in Ashland, Wisconsin,
15 sentenced to serve a two-year prison term, the term was
16 suspended, and he was placed on three years probation."

17 Mr. Maki wishes to make the Court aware that he was
18 18 years old at that time.

19 THE COURT: Okay.

20 MS. SCHMUCK: And I--just above that, your Honor,
21 on--under "Criminal history continued," it says, "In
22 addition to the above, Mr. Maki has sustained five prior
23 arrests and convictions: 1987, for a bench warrant for
24 failure to pay fine." He indicates to me that those were

1 traffic fines.

2 Again, on the final paragraph, under "Probation
3 adjustment," where it says, "The defendant was granted an
4 honorable discharge from his probation of December 10th,
5 1989," Mr. Maki has indicated to me that there was no
6 probation.

7 On page 5--

8 THE COURT: So was there prison instead?

9 MS. SCHMUCK: I believe that there was, your
10 Honor.

11 THE COURT: Okay. Thank you.

12 MS. SCHMUCK: On the fourth paragraph, the last
13 sentence, Mr. Maki wishes to make the Court aware he did not
14 feel the term "jokingly" was given proper emphasis in that
15 sentence.

16 THE COURT: Where are we?

17 MS. SCHMUCK: The last sentence on paragraph four.

18 On page 6--

19 THE COURT: Okay. Then give me the connotation.

20 MS. SCHMUCK: Your Honor, Mr. Maki felt as though
21 that the statement he made was made in a joking manner. He
22 just simply felt that the way the Department had stated it,
23 that the joking was not given the proper emphasis, and he
24 asked me to make the Court aware of that, that his remarks

1 were made in a joking fashion.

2 THE COURT: Okay.

3 MS. SCHMUCK: On page 6, your Honor, on the third
4 paragraph, it indicates in the last sentence, "Mr. Maki
5 related that he babysat the victims twice, and the father
6 would go to the Gold Dust Casino to drink approximately five
7 times per week."

8 Mr. Maki indicates to me that he babysat the
9 victims eight to ten times.

10 THE COURT: Okay.

11 MS. SCHMUCK: On that same page, your Honor, under
12 the fifth paragraph, where it states that "Mr. Maki was
13 taking a shower, and the younger victim came in saying,
14 'I'll come in and wash your back. I do it all the time for
15 my dad,'" Mr. Maki has indicated to me that in actuality
16 what happened was that the younger child came in while he
17 was in the shower and that she offered to wash his back.

18 And finally, your Honor, on page 7, the first
19 paragraph, the second sentence, the word "panties," Mr. Maki
20 has indicated it should be "pants," your Honor.

21 THE COURT: Thank you.

22 MS. SCHMUCK: At this time, your Honor, I would ask
23 that the Court consider a recommendation from the defense as
24 far as the sentencing in this case.

1 And I would indicate that one of the first things
2 that I did when I became involved in this case was to have a
3 very long conversation with Mr. Maki, which he basically
4 told me the story of his life. And I would submit to you,
5 your Honor, that clearly this has been a troubled life.

6 Mr. Maki has indicated to this Court previously,
7 and I don't think that he's made any sort of bones about it,
8 is that he's a violent person. I believe he told this Court
9 that prior to trial.

10 But throughout all of this, your Honor, he has
11 maintained his innocence. Mr. Maki has indicated--has told
12 the Court, as he did to the police officers involved in
13 this, that there was an incident in the shower with one of
14 the victims in this case. But he has maintained his
15 innocence throughout that he did not commit the sexual
16 assaults or the lewdnesses as charged and for which he was
17 convicted.

18 For that reason, your Honor, we would ask this
19 Court to consider a sentence as follows: that Mr. Maki be
20 sentenced to life with the possibility of parole on Count
21 III as charged, with concurrent life penalties with parole
22 on Counts IV and V. And that each of the lewdness counts,
23 he receive five years in prison. And that the lewdness
24 counts, the five should run concurrent to Count III.

1 I would indicate to this Court, your Honor, that
2 Mr. Maki is 39 years old. He would be at least 50 by the
3 time he gets out of prison. He would be taken out of
4 society for a significant period of time. And the defense
5 would submit that that is sufficient in this case.

