# THE CORE OF THE VOIR DIRE TESTIMONY OF M. DOUGLAS REED, PH.D., THE OHIO ATTORNEY GENERAL'S LEADING EXPERT, CONCERNING THE MIND AND BELIEFS OF FRANK P. WOOD

**Exhibit-34**

Dr. Reed, the *State's Leading Expert*, is a licensed clinical psychologist (Tp.480, Ln.1-2) who spent his entire thirty-year career working with pedophiles and sociopaths (Tp.478, Ln.16-18). Of my own volition, Dr. Reed put me through a battery of psychological tests that are readily accepted by the working psychiatric community (Tp.465-480). Below is the core of his reliable findings and conclusions regarding my mind and beliefs.

1) *** there is no sexual history of sexual desire or contact with minors, even when he was a minor. His first sexual contact was when he was eighteen, so he has no – he has none of the typical drives that a pedophile would have or the typical abuser would have towards minor children (Tp.468, Ln.25-Tp.469, Ln.5).

Note: Lost my virginity on my 18th birthday to a beautiful, intelligent, and classy woman.

2) His Sexual Behavior Inventory shows that he has normal, healthy sexual thoughts, and if you could – if you consider healthy would be masturbating to an adult person, rather [] a fantasy of an adult rather than that of a minor (Tp.469, Ln.6-10).

Note: What can I say? I'm a guy!

3) His preferences are heterosexual. He has sexual attraction ***only*** to adult women (Tp.469, Ln. 11-12). [***Emphasis added***].

Note: That should quash a few hopeful rumors in prison that turned hateful.

4) He's not sexually compulsive or addicted, in my professional opinion (Tp.469, Ln.13-14).
5) His sexual behavior is under his control. He is not out of control, compulsive (Tp.469, Ln.15-16).

Note: As 'trust' means to allow without fear, you can trust a man with self-control and no vices.

6) His mental exam status indicated he has no organic brain damage, he is able to think straight, he's above average in intelligence (Tp.469, Ln.17-19).

Note: Obviously, I am too intelligent to commit such ignorant and heinous acts. Further, when Dr. Reed concluded this statement, the Court Reporter stopped her typing and everyone in the courtroom looked straight at me with eyes wide open and full of worry. I would have to say that, at that very moment, they knew they screwed up.

7) The conclusions from the Minnesota Multiphasic Personality Inventory was that he had no psychopathology; none of the ten clinical scales were elevated (Tp.473, Ln.4-8).

Note: The Minnesota Multiphasic Personal Inventory (MMPI) is a reliable scientific instrument of psychological analysis and discovery.

8) He does not see himself as narcistic, which is an important finding, and he, he does not come across – he does not test as being narcistic (Tp.474, Ln.9-10).

Note: Narcissism is an important part of the FBI's profile for a real sex offender.

9) He does use rationalization and externalization as defense mechanisms (Tp.474, Ln.9-10).

Note: In problem solving, I am well adept at separating myself from situation to analyze it.

10) He has high ego strength (Tp.474, Ln.11).

Note: I am a confident man.

11) In my professional opinion, to a degree of psychological certainty, Frank Wood does not meet the diagnostic criteria for pedophilia. He does not endorse the three core beliefs or rationalizations used by pedophiles to justify their illegal behavior (Tp.475, Ln.2-7).

Note: Although I still do not know what these beliefs and rationalizations are, Dr. Reed was still able to extrapolate this from my mind.

12) He has no history, apart from the index offense charges, of sexual behavior with a minor, even when he was a minor (Tp.475, Ln.8-10).

Note: Never have and never will.

13) Mr. Wood is not a sociopath or psychopath (Tp.475, Ln.11).

Note: To the contrary, I am a compassionate and empathic man.

14) He does not match the profile for a psychopath. ***. He is not slick, conning, or manipulative (Tp.475, Ln.14-17).

Note: I am neither a pathological liar, deceiver, nor manipulator.

15) He does not have a stash of child pornography. If he were to be someone who would be a serious or, historically, sex abuser type, he would undoubtedly have had a stash. In my thirty years working with pedophiles and sociopaths, they all have had a stash somewhere. He did not have any (Tp.475, Ln.19-24).

Note: Both of my houses were searched by either Officer McCourt and/or Det. Kollar (Tp.452, Ln.4-9), (Affidavit: Exhibit-04, p.12).

16) He has no organic brain impairment which keeps him from knowing right from wrong. Everything he believes and espouses would be ***violated*** if he were to touch a child sexually (Tp.475, Ln.25-Tp.476, Ln.3). [***Emphasis added***].

Note: Not only do I possess a strong moral fiber and conscience, as

> Belief determines behavior,
> -Max Lucado

***I am psychologically prohibited from harming a child or someone I love!!!***

17) In my professional opinion, he is also ***not*** a situational pedophile. ***. He was being sexually active regularly, therefore, he would not have needed to turn to a prepubescent child (Tp.476, Ln.4-10). [***Emphasis added***].

Note: To do so would be disgusting and dishonorable. 'Honor' means respecting others and ourselves in our thoughts, speech, and actions.

18) He has no mental illness, no mental disorder according to the MMPI-2, Mental Status Exam. None of the ten clinical scales were elevated to the clinical range (Tp.476, Ln.11-14).

Note: Nice to know I am sane, for only a crazy nut would harm a child.

19) He's not in a job where he is usually brought into contact with minors, so there's no – there's no predatory deductive manner there (Tp.477, Ln.5-7).

Note: In my line of work, I took what was broken, fixed it, and gave it back. This should reveal more of the core of the man I am.

20) Those were my conclusions and opinions (Tp.477, Ln.8).

Note: Reader, now you see why Judge Collier stated that Dr. Reed's findings and conclusions "aren't relevant" (Tp.481, Ln.10-11), and why he and Pros. Eisenhower refused to allow for Dr. Reed to testify before the Court-declared "cynical" Jury (Tp.135, Ln.7-11) with its Court-elected Juror who was "molested" in her youth (Affidavit: Exhibit-31), and its Medina City elementary school teacher.

-Σ-

Assembled from the face of my materially altered and incomplete Trial Record regarding *State of Ohio v. Frank P. Wood*, Medina County Case No. 05 CR0365.

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Frank P. Wood (#A504-107)

first preemptory challenge." Then I'll ask counsel for the Defendant, "Sir, your first preemptory challenge." Then we'll go to your second and third and so on. Obviously, if you both pass, if we get two passes in a row, we've got what we need.

I intend on picking two alternates. This is going to be a week, we could lose them, so I'm going to have two alternates on this thing and go that way.

One other question, and I am so hesitant to ask this, and I only do it because if I don't I'll kick myself later. I don't know anything about the case except for what I see, and you all have been very kind to me in giving me information, and I know these are tough cases. Have you all talked at all about negotiations in this case?

MS. EISENHOWER: Your Honor, I initially made an offer and I have --

THE COURT: Are you all okay with that? Do you feel you need to talk more? Are you where you need to be? I'm just curious as to whether you're where you need to be.

MR. GREEN: There was an offer by the prosecutor.

THE COURT: I just want to

Exhibit-35



make sure. I would hate being in a position where we're three or four days into this and, "Oh, my gosh, you know, we should have talked about this." And not that I'm foreseeing that, but if I can get to that now, I can get to that now. I've got four other cases I'm supposed to try in addition to this one, that I'm going to be sending them home right now - and that's okay, you're the center of my universe here - but I want to make sure that you all have had the full opportunity to talk about this and you feel comfortable about the position you're in. Again, I'm not trying to talk you into doing anything, I just want to make sure that I said this so that I'm clear that you've at least had some discussion with regard to plea negotiations.

MR. GREEN: Judge, one question.

THE COURT: Sir.

MR. GREEN: The voir dire, when you talked about rounds, I assume if one is exercised --

THE COURT: A new person comes down, they sit, I talk to them a little while, you ask them questions, and then to I'll turn to you now and ask for your first preemptery.



MR. GREEN: I just wanted to make sure.

THE COURT: Certainly.

MR. GREEN: I have seen some Courts just go boom, boom, boom, boom.

THE COURT: I've been in your spot where I've shown up in foreign courts - and that's what I am to you - and have been flabbergasted and kind of taken aback. If you're in a spot where you're not exactly sure about the procedure, about what I'm doing, do not hesitate to go, "Hey, help me out," because I want to help you guys out. This is your case now. All right? This isn't my case anymore. It's been my case up till now; now it's yours.

You're good lawyers, you're real good lawyers. This is a hard case; it's a difficult thing. I like lawyers, I like what you do, and I like you personally. The courtroom's your courtroom. If there's a way that I can be helpful to you with regard to any of the procedural aspects, with regard to what's going on here, don't hesitate to ask. Christine, my assistant, or Barb, my bailiff, they're as good as it gets for being helpful. We'll work our way through this, I promise.



And thank you for your attention.

Are you all ready?

MS. EISENHOWER: I just have one more question. The Defendant has indicated that he's -- he may or may not call Dr. Reed as an expert. I filed a motion to exclude his testimony on relevance, and sometime before opening, I would appreciate whether I -- we can talk about that in opening or not.

THE COURT: Let's get through voir dire and see what we want to do.

(Whereupon, voir dire commenced in the courtroom.)

(CONTINUATION OF THE PROCEEDINGS OF THE ABOVE-CAPTIONED CASE ON TUESDAY, THE 25TH DAY OF APRIL 2006, COMMENCING AT APPROXIMATELY 2:00 P.M.)

THE COURT: Come on in and be seated, folks. They're all standing for you out of respect.

Momentarily you will be sworn in as jurors in the case, and when that occurs, as a matter of respect, the attorneys and the parties, the folks who are in the courtroom, will stand up for you. The best way of handling that - it's a little uncomfortable, I imagine - is to get in here and just sit down. That kind of signals to me I can tell everybody to sit down and it works out fine. That's why they do that; it is tradition.

My bailiff is now going to swear you in. You're going to take a seperate oath. The first oath you took was to answer the questions of the voir dire honestly and truthfully, and now you're going to take an oath as jurors.

(Whereupon, the twelve members of the Jury and two alternates were then and there sworn in by the bailiff.)

THE COURT: Have a seat,



folks. I've got to give you a couple of remarks and then we're going to move on. These are instructions.

It's important that you be fair and attentive throughout the course of the trial.

Do not discuss this case among yourselves or with anyone else.

Do not form or express an opinion about this case until all the evidence is in, you get my instructions of law, and you begin your deliberations in the jury room.

It might be curious for you to understand, to wonder why it is you can't talk about this case, even among yourselves while the case is going on. Here's the reason.

In a matter of two or three minutes you're going to get the opening statement of the State of Ohio; then the opening statement from Mr. Green, representing the Defendant; then the witnesses, the State will call their witnesses first and Mr. Green may call his witnesses afterwards - that's going to take probably the rest of this week; then you're going to get the closing arguments of both the State and the Defendant; then you're going to get my jury instructions, telling you what the law is in this case that you're going to be applying to the facts as



you find them; and then you're going to begin to deliberate. It would be unfair for you to begin to deliberate before you have everything you need to do so. You'd be going off without really being prepared.

So I suggest to you, that when you're in the jury room, coming and going, you're going to spend a lot of time together over the next week, talk about your family, talk about the weather, talk about the really good Cleveland Cavaliers, anything else you want to talk about. In fact, purposely divert yourselves from talking about the case or the parties, what's going on. Okay? Good.

You have to explain this important rule to your family and friends when you get home tonight. You can't talk about this with your family or your friends or anyone else while you're a juror in a case like this. You can, when you go home tonight, explain to your family and friends that you are a juror in a criminal case in Judge Collier's courtroom; otherwise, you cannot discuss it. That's going to make you seem incredibly important to your family and friends, at least until after the case is over, right? Right.

Once this case is completed and the verdict is



read in open court, I will absolve you from this admonition, and at that point you can talk to the parties, the attorneys, the witnesses, the press. You can talk to perfect strangers on the street if you want to and tell them about your jury duty. It's okay, all right?

Also, because you're American citizens, if you decide that you don't want to talk to anybody about what went on here, what your thoughts are, you can tell people to buzz off. That's your right and it's none of their business unless you make it that way. You're American citizens. You have the right to be able to say so. You choose that on your own, but you'll only be free to make that choice after the case is over.

We have at least two members of the press here today, and they're going to be covering the trial. It's not unusual that they come in and cover cases, but it causes a particular problem I've got to talk to you about. You're going to not read the newspaper for the next couple of days. It is not unusual for the newspapers to write about what's going on in the case and reference back to other facts and information that aren't necessarily in this case, right? I'm not going to say that they're wrong, but

# OHIO INNOCENCE PROJECT (OIP) APPLICATION

Exhibit-36

NAME: Frank P. Wood

INMATE NUMBER: A504-107 DATE OF BIRTH: 12/01/67

SOCIAL SECURITY NUMBER: 073-58-0327

CURRENT CORRECTIONAL INSTITUTION AND ADDRESS:

Grafton Correctional Institution

2500 S. Avon Belden Rd.

Grafton, Ohio 44044

CASE MANAGER NAME AND PHONE NUMBER: Ms. Gentile (440) 748-5000

COUNTY OF CONVICTION: Medina

ARRESTING POLICE DEPT.: Medina City Police Department

DATE OF CONVICTION: May 1, 2006

COURT CASE DOCKET NUMBER: 05CR0365

**Please return this application to:**
Ohio Innocence Project
P.O. Box 210040
Cincinnati, OH 45221

Please complete this application as fully as possible.
If you do not know the answer to a question, you may leave it blank.

NOTICE: The Ohio Innocence Project and the Ohio Public Defenders (OPD) Wrongful Conviction Unit have signed a Joint Litigation, Common Interest, and Confidentiality Agreement. This means that at times our office and the OPD Wrongful Conviction Unit may share information about cases to avoid duplication of efforts.

## OIP Third-Person Contact Authorization Form

This document authorizes and directs any persons or government agencies including, but not limited to, police, prosecution, sheriff, probation, and parole officers and officials, to release to the Ohio Innocence Project and any attorney, staff member, student, or volunteer working under its purview, any and all documents and other materials in their possession pertaining to me or my case.

This document authorizes and directs attorneys who have previously represented me or from whom I have sought legal advice and their agents, to release to the Ohio Innocence Project and any attorney, staff member, student, or volunteer working under its purview, any documents pertaining to me or my case and to disclose to the Ohio Innocence Project any confidential information or privileged communications.

This document authorizes any attorney, staff member, student, or volunteer working with the Ohio Innocence Project to communicate with any persons or government agencies having information relevant to the evaluation of my case, including, but not limited to, attorneys who have previously represented me or from whom I have sought legal advice, as well as police, prosecution, sheriff, corrections, probation, and parole officers and officials. This document further authorizes the Ohio Innocence Project to examine, receive, and/or photocopy any and all documents pertaining to me or my case that are in the possession of such persons or agencies.

This document authorizes any attorney, staff member, student, or volunteer working with the Ohio Innocence Project to communicate with any persons or organizations, including, but not limited to, members of the OPD Wrongful Conviction Unit regarding the evaluation, progress, and/or status of my request for legal assistance.

In all other respects, my interactions with the Ohio Innocence Project will remain privileged and confidential.

This document serves as authorization for the Ohio Innocence Project's evaluation and investigation purposes only.

**I understand that the Ohio Innocence Project does not represent me.**

By signing below, you understand that if evidence comes to light that undermines your innocence claim, we will not work on your case anymore and will no longer represent you if representation has started. For example, if we litigate to get DNA testing for you, and the DNA test results confirm your guilt, we will discontinue representation. This includes both cases where we are simply investigating and cases where we have started representing you as your attorneys, but then evidence comes forward that shows us you no longer meet our criteria. Because we are a non-profit organization with a limited mission of assisting people only if they have a legitimate innocence claim, if we end up taking your case and representing you, and then new evidence comes forward that undermines your innocence claim, we will stop representing you at that time.

I have read and fully understand the information above.

Signature of inmate: Frank P. Wood

Date: March 10, 2015

1. Are you currently incarcerated? Due to limited resources, we are only able to assist inmates who are currently incarcerated.

   ☒ Yes ☐ No (STOP! We cannot assist you.)

2. Were you convicted in Ohio? Due to limited resources, we are only able to assist inmates who were convicted in Ohio (state and federal charges).

   ☒ Yes ☐ No (STOP! We cannot assist you.)

3. Are you claiming **actual innocence**? Actual innocence means that you were not involved in ANY way (e.g., self-defense is not an actual innocence claim).

   ☒ Yes ☐ No (STOP! We cannot assist you.)

4. Are you currently incarcerated on the charge(s) that you are claiming actually innocent?

   ☒ Yes ☐ No (STOP! We cannot assist you.)

5. Please list **ALL** the crimes (and the corresponding sentences) that you are **CURRENTLY** incarcerated for. *Failure to disclose this information may result in the termination of your case.*

   One count of rape of an alleged victim under the age of ten (10) pursuant to O.R.C. 2907.02 (A)(1)(b)(B); a felony of the first degree. Sentence: 10-Life.

   One count of gross sexual imposition of an alleged victim under the age of thirteen (13) pursuant to O.R.C. 2907.05 (A)(4); a felony of the third degree. Sentence: 3 years.

6. Please list **ALL** the crimes (and the corresponding sentences) that you have **EVER** been arrested and/or convicted for. *Failure to disclose this information may result in the termination of your case.*

   Arrested for domestic violence. Reduced to "Disorderly Conduct" because my former wife, Robyn-Spencer Speelman, lied under oath and this was the second time I had to call "911" during the course of our marriage.

7. Please describe (in detail) the facts of your case. What was the crime? What did the **prosecutors** say happened?

See Doc #1, Exhibits - A,B, & D.

8. Please describe (in detail) the facts of your case. What do **you** think happened (e.g., was there a struggle, were any fluids discharged like semen, saliva, or blood, did the perpetrator touch several items at the crime scene?)

With Exhibits - A,B, & D of Doc #1, combined with both pieces of new evidence, Scott Sadowsky, the legal guardian parent of the alleged rape victim S L sexually abused her on several occasions.

With Exhibits - A & D of Doc #1, Ryan Spencer, the uncle of K S the alleged gsi victim, sexually abused her on several occassions.

There were no bodily fluids of any kind. The State investigated my house in Medina for the alleged rape instead of the Sadowsky residence in Medina and their summer home in Put-In-Bay.

9a. What was the name of the victim(s)?

Alleged rape victim: S L
Alleged gsi victim: K S

9b. How did you know the victim(s)?

S L was the legal guardian child of my former girlfriend Danielle Sadowsky-Smith.

K S is the biological daughter of my former wife Robyn Spencer-Speelman.

10. Did you go to trial or plead guilty? Please describe in the space below why you chose to go to trial or plead guilty.

☒ Trial ☐ Pled guilty

1) I knew the truth.

2) Never take credit or blame for what is not yours.

3) I believed in the justice system.

4) I am innocent. And that has not changed.

11. Did you appeal your conviction(s)?

☒ Yes ☐ No

12. Do you have any litigation pending in court (criminal or civil)?

☒ Yes (Please list all cases below) ☐ No

My first piece of new evidence is in play (Doc #3 & 4), and currently under appeal (Doc #7 & 8).

My second piece of new evidence was filed in the Medina County Court of Common Pleas on February 20, 2015 (see Doc #12 & 13).
My Motion to disqualify the Prosecutor is still pending in the Medina County Court of Common Pleas (Doc #15).

13. Do you currently have a lawyer? If so, please provide his or her name, address, and telephone number.

☐ Yes ☒ No

Currently I am pro se.

14. How did you become a suspect in the case?

Revenge for my affair with and impregnation of Scott Sadowsky's wife, Danielle Sadowsky-Smith.

Revenge for divorcing my former wife Robyn Spencer-Speelman and for ceasing all financial support.

(Doc #1, Exhibits - A, B, & D)

15. Describe your arrest: where were you and how and when did it happen?

I was living in Medina Twp. I was arrested in my driveway by Detective Mark Kollar of the Medina City Police Department. My date of arrest was August 4, 2005.