6 Your Honor, the one last thing I would ask for--
7 Excuse me, your Honor. Mr. Maki has given me another letter
8 which he wishes this Court to see prior to his addressing
9 the Court. I have made copies available to Mr. Greco and to
10 the Department of Parole and Probation. If I may approach.

11 THE DEFENDANT: If you please, your Honor, I wish
12 you would read it. I think it would explain a little bit
13 more.

14 THE COURT: I've read every one so far.

15 THE DEFENDANT: Well, I appreciate that, Judge.

16 THE COURT: So, yes, I will read it.

17 MS. SCHMUCK: And finally, your Honor, again with
18 respect to Miss Coombes' testimony, she has made some very
19 serious charges here, as I'm sure the Court is aware.
20 There's no corroboration of her claims. They're basically
21 unfounded. They are highly prejudicial given the nature of
22 this case and the trial that we've just recently concluded.

23 We would ask this Court to totally disregard that
24 testimony in sentencing Mr. Maki and direct the Court's

1 attention to Goodson v. State at 98 Nevada 493 in which the
2 Nevada Supreme Court said, referring to its decision in
3 its--in the Silks decision, "That an abuse of discretion
4 will be found when the defendant's sentence is prejudiced
5 from consideration of information or accusations founded on
6 impalpable or highly suspect evidence."

7 Thank you, your Honor.

8 THE COURT: Thank you, Miss Schmuck.

9 Mr. Greco.

10 MR. GRECO: Your Honor, you heard the facts in this
11 case of the trial, so I'm not going to waste time going over
12 the offense in detail. I would simply submit to your Honor
13 that the proof in this case was very strong on the counts
14 the defendant was convicted of, particularly in light of his
15 admissions to those various lewdness acts that you heard on
16 the videotape.

17 But, Judge, that brings up an important point, and
18 that is the progression of this defendant's lies from the
19 beginning of this case until the end. Because, of course,
20 now he is--in his letters he has taken a stance that he's
21 totally innocent and has been railroaded.

22 Judge, you may recall at the beginning of that
23 interview by Detective Stegmaier this defendant denied all
24 culpability. For the first 15 or 20 minutes of that

1 interview he says he didn't do anything wrong, didn't commit
2 any lewd acts. Then when you see, Judge, as the interview
3 progresses, he begins admitting various acts of lewdness on
4 a child.

5 Now, Judge, he doesn't go any further. Of course,
6 he never admitted penetration, never admitted sexual
7 assaults in that tape. But, of course, you heard the girls'
8 testimony on the stand. They stood up well to
9 cross-examination. I thought their testimony was very
10 compelling. They were extremely believable. Of course,
11 Summer's testimony, the little girl's testimony, was
12 corroborated by the evidence of the hymenal damage, the
13 hymen being folded over on itself and enlarged.

14 But now we have him going backwards from what he
15 said in the tape, Judge. Now he is saying he didn't do
16 anything at all. Remember in the tape he specifically
17 admitted rubbing his penis over the exterior of Desiree, the
18 older girl's, vagina, a very serious action. Now he's
19 taking the stance that that didn't happen.

20 So, Judge, as you consider this barrage of letters
21 from Mr. Maki protesting his innocence, I would just ask you
22 to consider, one, the proof at trial, but, two, the
23 progression of his lies and how they have now gone full
24 circle to: I didn't do anything at all.

1 Judge, one of the factors you have to consider in
2 sentencing is rehabilitation and prospects for
3 rehabilitation. Your Honor is well aware with the minimal
4 success rates of rehabilitating child sex offenders. But
5 what is important here is he is taking his total denial
6 stance. The first step toward successful rehabilitation has
7 to be the offender admitting he did it. This defendant
8 isn't doing that. He's not going to do that. And that's
9 going to make his rehabilitation even more difficult than it
10 would otherwise be.

11 And, of course, you hear this testimony from Miss
12 Coombes today, which goes to the rehabilitation issue as
13 well.

14 If he was doing these things 20 years ago with
15 great frequency, it makes his prospects for rehabilitation
16 much less likely.