Detective Kollar was operating outside of his jurisdiction. He admitted this under oath.

16. Who were the investigating detectives on your case?

Detective Mark Kollar of the Medina City Police Department. The name of his partner is unknown to me.

17. Did the police or investigating detective interview you BEFORE you were arrested?

☒ Yes ☐ No

18. Did the police or investigating detective interview you AFTER you were arrested?

☐ Yes ☒ No

19. How many times were you interviewed, and for how long?

Once. I was interviewed by the Montville Township Police Department for about 30 minutes. After this interview, and the search of my home, their Office "terminated" my case (Doc #1, Exhibit - B, p.D-5, ¶3).

20. Was any part of the interview(s) recorded or videotaped? If yes, do you have a copy of the interview?

☒ Yes ☐ No

No. I do not have a copy. For some reason they never produced it at trial.

21. Did you give a written statement?

☐ Yes ☒ No

22. If you gave a statement in any form, please explain why you decided to give a statement, and briefly describe what you told the police.

Not applicable.

23. Did you take a lie detector test? If so, when, why, and what was the result?

☐ Yes ☒ No

See Doc #1, Exhibit-B, p.D-5, ¶3.

24. Was any victim or witness asked to identify you prior to trial with a line-up or photos? If so, please describe who identified you and how.

☐ Yes ☒ No

25. Do you know of anyone who was asked to identify you but could not? If so, who, when, and where?

☐ Yes ☒ No

26. Did any eyewitnesses testify, either for you or against you? [An eyewitness is someone who claims he or she actually saw the crime being committed.] If so, please list their names and any information you have about how to contact them.

☐ Yes ☒ No

27. Who was your trial attorney? Was he or she appointed to represent you, or did you hire him or her?

Lead Counsel F. Harrison Green - retained

Co-counsel Ronald R. Stanley

28. Who was the prosecuting attorney?

Assistant Prosecutor Anne Eisenhower

29. Who was the trial judge?

Christopher J. Collier

30. Did you have any co-defendants? Please list all of your co-defendants and any information you have about how to contact them, including their prison number (if known). Did they plead guilty or go to trial? Did any of your co-defendant(s) testify against you?

☐ Yes ☒ No

31. Did you testify on your own behalf? If not, why not?

☐ Yes ☒ No

Despite my repeated demands to testify, Counsel Green refused. He kept telling me, "They didn't prove their case."

(Doc #1, Exhibit-B, p.D-7, ¶3-4)

32. Did any of the victims testify? If so, which one(s)?

☒ Yes ☐ No

Both S L and K. S testified.

33. Did any experts testify for either side? If so, who and what did they say?

☒ Yes ☐ No

Dr. Suzanne LeSure testified for the State: Doc #1, Exhibit-D, p.11-12, and 14.

Dr. Douglas M. Reed testified Voir Dire for the defense: Doc #1, Exhibit-C.

34. Did any police informants or snitches testify against you at your trial? If so, who testified and what did they say?

☐ Yes ☒ No

35. Did anyone testify that you confessed to, or admitted being involved in, the crime?

☐ Yes (Please describe below) ☒ No

36. Did anybody testify against you in exchange for a promise of leniency in his or her own case?

☐ Yes (Please describe below) ☒ No

37. Did anyone who testified against you, including the alleged victim, have a reason to lie?

☒ Yes (Please describe below) ☐ No

Doc #1, Exhibit-A will reveal that Robyn-Spencer Speelman lied for revenge and to protect her brother Ryan.

Doc #1, Exhibit-B will reveal that Danielle Sadowsky-Smith lied to keep her son A from being taken by Scott. Scott Sadowsky lied out of revenge for my affair with and impregnation of his wife, and to cover up his own sins. S L lied due to implanted memories.

38. Who else testified for the **prosecution** at your trial?

I will enclose a witness list as Doc #20.

39. Who testified for the **defense** at your trial?

Lead Counsel Green failed to subpoena the witnesses I requested. He did call Dr. Douglas M. Reed, a licensed clinical psychologist who spent his entire 30-year career working with socipaths and sex offenders. Dr. Reed was only permitted to speak Voir Dire (Doc #1, Exhibit-C). The "cynical" Jury never heard any evidence on my behalf.

40. Do you have an alibi that proves you could not have committed the crime?

☒ Yes (Please describe below) ☐ No

The State provided proof of my innocence for me. The perfect alibi. See Doc #1, Exhibit-D and you will find my uncontested Claim Of Actual Innocence. This Claim is comprised solely of State's evidence from the face of the incomplete and materially altered Trial Record.

41. Did you attempt to prove the alibi at trial? If so, how? If not, why not? Did you discuss your alibi with your attorney? If not, why not?

☐ Yes ☒ No

Attorney Green refused to consult with Attorney Stanley or me. It took me years to piece the testimonies together to find the truth.

42. Did the prosecution use any of the following "sciences" against you to convict you? *If you check one of the boxes, please explain below.*

☐ Bite mark analysis
☐ Microscopic hair comparison
☐ Arson science
☐ Gun shot residue
☐ Shaken baby-syndrome
☐ Blood typing (AB, O, etc.)
☐ Microscopic fiber or carpet analysis

No.

43. Were DNA test results used against you to convict you?

☐ Yes (Please describe below) ☒ No

44. Please describe the defense that you or your attorney raised at trial. (For example, if you were convicted of rape, did you assert that the sex was consensual, or that you were wrongfully identified? Or did you argue self-defense, present an alibi, or raise some other defense?)

Attorney Green failed to present any viable defense.

He was paid-off and rolled over.

45. Was any physical and/or biological evidence recovered during the investigation of your case? [Examples of this type of evidence are blood, hair, clothing, weapons, etc.] If so, please describe it.

☐ Yes ☒ No

46a. If applicable, was a rape kit obtained from the alleged victim?

☒ Yes ☐ No

46b. Did you ever see or hear about a report of the test results? If so, what did it say?

☒ Yes (Please describe below) ☐ No

See Doc #1, Exhibit-D, p.7, ¶1.

46c. Were the results used at trial?

☒ Yes (Please describe below) ☐ No

This evidence was presented by Nurse Practitioner Donna Abbott.

46d. Do you know what lab or individual conducted the test?

☒ Yes (Please name below) ☐ No

Donna Abbott worked for Akron Children's Hospital

47. Is there new evidence in your case—or could there be new evidence in your case--which would demonstrate your actual innocence? Before you answer this question, below, please read the following discussion of "new evidence" very carefully.

"New evidence," means evidence that was not used by either side—the defense or the prosecution—at the time you were convicted. Some examples of new evidence include:

1) A DNA test that a lab contacted by the Ohio Innocence Project could perform on the crime scene evidence which would conclusively prove that you did not commit the crime.
2) A DNA test which a lab could perform which would point to someone else having committed the crime
3) A DNA test on the crime scene evidence which could be put in the national DNA database of convicted felons and which might match to a convicted felon showing that that person actually committed the crime.
4) A key state witness against you at the time you were convicted who has now recanted his or her testimony. By "recanted," we mean that the witness is now saying that he or she lied against you before, or was mistaken before, and that they now are saying something different that shows you are innocent.
5) A newly discovered witness who has recently come forward, and who did not testify before, who can now testify that you are innocent. This can be someone who saw the crime and says it was someone else who they saw do it, or someone who provides you with a solid alibi because they were with you somewhere else when the crime occurred.
6) Other new science other than DNA, such gun shot residue analysis or new arson science, which could be performed on the crime scene evidence and which would show that you are innocent. (Note: lead bullet analysis and arson science have greatly advanced in recent years. Many old methods that might have been used to convict you are now considered inaccurate. If you were convicted as a result of arson science or gun shot residue analysis, new studies showing those methods were flawed could constitute new evidence).
7) Evidence that your lawyer did not present evidence that could have proven you innocent.

**Note: The above list is not a complete list of the different types of new evidence, but is a list that helps explain the concept of "new evidence" by giving several examples.

Having read the description of "new evidence," please answer question 47 describing the new evidence in your case:

Yes. There are two pieces of new evidence.

1) A medical research paper: Doc #3, Exhibit-B; Doc #4, Exhibit-J.

2) Facebook transmission: Doc #12, Exhibit-B; Doc #13, Exhibit-C.

48. Do you know whether any physical evidence is still available for testing?

☐ Yes (Please describe below) ☒ No

49. Do you know who committed the crime(s) of which you were convicted? If yes, please name them below and provide that person's whereabouts (if known).

☒ Yes ☐ No

Scott Sadowsky, who assaulted S L , lives in Ohio.

Ryan Spencer, who assaulted K S , lives in Florida.

50. How do you know that this person is the true perpetrator?

Pertaining to Scott Sadowsky, see Doc #1, Exhibits-B and D.

Pertaining to Ryan Spencer, see Doc #1, Exhibit-A and D.

51. What is your first language?

English

52. What is the highest grade you completed in school?

REDACTED

53. Is there any reason that corresponding in writing will be difficult for you?

☐ Yes (Please describe below) ☒ No

54. Have you ever received mental health treatment?

☐ Yes (Please describe below) ☒ No

55. Would you be willing to sign a release to allow us to review your medical records?

☒ Yes ☐ No (Please describe why not)

56 53. Were you employed at the time of your arrest? If so, please provide the name, address, and telephone number of your employer:

☒ Yes ☐ No

I owned my own construction company for over eight years. See Doc #1, Exhibit-A, p.1, ¶1.

57 54. Please provide the names, addresses, and phone numbers of family and friends who might have information regarding your case. *By writing these names, you are giving us permission to talk to them about your case.*

Attorney Ronald R. Stanley
P.O. Box 571
Medina, Ohio 44258

Phone: (330) 952-1415

58

55. Please tell us anything else you would like us to know that could help us prove your innocence? Use additional sheets of paper if necessary.

I have given you everything that I have that could be used to prove my innocence. All I ask is that you read everything I sent you.

Signature of inmate: Frank R. Wood

Date: March 10, 2015

you aware of whether or not a social history was taken?
A It was.
Q All right. And then are you also aware of who brought her in?
A Yes.
Q And did you speak with those people?
A I believe I spoke with her -- her mother or her legal guardian.
Q Okay. And then did you conduct a physical examination on S[REDACTED]?
A Yes, I did.
Q All right. Now, going over in detail, what exactly -- well, let's go over in detail the physical exam that you conducted on S[REDACTED].
A The physical exam essentially is a head-to-toe physical exam that the child would get for a preschool physical, or any other type of well-child exam. But because of the nature of the complaints, or allegations, that the child is coming in with, the bulk of the exam, or the most important part of the exam, is to look at the vaginal and the labial areas. That is done first just by me looking at those parts with the naked eye. We also have a piece of equipment called a colposcope that is essentially a magnifying device that allows me to see things a little more clearly. It's not inserted into the

Exhibit-37



child in any way, it stays about nine inches to a foot away, but again, it allows me to see things more clearly. It also has the capability for photo documentation.

If it's necessary, we do testing for sexually-transmitted diseases. That was not done in S[REDACTED]'s case.

And that's essentially the physical exam process.

Q All right. So you examined her from head to toe?
A Yes.
Q And then you examine both her vaginal area and her labial area?
A Yes.
Q Okay.

(Whereupon, a discussion between Prosecutor Eisenhower and Attorney Green was then held out of the hearing of the court reporter.)

Q Now, as part of your exam, did you generate a report?
A Yes.
Q All right. Showing you what's been marked as State's Exhibit 4, can you identify that for me, please
A (Witness perusing document.)

This is a copy of the medical record that was completed on S[REDACTED] [REDACTED]. It contains my documentation, the documentation of Elizabeth Horstatter.

Q Elizabeth Horstatter is the licensed social worker



who interviewed S[REDACTED]?
A Yes.
Q And she gave you the history from that interview?
A That is correct.
Q All right. Let's turn to the pages that you completed as a result of the physical exam.
A I put the time there that I dictated the report and another nurse did the rest of that.
Q All right. Now, did you, in fact, report that she seemed to be in fairly normal health?
A Yes.
Q She's in good health for a child her age?
A Yes.
Q And that first page is just basically her immunizations and her regular checkup kind of information?
A Yes.
Q All right. Then the next page. It's the Suspected Child Abuse and Neglect Record.
A Yes.
Q And you filled that out, correct?
A Yes, I did.
Q Explain for me what that is and what the findings mean.
A This is a series of checkboxes that we use to just check the history that is given to us, mainly on what type



of information the child is describing or the historian is describing to us.

There's also a section that asks if there have been any physical symptoms or behavioral symptoms related to the allegation of sexual abuse.

Q All right. The next page. Does that represent the social history of the incidents that Elizabeth Horstatter took?
A No. This actually is my dictation that was --
Q Okay.
A -- transcribed. It was the history from S[REDACTED]'s legal guardian, and a history that was given to me by Elizabeth Horstatter.
Q Okay. And the next page?
A The next page is documentation of the physical exam that I did.
Q All right. Now, you go over her mouth, her face, her head, her neck. There are no signs of physical trauma?
A That's correct.
Q Physical trauma is defined as what?
A Physical trauma is an injury to the body, a disruption of the tissue in any way, an abrasion, a cut.
Q Okay. And she had none of that?
A She had none of that.
Q All right. And then you examined her vaginal area?

A Yes, I did.
Q Tell me what you found.
A I found a completely normal exam. During the exam, a small, little portion of skin got, I guess, somewhat of an abrasion, which is not uncommon in some little girls. That happened during the exam, though. It was not there before that. Otherwise, there was nothing out of the ordinary on her physical exam.
Q All right. Now, you also then noted that you did not really -- you also checked her labia region, correct?
A Yes.
Q And the same kind of findings, correct?
A Correct, nothing abnormal.
Q All right. Now, did you note anything else in those areas out of the ordinary?
A No.
Q Okay. The next page. Did you -- you indicated you did not check for socially-trans -- or sexually-transmitted diseases.
A I did not.
Q Why not?
A Because I discussed that with her mother, and she did not feel that that needed to be done, and based on her explanation of why medically it was appropriate not to do testing, I didn't.

Exhibit-37



Q All right. Now, did you draw a conclusion based on your exam, after reading the history and after conducting your exam?
A Yes.
Q And did you reflect that in your report?
A Yes, I did.
Q And what conclusion did you draw?
A That S[REDACTED] had been a victim of sexual abuse.
Q All right. Now, you also indicate that there weren't any physical findings.
A That's right.
Q Can you tell me how those two things can coexist?
A There are a number of reasons for that. Can I first start by kind of explaining the anatomy on a child S[REDACTED] 's age?
Q Yes.
A When we're talking about the genital or the private part anatomy, the first thing you see when you look at a little girl that is not wearing any clothes in the private part is the labia. That's the outer surface of the genital system. If you separate that skin about a half an inch, about an inch inside of that is a piece of tissue called the hymen. The hymen is a piece of tissue that is kind of like a curtain around the vaginal area. It does not completely occlude the vagina, which is a pretty common



misconception among everyone.

When a girl starts to go through puberty, that tissue changes. But irregardless, unless there's a congenital abnormality, when a hymen is completely closed together, there's also an opening there, and as a little girl gets older, the opening gets bigger.

And then inside of the hymen is the vaginal canal, and when you go further up there's the cervix and the uterus and the rest of the reproductive system.

Q Okay. So how is it that you can conclude she was a victim of sexual abuse, because there are no physical findings of that?
A First of all, in most cases of children describing sexual abuse, in about ninety percent there are no physical findings. And that's because either when they have a physical exam and some time has elapsed, if there was any type of injury - a bruise, an abrasion, a cut, a tear - the tissue in that area heals very quickly. It's kind of like the tissue inside of your mouth. We've all been chewing and bitten the wrong way and it hurts, and if you drink something with citrus in it, it burns. You might even taste a little bit of blood, but two or three days later it's completely healed so you don't even know that it's there.

The tissues in the vaginal area are tissues of



the same structure. So there can be an injury there initially and it heals very quickly. I have seen children with injuries and then seen them two days, two weeks later, and it's healed beyond recognition. So if there is an initial injury, it can heal so we don't see it when we do an exam after time lapses.

Sometimes there isn't any injury because things can go inside of the vaginal area and it's not going to do any damage. As I said, the hymen sits back about a half an inch or an inch inside the body, so a finger or a penis can go in that far and nothing happens. Sometimes penetration can go through the hymen and nothing happens.

In children, before they go through puberty, usually the hymen is very sensitive if it's touched, so if something touches the hymen they will describe that there was pain but, you know, we just kind of surmise that maybe that's when the penetration stops and that's why there wasn't any injury.

So there can be sexual abuse without any physical findings because there either weren't any injuries done at all or there were some minor injuries that have healed by the time the exam is done.

Q Those injuries that heal, would they leave scars?
A Most of the time they do not.
Q Is State's Exhibit 4, that I gave you, to your

Q He was working on their deck?
A He had already been done working on their deck. My brother Ryan actually worked with Frank.
Q And when you met him, you were still married at the time?
A Yes, I was.
Q And you began a relationship with Frank Wood?
A Yes, I did.
Q All right. And at the time you left your husband, were you pregnant with --
A I don't think I was.
Q All right. And apparently it was established that Frank Wood was not the father of that child?
A Yes.
Q All right. Now, were there any financial settlements as a result of the divorce?
A No, there was not.
Q Okay. At some time during -- or after your divorce, was Frank Wood helping you pay your bills?
A He helped me pay my car insurance.
Q How much was that a month?
A It was around -- between ninety-four and ninety-six dollars.
Q Whose idea was that?
A He had offered it. He knew that I needed some



assistance at that time, and he had offered to do it.
Q All right. How long did he do it?
A Not more than six months.
Q Okay. So he paid your car insurance for a period of time?
A Hm-hm, yes.
Q All right. Now, did there come a time after you had separated and divorced Frank Wood and you were -- where were you living?
A In Brunswick. I had my own apartment.
Q All right. Did there come a time where your daughter K[redacted] made a disclosure to you concerning Frank Wood?
A Yes.
Q What was that?
A This was -- this was at the end of the summer of 2004.
Q The end of the summer of 2004?
A Hm-hm.
Q Tell me what she told you.
A She told me --
MR. GREEN: Objection.
THE COURT: Basis?
MR. GREEN: Hearsay.
THE COURT: Come on up.
(Whereupon, the further following proceedings



were then held at sidebar out of the hearing of the Jurors.)
THE COURT: Go ahead.
MS. EISENHOWER: Your Honor, I believe that this is going to fit the excited utterance exception.
THE COURT: We haven't gotten that yet.
MS. EISENHOWER: This was the first initial disclosure that she ever made about this incident to anybody.
THE COURT: Okay. As it stands right now, I don't know how I'm going to rule. Why don't you --
MS. EISENHOWER: I can just strike that question.
THE COURT: Okay.
(Whereupon, the further following proceedings were then held in the presence of the Court, the Jurors, Counsel, and the Defendant.)

BY MS. EISENHOWER:

Q I'm going to strike that question and rephrase it for you.
Did there come a time where K[redacted] came to you and had a conversation with you about Frank Wood?



A Yes.
Q And can you describe for me her state at the time she was having that conversation?
A She was upset.
Q Was she crying?
A She did start to cry as she was talking to me.
Q Was she shaking?
A Yes, she was.
Q And in your mind, was she visibly upset about what she was telling you?
A Yes, she was.
Q And what did she tell you?
A She stated to me that he had touched her.
MR. GREEN: Objection, your Honor.
THE COURT: I'm going to sustain the objection. Your next question, please.
Q As a result of what she told you about Mr. Wood, what did you do?
A I did not do anything at the time.
Q Why not?
A Because we were all still grieving over my dad dying, we were both very close to him, it was -- we were still trying to heal from that.
Q Any other reasons?

Exhibit-39

IN THE DOMESTIC RELATIONS COURT
MEDINA COUNTY, OHIO COMMON PLEAS COURT

ROBYN WOOD
Petitioner
Date Of Birth: 5-7-76

v.