17 Judge, the most important factor I've already gone
18 over, and that's the seriousness of the offense. This
19 offense is extraordinarily serious, involving innocent child
20 victims that can't protect themselves.

21 But, Judge, the other key factor in sentencing is,
22 of course, his prior criminal history. His prior criminal
23 history is abominable. He has four previous felony
24 convictions, including, among other things, battery with a

1 deadly weapon. Now, with these eight felony convictions,
2 he's up to an even dozen convictions. He is a career
3 criminal, your Honor. He also has numerous misdemeanor
4 convictions as set forth in the PSI report.

5 Judge, his record does not mitigate anything in
6 this case. In fact, his record speaks for a maximum
7 sentence because it's atrocious and because he simply--his
8 previous prison terms, his previous paroles, his previous
9 probationary periods have obviously done nothing to affect
10 this individual's criminal activity. He is not going to
11 change, Judge. He is not going to be rehabilitated.

12 So the issue is: How do you protect other little
13 children? I submit to your Honor you protect them by taking
14 this man off the streets for as long as is humanly possible.

15 Judge, you heard the little girls' testimony, and
16 they told you about their pain, and Desiree told you why she
17 didn't come forward right away, why it took 30 days.
18 Remember, she told you she was embarrassed and she was
19 ashamed. You heard a little bit of that today from Joslyn
20 as well. It's a very normal thing to expect a little child
21 to have happen to them.

22 Plus, of course, remember that both girls told you
23 Mr. Maki said, "Don't tell anyone, or else I will go to
24 jail." They had these directives from this much older man,

1 who to a little child looks like a very large person, and
2 would be intimidating and frightening.

3 Judge, at the end of my closing argument you heard
4 me tell the jury to let Mr. Maki know that those little
5 girls were not just sexual aides or sexual tools. You heard
6 me ask the jury to let Mr. Maki know that those little girls
7 had some value. And you heard me ask the jury to let Mr.
8 Maki know that his brand of love as he called it is not
9 going to be tolerated, should not be tolerated by the jury.

10 Judge, I would ask you to draw the same
11 conclusions. The offense is horrendous. His record is
12 horrendous. I see no mitigating factors whatsoever in this
13 case. I would ask your Honor to sentence the defendant to
14 life terms on Counts III, IV and V; to 10-year terms on
15 Counts VI, VII, VIII, IX and X; and that each and every one
16 of those eight counts be ordered to run consecutive to one
17 another.

18 THE COURT: Thank you, Mr. Greco.

19 Mr. Tucker, do you have anything to add to your
20 report?

21 MR. TUCKER: Yes, your Honor.

22 I'd like to clarify the reference to the probation
23 grant on page 3, 1987, and also on page 4.

24 I have before me the progress report submitted to

1 Department 8 of this court at the time Mr. Maki was on that
2 probation.

3 It reads as follows: "Upon Mr. Maki being granted
4 probation in this case, he was arrested for parole
5 violation, and eventually his parole was revoked. Mr. Maki
6 served his probation while in prison."

7 THE COURT: Thank you.

8 MR. TUCKER: Nothing further to add.

9 And I would urge the Court to follow the
10 recommendation of the Division, your Honor.

11 THE COURT: Any legal reason why sentence should
12 not be imposed at this time?

13 MS. SCHMUCK: No, your Honor.

14 THE COURT: Give me a couple minutes to read this
15 letter from Mr. Maki.

16 Mr. Maki, do you have anything to say before
17 sentencing?

18 THE DEFENDANT: Well, your Honor, I wrote out a
19 little speech here for you, but I don't think it's going to
20 make much difference actually, what it is.

21 I would like to say one thing, though, one or two
22 things, if you don't mind.

23 You know, everybody knows I'm not too pleased the
24 way my lawyer handled things, which I guess is not here nor

1 there either.

2 But I don't like the way the D.A. keeps putting me
3 down, telling me I'm some kind of a damn child molester,
4 because, Mr., I'm not. I don't care what the Court thinks
5 or how you want to put it to me.