FRANK WOOD
Respondent
Date Of Birth: [redacted]

Case No. 01 DR 0674
2001 OCT -1 AM 9:53
CSEA No.
FILED
KATHY FORTNEY
MEDINA COUNTY
CLERK OF COURTS
Judge MARY R. [illegible]
Magistrate

**DOMESTIC VIOLENCE FULL HEARING CIVIL PROTECTION ORDER (R.C. 3113.31)**

☐ WITH SUPPORT ORDER

**NOTICE TO RESPONDENT: SEE THE ATTACHED WARNING.**

**PERSON(S) PROTECTED BY THIS ORDER:**
PETITIONER: ROBYN WOOD DOB [redacted]
FAMILY OR HOUSEHOLD MEMBER(S):
_____ DOB _____
_____ DOB _____
_____ DOB _____

RESIDENCE: 675 W. STURBRIDGE DR MEDINA, OH 44256

This proceeding came on for a hearing on September 27, 2001 before the Court ~~or the undersigned Magistrate~~ pursuant to Civil Rule 53 and the *Ex parte* Order filed on August 30, 2001. The following individuals were present: Petitioner, represented by Attorney James PALMQUIST + respondent, represented by Atty. RON Stanley
The court takes judicial notice that the docket shows the parties have collectively filed 4 prior petitions of domestic violence against MEMBERS of petitioner's family, 5 of which were dismissed by the Court upon hearing and four withdrawn by the parties.
The Court/~~Magistrate~~ hereby makes the following findings of fact: The respondent heard glass breaking + drawers slamming in kitchen. Petitioner acknowledged she was SMASHING wine glasses to relieve frustration as she prepared to move out. Respondent heard the breaking glass + saw a knife. He removed petitioner from the residence by picking her up from behind in a bear hug + placing her outside before slamming door. Petitioner testified she landed on her hands + knees. She presented Medina General ER records + showed the court she sustained bruises on her lower legs + the side of her left hip (the most substantial bruise). The latter injury is inconsistent with the incident she described. The respondent's physical removal of petitioner, however, appears to have recklessly caused some injury in violation of R.C. 3113.31(A)(1)(a).

The Court further finds by a preponderance of the evidence: 1) that the Petitioner or Petitioner's family or household member(s) are in danger of or have been a victim of domestic violence, as defined in Ohio Revised Code 3113.31(A), committed by Respondent; and 2) the following orders are equitable, fair, and necessary to bring about a cessation or prevention of domestic violence against the family or household member(s) named in the Petition. Violence Against Women Act, 42 U.S.C. 13981, Full Faith and Credit Declaration: The Court finds that it has jurisdiction over the parties and matter under Ohio law and that notice and an opportunity to be heard were provided to Respondent.

**Upon the evidence submitted, the Court hereby ORDERS as follows (the applicable orders are marked below):**

☒ 1. **RESPONDENT SHALL NOT ABUSE** the family or household member(s) named in this Order by harming, attempting to harm, threatening, molesting, following, stalking, bothering, harassing, annoying, contacting, or forcing sexual relations upon them. [NCIC 01 and 02]

☐ 2. **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence: _____.

☒ 3. **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at 1164 Briarwood Blvd. Chippewa Lake, OH is granted to: Respondent. ~~Respondent~~ Petitioner shall not interfere with this individual's right to occupy the residence by canceling utilities or insurance and interrupting phone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

19. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by law. "Delivered" for this purpose means service in accordance with Rules 4 through 4.6 of the Rules of Civil Procedure. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond, and is effective through the following date: 8/30/02.

**IT IS SO ORDERED.**

Jackie L. Owen
MAGISTRATE

JUDGE

**A FULL HEARING** on this Order, and on all other issues raised by the Petition, shall be held before Judge/~~Magistrate~~ Mary Kovack on September 13, 2001 at 2:00 ~~a.m./p.m.~~ at the following location:

**MEDINA COUNTY DOMESTIC RELATIONS COURT**
**SECOND FLOOR, OLD COURTHOUSE**
**99 PUBLIC SQUARE**
**MEDINA OH 44256**

**SERVICE OF ALL DOCUMENTS TO:**

- [x] Respondent (by personal service)
- [x] Police Dept. Where Petitioner Resides: Medina PD
- [ ] The Medina County Sheriff
- [ ] Police Dept. Where Petitioner Works: _____
- [ ] OTHER: _____

Exhibit-40

**COURT OF COMMON PLEAS, DIVISION OF DOMESTIC RELATIONS**
**MEDINA COUNTY, OHIO**

COMMON PLEAS COURT
2002 JUL 25 AM 11:25

ROBYN SPENCER
PETITIONER

CASE NO. 01 DC 0674

JUDGE MARY R. KOVACK

vs.

FRANK WOOD
RESPONDENT

FILED
KATHY FORTNEY
MEDINA COUNTY
CLERK OF COURTS

**ENTRY MODIFYING OR VACATING EX PARTE AND/OR CIVIL PROTECTION ORDER**

This matter is before the Court upon the motion of Petitioner to modify or vacate the Domestic Violence ~~ex parte~~ and/or Civil Protection Order issued herein on SEPT 27, 2001. Both parties appeared before the Court on JULY 25, 2002, and requested the Court to approve a modification for the following reasons:

THE PARTIES ARE DIVORCED AND HAVE RESOLVED THEIR DIFFERENCES

The Court advised Petitioner that unless Petitioner agreed to a modification, Respondent would be required to prove to the Court by a preponderance of the evidence that a modification of the Civil Protection Order is appropriate.

The Court advised Respondent that the following modification does not change the portion of the Civil Protection Order that prohibits Respondent from abusing Petitioner or other named family or household members, and that Respondent may still be arrested for any violation of those orders against domestic violence.

Upon hearing, the Court finds that the Civil Protection Order specified above shall be modified or vacated, as follows:

THE CIVIL PROTECTION ORDER IS VACATED IN ITS ENTIRETY

**All provisions of the Civil Protection Order not specifically modified or vacated herein shall remain in full force and effect and shall be enforced by law enforcement officers in accordance with law.**

IT IS FURTHER ORDERED THAT PETITIONER shall pay the remaining Court costs in this action forthwith by cash, check or money order to the Clerk of Courts.

ex
1 Cert

**IT IS SO ORDERED:**

Mary R. Kovack
**JUDGE MARY R. KOVACK**

Copies to:

✓ Petitioner ~~or attorney~~:
____ Other

✓ Respondent ~~or attorney~~:
____ Other:

JE:Modify/vacate ex parte and/or CPO

Q You just had a birthday?
A What?
Q You just had a birthday, right?
A Yeah.
Q Did you have a party?
A Sort of.
Q Sort of, okay.
What do you have with you?
A By Teddy Bear - Ted.
Q All right. Who lives in your house with you?
A My mom's new husband Eric, my mom, my two sisters J[redacted] and H[redacted], and my pets.
Q Oh, your pets?
A (Witness nodding affirmatively.)
Q What kind of pets?
A Three cats, one fish.
Q One fish. Do they get along with the cats, the fish?
A Sort of.
Q Sort of, huh? All right.
Was there a time where your mom was married to Frank Wood?
A Yes.
Q All right. Do you remember when that was?
A Yeah.
Q Do you remember how long ago? A while ago?





A (Witness nodding affirmatively.)
Q Okay. Do you remember -- you have to speak up nice and loud.
A Yeah.
Q There you go. All right.
Do you remember where you lived when you lived with Frank Wood?
A Yeah.
Q Where?
A Once in Chippewa.
Q Well, all right, let's talk about Chippewa. Did you live close to the lake in Chippewa?
A Yeah.
Q Did you like that?
A It was all right.
Q Okay. And Mr. Wood lived there with you, right?
A Hm-hm, yes.
Q Okay. When Frank Wood lived there with you, do you remember a time where you would talk to him in the upstairs room?
A No, I don't think so.
MR. GREEN: Judge.
THE COURT: Yes, sir.
MR. GREEN: Can Miss Eisenhower move just a little bit?



THE COURT: You can't block his view.
MS. EISENHOWER: Oh, okay. I'll stand over here.
MR. GREEN: And I'm a little concerned about the approach here, your Honor.
THE COURT: I don't care.

BY MS. EISENHOWER:

Q Do you remember a time where you and Frank were together upstairs in the house in Chippewa?
A No.
Q Okay.
THE COURT: Thank you. You can step down. Thanks very much.
THE WITNESS: Okay.
THE COURT: We're going to take a break. Don't discuss the case among yourselves or begin to form or express an opinion about the matter until you get all the evidence, you get your instructions of law, and you begin your deliberations.
We'll see you in about ten minutes. Thanks very much.
(Whereupon, the Jury exited the courtroom and the further following proceedings were then held in



the presence of the Court, Counsel, and the Defendant.)
THE COURT: You can't get that from her. She's not going to be able to do it. She can't do it.
MS. EISENHOWER: She has typically exhibited some reluctance initially, but then has actually been able to speak about what happened.
THE COURT: She doesn't remember being in the room with Frank Wood that's the site of this crime. If she doesn't remember it, she doesn't remember it. I'm not going to have you -- I mean, I'm not going to have you push the girl into something like this. I mean, it's just not right. You got what you got.
MS. EISENHOWER: I have Dr. LeSure, who indicates that every time -- I mean, that's her initial response every time when it's discussed.
THE COURT: And so then which one does the Jury believe, when she says "no" or when she says "yes"? That's my problem. My problem is that's where we are at. I mean, if you're relying on her to give you testimony that's truthful

- and I think you are - you've got to rely on her to give you testimony that'd truthful.

MS. EISENHOWER: Well --

THE COURT: And, "No, I don't remember," is, "No, I don't remember." And you saw her difficulty in doing this.

My other problem here is, this is a hard thing for her to do, and I certainly don't want to put her in a bad situation while this is going on in such a manner. I heard what I heard.

MS. EISENHOWER: Your Honor, may I recall her and ask her if she remembers telling someone about it? Because she's on tape telling people about it. She's discussed it with her therapist.