6 I can understand that he's doing his job. I don't
7 want him to get the wrong idea when I just said that. I
8 mean, he did his job, which he's supposed to do.

9 I have no priors, I'm not no criminal history, you
10 know, of any of this stuff. I'm not a criminal--I'm not--
11 What did he call me? Whatever that is he was trying to say,
12 that I am never going to change.

13 Well, if he looks at my record, I did try to change
14 after I got out of prison. Only one time I did a prison
15 term, not two. I got out on parole and didn't want to be on
16 parole, so I wanted back in. I'm not a career criminal.
17 That's what I'm trying to say.

18 I want to get on with my life, Judge. No matter
19 what it is, whether you send me to prison for the rest of my
20 life or for five years or five months, it doesn't matter. I
21 just want to get on with my life, get this over with.

22 I've wrote you, I've talked to you the best I can.
23 I've tried to explain myself the best I can. I don't know
24 how--I don't know how to defend myself other than what I've

1 done. I guess I just say, you know: Hey, Judge, do what
2 you feel you've got to do and the best reason you know how,
3 and whatever happens happens. I just don't know-- I don't
4 know.

5 I'm not a child molester, and I want to make that
6 clear to this world, the Court and everybody else.
7 Everybody can think what they want. I didn't do it. I
8 admitted what I did. I did take a shower. I admitted that.
9 It was wrong. I have no problem with that. If I go to
10 prison for the rest of my life for that, fine.

11 But I didn't touch his daughters. He's the one
12 that should be brought up on the charges, if anybody,
13 because it's proof that wasn't brought up. He has the
14 priors, not me. But everybody is telling me it don't have
15 nothing to do with my case, it has nothing to do with
16 proving my innocence. Well, that's fine, too. One day his
17 turn will come. Twice he has had the brush with the law,
18 twice he got off. That's fine. His day will come.

19 I don't mean to sound angry, but I am. I can't
20 help that. Through this whole ordeal I have been wanting to
21 try to say something. Nobody wants to listen to me.
22 Everybody is calling me an ugly son of a bitch and a nasty
23 dude and a pervert, all this other stuff. Fine. Everybody
24 is entitled to their opinion. I'm not. Never have been.

1' Never will be.

2 Now that I got my anger out, I guess I'll say:
3 Judge, do what you have to do. Just--I don't know. I don't
4 know what else to say.

5 THE COURT: Okay.

6 THE DEFENDANT: I just--I'm straight up with
7 everything, your Honor. I don't know what to tell you other
8 than that. I just don't know how to say anything.

9 THE COURT: Got you. I understand. I'm straight
10 up, too.

11 Twenty-five-dollar administrative-assessment fee.

12 Count III, sexual assault on a child under the age
13 of 14, life in prison, possibility of parole.

14 Count IV, sexual assault on a child under the age
15 of 14, life in prison, consecutive to Count III.

16 Count V, sexual assault on a child under the age of
17 14, life in prison, consecutive to Count IV.

18 Count VI, lewdness with a child under the age of
19 14, 10 years, consecutive to Count V.

20 Count VII, lewdness with a child under the age of
21 14, 10 years, consecutive to Count VI.

22 Count VIII, lewdness with a child under the age of
23 14, 10 years, consecutive to Count VII.

24 THE DEFENDANT: Eighty years.

1 THE COURT: Count IX, lewdness with a child under
2 the age of 14, 10 years, consecutive to Count VIII.

3 I ran it all consecutive. As far as I'm concerned,
4 I hope you never get out. And I'm being up front with you.

5 MS. SCHMUCK: Your Honor, on credit for time
6 served.

7 MR. TUCKER: One hundred eighteen days.

8 THE COURT: Yeah.

9 Did you hear what I said, Mr. Maki?

10 THE DEFENDANT: I believe I just got 80 years, your
11 Honor.

12 THE COURT: Yeah, you did. And I'm being up front
13 with you. I hope you never get out.

14 THE DEFENDANT: I'm sorry you feel that way,
15 Judge.

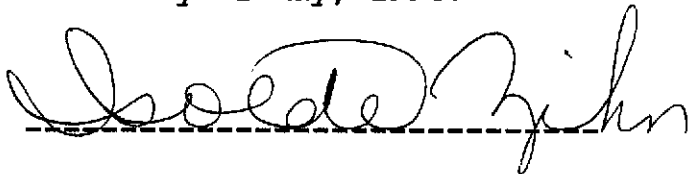
1 STATE OF NEVADA)
2 COUNTY OF WASHOE)
3