THE COURT: That's wonderful, except we've got a trial today, and this is where it matters. She can talk to the man in the moon, but unless she gets on the stand and says, "Yeah, I remember doing it," and, "I remember this man doing it to me," we don't have anything. She can talk to anybody in the world about this, but -- and if she's spoken to a therapist about this, good, that's good for her therapy. If she's talked to friends, that's good for her if she's able to express



her feelings about it. But we've got a trial today, and she has got to be able to present this in such a way to the Jury; that is, she has to say, "Yes, this thing happened." What I'm hearing her say is, "No, it didn't happen."

If she doesn't remember anything, she doesn't remember. I'm not privy to all of the things you are privy to. I know what I saw, and that was a girl who for - and I'll tell you - at least fifteen seconds didn't answer the question at all; and then second, a girl, when you asked her the question directly, almost in a way to get her to -- to lock her in, she says she didn't remember. I know that's what I saw.

And that's not her fault. I'm not blaming anyone. It's not your fault. It's just that's what you have sometimes, and that's what I was looking at.

So if you want to take a break, if you want to talk to her and calm her down, that's fine. I'll see you in a little bit.

(Recess taken.)

THE COURT: Miss Eisenhower, have you thought about what you're going to do?



MS. EISENHOWER: I would obviously like to recall her.

If you're not going to permit that, I would like to recall Robyn Spencer to identify Frank Wood, and then my next witness would be Dr. LeSure, who was treating both of these victims, who is going to outline her diagnosis and --

MR. GREEN: Judge, I can't hear her with all the background noise.

THE COURT: All right.

MS. EISENHOWER: Dr. LeSure is going to outline her treatment of them, the histories they both presented, and the diagnoses and the treatment that they have been given.

I would request that we play the interview that was done with [redacted], that was done at Job and Family Services by a Job and Family Services social worker.

THE COURT: Who was present during that interview?

MS. EISENHOWER: David Hadrich and Det. Keller.

Were you in the room?

THE COURT: You can't do it for the same reason. The Crawford case seems to



indicate to me, unless a social worker is doing this for the purpose of diagnosis and treatment, is part of the treatment team; it doesn't come under the diagnosis and treatment portion. But I'll listen to those witnesses if you want to put them on the stand and tell me the circumstances that surrounded that.

I'll see if we can get you your file. You're going to need a good five, ten minutes to look at that?

MS. EISENHOWER: Yes, your Honor, I am going to need a few minutes. I would -- I can give it to her now.

THE COURT: Why don't you do that, and why don't we come back in ten minutes and find out where you're at.

MS. EISENHOWER: So again, I guess I would request that I be able to recall [redacted].

THE COURT: Okay. Here's my question for you. If you recall her and you ask her, "Do you remember this," and she says "No," we're done, okay? We're done. We're done. I'm not going to let you go through with her, "Yes, you do remember. Do you remember this? Do you remember this?"

How old is she?

MS. EISENHOWER: She just turned ten.

THE COURT: Just turned ten. She's got to be able to -- you've got to take her testimony. I mean, some people can't do this. Maybe she can't do this. And that's okay.

But my point is -- here, let's do this. I'll give you the file, take ten minutes, talk to Dr. LeSure, see how you're going to do this. I'll listen to your request to put her back on the stand again for the purpose of asking her that question and we'll see where we're at and we'll go from there. All right?

MS. EISENHOWER: All right.

(Recess taken.)

THE COURT: Miss Eisenhower.

MS. EISENHOWER: I want to recall K[redacted]. I have spoken to her, she is willing to come back on the stand and talk. But, to be very frank with you, Judge, she indicates to me that she is too frightened to talk, but she is willing to say that is Frank Wood and that she has talked to Dr. LeSure about what happened, but when I begin to ask her the next question, she says, "I am too afraid



to talk."

THE COURT: I understand.

MS. EISENHOWER: So I would like to put her up there.

THE COURT: You have what you have. You know, I'll permit you to recall her. I guess what I don't want you to do is, I don't want you to testify for her. I'm fearful of that.

On the other hand, you know, I'm trying to get -- I'm more inclusive than exclusive. I don't want to -- I called a halt to it mostly -- well, not "mostly." I called a halt to the testimony for her. It seemed kind of difficult for her.

MS. EISENHOWER: Judge --

THE COURT: I don't want to put her in an uncomfortable position.

MS. EISENHOWER: I'm telling you that I've made a pact with her to ask her those two questions, and then she has said to me, "I'm too afraid to say anything else." That's all she's going to say, and for her mental well-being, that's all I'm going to ask her.

THE COURT: And I appreciate that.

MS. EISENHOWER: Yes, your



Honor.

THE COURT: I know how difficult these case are: We'll see what we can do.

MS. EISENHOWER: All right.

THE COURT: Good. Well, let's get started and see how much we can get through.

MR. GREEN: Just for the record, we'll object to the recalling.

THE COURT: I understand. She's a ten-year-old girl. I'm going to let her talk, but obviously the leash is short.

There's a couple of things. I'm concerned for your client, your side. I'm not going to let Miss Eisenhower testify for her. That's important.

And I don't mean that you would, but I know what it takes to try one of these cases. And they are hard.

And so the second thing is, I think Miss Eisenhower has called it just right. I mean, let's see what this girl will say, and I'll give you an opportunity to cross-examine her and we'll go from there.

So I will note your objection to my ruling.



MR. GREEN: Thank you.

THE COURT: Bring the Jury in.

(Whereupon, the further following proceedings were then held in the presence of the Court, the Jurors, Counsel, and the Defendant.)

THE COURT: There we go. We are back on the record in Case Number 05 CR 0365, State of Ohio versus Frank Wood.

Miss Eisenhower.

MS. EISENHOWER: The State of Ohio would like to recall K[redacted] [redacted] to the stand.

THE COURT: Okay. Just come on back in the same seat here.

You remember the microphone, right?

THE WITNESS: Yeah.

THE COURT: Just make your voice nice and loud. You don't like the microphone? You don't like it?

THE WITNESS: It's okay.

THE COURT: Yeah. Because see that lady back there? She loves to hear your voice, and you need to talk so she can hear you, okay?

THE WITNESS: Okay.

**COMMISSIONERS' MEETING – MONDAY, NOVEMBER 22, 2004** **Exhibit-43**

Sharon A. Ray called the meeting to order at 9:30 a.m. with Patricia G. Geissman and Stephen D. Hambley present.

The meeting opened with the Pledge of Allegiance and a prayer. There were no minutes for approval this week and no resolutions from the Highway Engineer's Office.

Gary Berkowitz, Human Resources Director, presented and reviewed the personnel resolution. Mrs. Geissman moved to approve this resolution. Seconded by Mr. Hambley. Ms. Ray pointed out that the Animal Shelter's part-time replacement employee and intermittent employee will be used on an as-needed basis such as when an employee is sick and to work some Saturday shifts. There was no further discussion. Roll Call showed all Commissioners voting AYE.

Gary presented a resolution approving and authorizing the suspension for two days of an electrical inspector in the Building Department. Mrs. Geissman moved to approve the suspension. Mr. Hambley seconded. There was no discussion. Roll Call showed all Commissioners voting AYE.

Ken Hotz, Sanitary Engineer, presented a resolution authorizing the acceptance of various waterline easements for two separate projects. Mrs. Geissman moved to approve the easements and Mr. Hambley seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

Gary Berkowitz, Human Resources Director, presented a resolution amending the Table of Organization for the Animal Shelter. They took a full-time deputy dog warden and reduced that to a part-time position. They also added an intermittent deputy dog warden position to work intermittently and for Saturday hour's coverage. Mrs. Geissman made a motion to amend the revised Table of Organization and Mr. Hambley seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

Chris Jakab, Finance Director, presented and reviewed resolutions involving amending the appropriations, various fund transfers, cash transfers, approving an agreement for Health & Development Services between Family First Council's Help Me Grow Program and the Medina County Health Department for service coordination and visitation, creation of a surplus rotary fund to benefit the online auction with distribution of the proceeds of the sales to the various departments, creation of a Safe Communities Program Fund that authorizes appropriations (a grant from the Ohio Department of Safety) in an amount not to exceed $56,382 administered through the Sheriff's Office, declaring Medina County property as excess property and authorizing them to dispose of the excess property through the online auction and Table A items may be disposed of, authorizing a contract with the Western Reserve Area Agency on Aging for Passport Services for home delivered meals, and paying the weekly bills totaling $1,361,438.13. Mrs. Geissman moved to approve the eleven finance resolutions and paying the bills. Mr. Hambley seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.



Mead Wilkins, Job & Family Services Director (JFS), announced that the Coats For Kids drive that they coordinated, raised over $2,000, which bought 152 coats. He praised the Medina Diner on Route 18 for raising over $800.

The second resolution Mead presented was authorizing a professional services agreement between Job & Family Services and Cornerstone Psychological. He explained that Suzanne LeSure and Cornerstone Psychological have been providing, for over ten years, free therapy for Medina County children who have been sexually abused. She organized therapists from different agencies to meet with these children at the JFS Building for several hours every week. This agreement would be to trim some of her administrative costs. Mrs. Geissman moved to approve the agreement and Mr. Hambley seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

The third resolution Mead presented was to renew the JFS contract with Sterling Oaks with Adult Protective Services. They have needed emergency placement occasionally so this will help them to have that service when needed. Mrs. Geissman moved to approve the contract and Mr. Hambley seconded the motion. There was no discussion. Roll Call showed all Commissioners voting AYE.

The last resolution Mead presented was amending the Prevention, Retention & Contingency Plan (PRC) for JFS. Since they have written sections of the plans at different times, it was necessary for the new administrator and staff to go through the entire contract and make sure the same language was used throughout and that it covered their currents needs. He gave examples of two major changes in the plan: they will not count education towards the work department, and appliances went from $200 to $400. Mrs. Geissman moved to approve the PRC amendment. Seconded by Mr. Hambley. Mr. Hambley asked for verification of his understanding that the major changes were the household expenses applicable towards household appliances increased, and the short-term educational expenses were changed. Mead said those were the two big ones. There was no further discussion. Roll Call showed all Commissioners voting AYE.