4 I, ISOLDE ZIHN, a Certified Shorthand Reporter of
5 the Second Judicial District Court of the State of Nevada,
6 in and for the County of Washoe, do hereby certify:

7 That I was present in Department 8 of the
8 above-entitled court on Tuesday, the 17th day of May, 1994,
9 at the hour of 9:00 a.m. of said day, and took verbatim
10 stenotype notes of the proceedings had upon the matter of
11 THE STATE OF NEVADA, Plaintiff, versus CHARLES JOSEPH MAKI,
12 Defendant, Case No. CR94-0345, and thereafter reduced to
13 writing by means of computer-assisted transcription as
14 herein appears;

15 That the foregoing transcript, consisting of pages,
16 1 through 59, all inclusive, contains a full, true and
17 complete transcript of my said stenotype notes, and is a
18 full, true and correct record of the proceedings had at said
19 time and place.

20
21 Dated at Reno, Nevada this 31st day of May, 1994.

22 
23

24 Isolde Zihn, CSR #87

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 STATE VS CHARLES JOSEPH MAKI 1 Page
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 Washoe County Nevada
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FILED

Case No.

CR94-0345

Dept No.

8

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JUDI BAKER, CLERK

BY

DEBRY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
 IN AND FOR THE COUNTY OF WASHOE

--ooOoo--

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHARLES MAKI

Defendant.

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that CHARLES MAKI
 hereby appeals the JUDGMENT OF CONVICTION entered in this
 Court on or about the 17 day of MAY, 199⁴.

DATED this 1 day of JUNE, 199⁴.

Charles J. Makis
 (Signature)

CHARLES MAKI

(Print Name) In proper person

DC-990039406-0590
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STATE VS CHARLES JOSEPH MAKI
District Court
Washoe County
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Case No. CR94-0345Dept No. 8

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JUDI BAILEY, CLERK

BY [Signature]
DEPUTYIN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,IN AND FOR THE COUNTY OF MAKI

--ooOoo--

CHARLES MAKI,)

Appellant,)

-vs-)

THE STATE OF NEVADA,)

Respondent.)

DESIGNATION OF RECORD
ON APPEAL

COMES NOW, CHARLES MAKI, Appellant in
propria persona, and herein designates the record on appeal to
be certified by the Clerk of the Court and transcribed to the
Clerk of the Nevada Supreme Court.

All motions, pleadings, and transcripts.

DATED this 1 day of JUNE, 1994.

Charles J. Maki
(Signature)

CHARLES MAKI

(Print Name) In proper person

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STATE VS CHARLES JOSEPH MAKI
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Washoe County
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JUDI BAILEY, CLERK

BY [Signature]

DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

--ooOoo--

CHARLES MAKI,)
Appellant,)
-vs-)
THE STATE OF NEVADA,)
Respondent.)

REQUEST FOR APPOINTMENT
OF AN ATTORNEY

COMES NOW, CHARLES MAKI, Appellant in
propria persona, with this request that an attorney be appointed
to represent him on his appeal before the Nevada Supreme Court.
This request is made pursuant to NRS CH-34, whereas an indigent
person can have an attorney appointed to represent him.

The above-named Appellant swears under penalty of perjury
that he is without means of employing an attorney.

RESPECTFULLY SUBMITTED this 1 day of JUNE, 1994.

Charles F. Makis
(Signature)

CHARLES MAKI
(Print Name) In proper person

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District Court 06/09/1994 10:36 AM
Washoe County
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Dept. No. 8

FOR BAST... LERK
By S. Davis
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,
Plaintiff,
vs.
CHARLES MAKI,
Defendant.

MOTION FOR TRIAL TRANSCRIPT
AT PUBLIC EXPENSE AND SPECI-
FICATION OF ERROR

Defendant, CHARLES MAKI, by and through his counsel on
appeal, moves for an Order granting Defendant transcripts of
trial at County expense for preparation of his appeal. Notice of
Appeal was filed June 3, 1994.

Defendant has been represented by the Washoe County
Public Defender at trial, and the Public Defender has been
appointed to handle the appeal. Defendant cannot pay for the
transcript due to his indigency.

Defendant requires the trial transcript to explore and
develop the following matter as a potential issue on appeal:

Sufficiency of the evidence.

DATED this 8 day of June, 1994.

MICHAEL R. SPECCHIO
Washoe County Public Defender

By [Signature]
JOHN R. PETTY
Chief Appellate Deputy

Rm

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2 DEPT. NO. 8

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5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE

9 CHARLES MAKI,

10 Petitioner,

11 vs.

ORDER

12 THE STATE OF NEVADA,

13 Respondent.
14

15 Good cause appearing, this Court hereby appoints the
16 Jack Alian Group to represent the above-named petitioner on
17 further matters of appeal.

18 IT IS SO ORDERED.

19 DATED this 9 day of June, 1994.

20
21
22 [Signature]
DISTRICT JUDGE
23
24
25
26

Certificate of Mailing

The undersigned hereby certifies that on the 13th day of
June, 1994, she mailed copies of the foregoing
ORDER in Case No. CR94-0345 to the following:

Charles Maki, Inmate
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, Nevada 89702

Gary Hatlestad, Esq.
Deputy District Attorney
P.O. Box 11130
Reno, Nevada 89520

Kathryn Miller
SECRETARY TO JUDGE KOSACH

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'94 JUL 11 A10:57

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
By *W. Stewart*
DEPUTY

THE STATE OF NEVADA,

Plaintiff,

DESIGNATION OF RECORD
ON APPEAL

vs.

CHARLES JOSEPH MAKI,

Defendant.

Defendant having filed his Notice of Appeal from the
Judgment of Conviction entered in this Court hereby designates the
following record:

1. All Motions.
2. All Pleadings.
3. Transcript of the jury trial in this matter.

DATED this 11th day of July, 1994.

JACK ALIAN GROUP

By *Bruce D. Voorhees*
Bruce D. Voorhees, Esq.
350 S. Center, Suite 408
Reno, NV 89501

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'94 JUL 11 A10:58

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
By *W. Stewart*
DEPUTY

THE STATE OF NEVADA,

Plaintiff,

STIPULATION TO EXTEND TIME
FOR TRANSMISSION OF RECORD
ON APPEAL

vs.

CHARLES JOSEPH MAKI,

Defendant.

The parties stipulate that Defendant, CHARLES J. MAKI, be granted an extension of time of fifty (50) days as provided in N.R.A.P. 11(d) in which to transmit the Record on Appeal to the Nevada Supreme Court which will make the record due on September 1, 1994.

Said Stipulation for Extension is requested by the Court Reporter in order to complete the trail transcript.

G. H. Hatlestad
Gary H. Hatlestad
Deputy District Attorney
75 Court Street
P. O. Box 11130
Reno, NV 89520

Attorney for Respondent

JACK ALIAN GROUP

By *Bruce D. Voorhees*
Bruce D. Voorhees
Attorney at Law
350 S. Center, Suite 408
Reno, NV 89501
Attorney for Appellant



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District Court
Washoe County
DOC

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ORDER EXTENDING TIME
FOR TRANSMISSION OF RECORD
ON APPEAL

THE STATE OF NEVADA,

Plaintiff,

vs.

CHARLES JOSEPH MAKI,

Defendant.

PURSUANT to the Stipulation to Extend Time for
Transmission of Record on Appeal entered into by the parties and
good cause appearing,

IT IS HEREBY ORDERED that Defendant, CHARLES JOSEPH
MAKI, be granted an extension of time of fifty (50) days as
provided by N.R.A.P. 11(d) in which to transmit the Record on
Appeal to the Nevada Supreme Court which will make the record due
on September 1, 1994.

DATED this 11 day of July, 1994.

DISTRICT JUDGE