Karl Cetina, Medina County Drug Abuse Commission (MCDAC) Executive Director, reported that he attended an all-day training seminar on fetal alcohol syndrome disorder this month. He said there is more and more on the national and state levels where experts are getting involved with promoting the importance of proper and early diagnosis. Previously they looked at external symptoms and characteristics to identify the syndrome. Now they have better opportunities to diagnose it early on and better methods. The Tobacco Coalition continues to meet on a monthly basis. Betty Barlow with Oakes Family Care Center and Mitzi Kerr with Medina General Hospital have been very instrumental in developing the Fresh Start Program. This services pregnant women that smoke. Melanie Woods from ADDS has spearheaded the youth cessation effort countywide. They have contacted many of the schools and have involved students in some advocacy programs to help kids to not start smoking in the first place. After the first of the year the coalition will meet on an every other month basis. The working committees will meet on a monthly basis implementing the programs. Karl told the Commissioners that Medina General Hospital's Chaplain Jim Hostettler passed away after a long illness. He was instrumental in spearheading the effort with MGH. Karl will be attending his memorial service today.



Don Whitner, acting Transit Director, reported that Medina County Transit provided transportation for 1,149 riders on the Medina L, 34 riders in Homerville, demand response had 8,689 riders, and the Southwest Circulator had 152 riders. The total riders for the month were 10,024, and the number of riders year to date is 98,678. Vehicle miles for the month reached 70,384 and year to date it comes to 695,634 miles. Fuel used was almost 8,000 gallons for the

**COMMISSIONERS' MEETING – MONDAY, NOVEMBER 22, 2004**

11/22/04 RESOLUTION AMENDING THE PREVENTION, RETENTION & CONTINGENCY PLAN (PRC) FOR MEDINA COUNTY JOB AND FAMILY SERVICES

11/22/04 RESOLUTION AUTHORIZING THE USE OF MEDINA COUNTY COMPREHENSIVE PLAN GRANT ASSISTANCE PROGRAM FUNDS BY THE DEPARTMENT OF PLANNING SERVICES FOR THE CONSULTING SERVICES OF HNTB ARCHITECTS, ENGINEERS, PLANNERS

11/22/04 RESOLUTION TO ALLOW EXPENSES OF COUNTY OFFICIALS

MEDINA COUNTY COMMISSIONERS

Sharon A. Ray

Patricia G. Geissman

Stephen D. Hambley

Respectfully submitted,

Pamela M. Vereb, Asst. Clerk

# CORNERSTONE PSYCHOLOGICAL SERVICES
## 221 WEST LIBERTY , MEDINA OHIO 44256
## 330-722-4166

Exhibit-44

Please fax

## PATIENT CARE COMMUNICATION FORM
*(This section to be completed by client)*

### AUTHORIZATION TO DISCLOSE INFORMATION

To the party receiving this information: This information has been disclosed to you from records whose confidentiality is protected by federal law. Federal regulations 42 CFR Part 2 prohibit you from making further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is not sufficient for this purpose.

✓ I want this information released to my physician

_____ I do not want this information released to my physician

Patient's Signature [signature] Date 11/22/04

Parent / Guardian Signature [signature] Date

Witness Signature Date

**Physician's Name:** NATALIE JADLOWIEC

Address:

Phone# 330-764-3457

Fax# 330-764-34164

DEFENDANT'S EXHIBIT C

**********

Dear Dr. Jadlowiec *(To be completed by therapist)*

Your patient, [redacted] SS# DOB: [redacted] was recently referred to Cornerstone. We hope that the following information will be helpful in coordinating this patients care.

**CHIEF COMPLAINT:** Sexual abuse by mother's boyfriend.

**FINDINGS / PATIENT STATUS:** Abuse has been reported & is under investigation. Pam has been assessed at Care Center.

**DIAGNOSIS:** Adj. Disorder

**PLAN:** I would recommend psychotherapy, parent guidance for Pam's mom & support for legal process.

Sincerely,

Suzanne Lebow, PhD — Therapist Name

N. Jadlowiec — Signature

2/7/05 — Date

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MS. EISENHOWER: And that she gave a verbal statement to Donna Abbott as part of how to conduct the exam. So the social worker notes are in there, but also what she told her for the purpose of medical treatment is what he's referring to and, I think, relevant.

THE COURT: I'm going to -- can I take a look at the report?

MS. EISENHOWER: Sure.

(Providing.)

THE COURT: (Perusing exhibit.)

MR. GREEN: Plus we want to argue that, you know -- I'm sorry, your Honor.

THE COURT: Go ahead, sir.

MR. GREEN: I was just going to say, we still are objecting to the nurse practitioner's notes, because it was from someone else, it wasn't from the victim.

THE COURT: Right. What you're saying is that portion with regard to the issue of the statement made by the child to the licensed social worker, that -- there's a page of it in here.

MR. GREEN: Yes.

Exhibit-45

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THE COURT: And I'm looking at this, it's Page 7. Let's see what else we've got, hold on.

Okay. The Court is going to excise Page 7 that you're talking about, which is the narrative portion of it. Is that right?

MR. GREEN: Since what I have is -- I don't have a copy of the exhibit. I only have what was --

THE COURT: Show me what you have.

MR. GREEN: I only have what was produced in discovery.

THE COURT: That's this (indicating).

MR. GREEN: That looks like it.

THE COURT: The Court is going to have this page excised. I think you're probably right under those circumstances. The rest of the report's coming in. I'll note your objection to the rest of it.

Anything else from the State?

MS. EISENHOWER: No, your Honor.

THE COURT: All right. The

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State has rested at this time. Counsel for the Defendant, do you have any witnesses you wish to present at this time?

MR. GREEN: Your Honor, at this time we would move for a Rule 29 dismissal of the charge.

THE COURT: Go ahead, sir, please.

MR. GREEN: It's our belief that, one, in the K[redacted] S[redacted] portion of the case, her failure to testify as to the conduct that took place here, the balance of it, actually doesn't even match up with what the allegations are in the Complaint. You know, she -- it's unfortunate, but the little girl, when asked did she go upstairs with Frank, she said, "No." That is in evidence. And I think that's -- whatever she may have said afterwards, we've heard directly from the victim, and she said, "No." As much as they want to explain it away, this man's, you know, in jeopardy over there, and I think that portion needs to be dismissed now.

THE COURT: All right.

Anything from the State?

MS. EISENHOWER: Yes, your

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Honor. That's an incorrect characterization. She was asked if she remembered it. She was not -- she was not asked did she -- "Do you remember." I believe that Dr. LeSure's testimony gave sufficient evidence, along with the remainder of salient testimony to support the charge in that matter.

THE COURT: Anything else, sir?

MR. GREEN: Your Honor, on the rape charge, we believe that the State has failed to meet its burden. I don't believe there was any evidence from the victim herself that indicated that there was penetration. There was no statement as to penetration of the vaginal tract.

Or, if you go by what Dr. Abbott said, you could go inside, you know, she talked about the hymen, but she talked about the vagina being beyond the hymen. So she gave the impression that there was no physical evidence whatsoever to support this, she only said there can be sexual abuse. She did not say rape.

The little girl, I don't think, gave any indication that there was a rape here. She did not testify as to cunnilingus.

And the dates don't even match up with what's in

the Bill of Particulars here.

THE COURT: Thank you, sir.

Anything else from the State?

MS. EISENHOWER: Your Honor, the victim testified that it was several days before her birthday, which is REDACTED. The amended Bill of Particulars says the 1st through the 3rd.

In addition to that, she said, and I'm quoting her now, "His private went in my private." Penetration, however slight, we feel has been met.

THE COURT: Okay. When a Court makes a determination on a Rule 29 motion, the Court has to view the facts of the case most strongly against the party making the motion - that is to say, view the facts most strongly against the Defendant in the case - and make a determination as to whether or not there is any evidence which, if believed by a reasonable jury, the jury could come to the conclusion that the Defendant committed this offense. I don't weigh the evidence, it's not a matter of weighing the evidence at this point, it's determining whether there is sufficient evidence for a reasonable jury to come to the conclusion that the offense



occurred.

Looking at the issue of gross sexual imposition in K[redacted] S[REDACTED], the Court recalls the victim in the case saying that she did not remember going up to a room in Chippewa with this Defendant. There was other supporting evidence, supporting the prosecution, that such an event occurred. The Court believes that evidence, if believed, a jury could conclude that an offense occurred against K[redacted] S[REDACTED].

Again, I'm not arguing or making a determination as to the weight of the evidence or whether the Jury should believe it, I'm weighing whether they could believe it, and I think a reasonable jury could believe that offense occurred.

With regard to the rape offense, the Court has that same burden. I'm making that same determination. Based on the testimony of the victim in the case, the Court believes that there is sufficient evidence for a reasonable jury to conclude that this offense may have occurred.

I'll note the Defendant's exception to my overruling the Rule 29 motion. The Court is going to permit this case to go to jury on both counts.

Now I need to know, are you going forward with



anybody? Do you have anyone you want to testify today?

MR. GREEN: We have one witness, your Honor.

THE COURT: That would be Dr. Reed?

MR. GREEN: That would be Dr. Reed.

THE COURT: Let's find out what Dr. Reed is going to testify about.

Doctor, come on up. My bailiff is going to swear you in.

- - -

DEFENDANT'S CASE

- - -

Whereupon, the Defendant, to maintain the issues to be maintained by him, called one M. DOUGLAS REED, Ph.D., who, after having been first duly sworn, was examined and testified as follows:

VOIR DIRE

THE COURT: Have a seat in this chair here for a few minutes.

Sir, the reason why I brought you in without the Jury is, there's an issue with regard to testimony. With all of the experts who have testified in the



case so far, the Court has engaged in a voir dire examination just to find out a little bit about what they were going to testify about. I'm going to do that with you.

Again, I'm the only one at a disadvantage here. Both counsel for the State and counsel for the Defendant have read your report. I don't get that, so I need to ask you a few questions.

First, apparently - and I'm guessing - you did some kind of an examination of the Defendant in this case and came up with some conclusions. I need to know a little bit about what you did, what kind of information you got, how you get the information, just those kind of things, and what were your conclusions.

So tell me a little bit about that.

THE WITNESS: Yes. I spent seven hours with Mr. Wood in the Medina County Jail, and I went through a lot of the standard history-taking. I took three separate histories. One, a psychosocial history; one, a sexual behavior inventory; and another sexual history questionnaire to see if there was consistency across the board in the giving of the histories. I was evaluating his responses against the twenty-five indicators of

Exhibit-46

# Warren County Forensic Psychology Center

## *Whole Picture Healthcare*

**Credentials**

1. Dr. Reed is a licensed psychologist who has been in clinical practice in Ohio since 1977; Ohio License #2347. He earned his Ph.D. in Counseling from the University of Maryland in 1970. He also earned his M.Ed. in Counseling from the University of Maryland in 1968.

2. He was a counselor from 1968 to 1977, when he became a licensed psychologist.

3. Dr. Reed earned his B.A. and an M.A. from Wheaton College, Wheaton, Illinois.

4. Dr. Reed is a Board-Certified founding Diplomate-Fellow of the American College of Advanced Practice Psychologists (FACAPP).

5. Dr. Reed is a Diplomate-Fellow Psychopharmacologist with the International College of Prescribing Psychologists (FICPP) and the Prescribing Psychologists' Register (FPPR): a 450 hour post-doctoral training program. Psychologists with his advanced training have prescriptive privileges in places where the law allows (i.e., New Mexico, Guam, Department of Defense, and Louisiana).

6. Dr. Reed holds the Master Psychopharmacologist certification from the National Education Institute. This certification reflects over 200 hours of post-doctoral continuing education training in Psychopharmacology, taught by Psychiatrists and other M.D.s.

7. He is a Board Certified Diplomate-Fellow in Serious Mental Illness of the International College of Prescribing Psychologists (FSMI).

8. He is a Board Certified Diplomate-Fellow Forensic Psychologist of the International College of Prescribing Psychologists (FSICPP).

9. Dr. Reed is a Board Certified Diplomate-Fellow in Advanced Child & Adolescent Psychology of the International College of Prescribing Psychologists (FCICPP).

10. He is a Board Certified Diplomate-Fellow in Advanced Geriatric Psychology of the International College of Prescribing Psychologists (FGICPP).

11. Dr. Reed holds a Diplomate of the Board in Clinical Forensic Counseling, of the American College of Certified Forensic Counselors, Division of Psychology (DCFC).

He holds seven other specialties within that group:

a. Certified Sex Offender Treatment Specialist

b. Criminal Offender Counseling

c. Youthful Offender Counseling

d. Certified Forensic Addictions Examiner

e.Forensic Assessment and Evaluation

f. Child Custody Evaluation

g. Clinically Certified Domestic Violence Counselor

12. He holds a Certificate of Proficiency in the Treatment of Alcohol and Other Psychoactive Substance Use Disorders from the American Psychological Association (CAPA).

13. Dr. Reed is a Certified Master Addictions Counselor of the National Board of Addiction Examiners.

14. He is a Diplomate-Fellow Forensic Psychologist of the American College of Forensic Examiners (DABFE).

15. Dr. Reed is a Diplomate of the American Board of Psychological Specialties (DABPS). He holds eleven psychological specialties within that group:

Forensic Clinical Psychology Child Custody Evaluations Tests and Measurements Psychotherapy Psychopharmacology Family/Marital/Domestic Relations Psychology

Sexual Abuse Behavioral Science Counseling Psychology Substance Abuse Psychology

16. He is a Board Certified, Founding Fellow of the American College of Advanced Practice Psychologists (FACAPP).

17. Dr. Reed is designated as an expert on the Ohio Attorney General's Databank of Experts on Child Abuse. (D.E.C.A. List).

Nothing further, your Honor.

THE COURT: Thank you.

Do you folks have any questions on the voir dire issue only?

MR. GREEN: No, your Honor.

THE COURT: All right. Was there anything else you were going to testify to?

Was there anything else he was going to testify to beyond what I have heard so far?

MR. GREEN: I would certainly ask for certain psychological terms to be defined.

THE COURT: And those would be?

MR. GREEN: Such as, what is "adjustment disorder," to just throw out a term.

THE COURT: It's okay.

MR. GREEN: The diagnosis with Dr. LeSure of the adjustment disorder.

THE COURT: Do you know those things?

MR. GREEN: Presumably.

THE COURT: What do you do for a living?

Exhibit-47



THE WITNESS: I'm a psychologist, a clinical psychologist

THE COURT: Okay. And so consequently, if they were to talk to you about what an adjustment disorder diagnosis it, you've had some experience and --

THE WITNESS: Yes, sir.

THE COURT: -- knowledge about that?

THE WITNESS: Yes.

THE COURT: Okay. Here's what I'm going to rule - and with no disrespect to anybody in the courtroom - the Defendant in this particular case is charged with two offenses. One of them is a rape charge, which alleges that on or about October 1st through the 30th -- that's not true, October 1 through October 4.

MR. GREEN: Three.

THE COURT: Give me one second.

Okay. October 1 through October 3, 2004, in Medina County, Ohio, that the Defendant purposely engaged in sexual conduct with - and they give an initial - S.L., and that S.L. was less than ten years of age when that occurred.



The next count alleges a single count of gross sexual imposition, which says that on or about the 1st of August, 2000 and through the 31st of October 2000, and in Medina County, Ohio, that the Defendant purposely had sexual contact with K.S., not his spouse, or caused K.S., who was not his spouse, to have sexual contact with K.S., who was less than thirteen years of age, whether or not the Defendant knew the age of such a person.

I'm going to conclude, with all due respect, that the findings and conclusions in this report aren't relevant on those issues. They may be relevant to sentencing, they may be relevant if the issue was whether the Defendant was a psychopath or a pedophile or a person who had some kind of mental disease or defect, but the problem is, nonpsychopaths, nonpedophiles, people with diseases or defects, and those without can commit those offenses as well. So it's not relevant on these issues.

I'm determining, secondarily, in addition to being not relevant, all of the information -- nearly all of the information from which this learned doctor has concluded these findings come directly from the Defendant, and from the Defendant almost without



exception. One would assume in this particular case that the prosecution will not have an opportunity to cross-examine the statements that were made to this doctor because the Defendant isn't going to be testifying; consequently, there's no opportunity to test the credibility of the things that he said to you. And if you're unable to test the credibility of the things that were said to you, then the conclusions may vary. My concern then is, in addition to the relevance issue, the hearsay issue.

So for those reasons, the Court is going to note what you have said, ask that what you have said, your conclusions and findings, be preserved on the record so a reviewing court can take a look at what happened here and what I'm saying and say, "Hey, Judge, you were wrong," and be able to understand that.

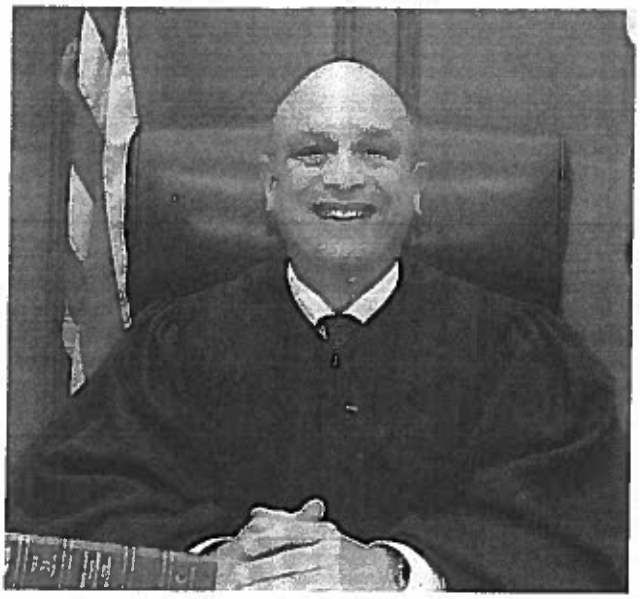
I'm also going to have, if you can, please, a copy of your report to be included with the record as well. I'm assuming counsel for the Defendant would proffer all of the things you've said. That's the reason why I wanted to go into such great detail, because if I'm wrong, I want somebody at the appellate level to take a look and say, "Judge, you

Judge Christopher Collier | Christopher Collier Author | Christopher Collier Peter Pan | Christopher Collier Mobile Al | James and Christopher Collier Biography

New image detail page

For info about this image, click above

Exhibit-48



Reader, this is the guy!

THE DISHONORABLE Judge Christopher J. Collier!

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made a mistake."

This is an important case. I want to make sure the decision I make is the right one and that the reasoning for my decision is transparent.

It is not that you haven't done a good job doing what you're doing, or that you're not capable of it, in fact, just the opposite, I find just the opposite to be true.

I do find that the conclusions aren't relevant and that they're based on Mr. Wood's testimony -- or statements to you, which can't be tested in this particular case by an examination.

So with that in mind, I will permit testimony with regard to those issues of adjustment disorder and those other kind of things that were testified to by other psychologists.

Anything further?

MS. EISENHOWER: Yes, your Honor. Dr. LeSure is a psychologist. I would like to lodge an objection to that part, in that he has not heard her testimony, reviewed the files, interviewed the children, treated the children.

THE COURT: That's great fodder for cross-examination, but I guess I'm saying

Exhibit-49



she said these things, she said what these things are, and I think it's fair that the other side has a chance to elicit that information and the Jury can listen to that.

Bring them in, Chris.

MR. GREEN: Well, Judge, let me make a decision on that, please.

THE COURT: Wait a minute, Chris.

MR. GREEN: May I take maybe five minutes to speak with my client and counsel?

THE COURT: Sure.

(Recess taken.)

(Whereupon, the further following proceedings were then held in the presence of the Court, the Jurors, Counsel, and the Defendant.)

THE COURT: We're back on the record in Case Number 05 CR 0365, that is the State of Ohio versus Frank Wood.

The State's rested, we've gone over the voir dire and the testimony of the Defendant's doctor, basically made some conclusions with regard to that, and now we're going to see whether there's going to be any witnesses for the Defendant.



Do you have a witness you wish to call at this time, sir?

MR. GREEN: Judge, we don't have any witnesses.

THE COURT: Okay. Do you want to go into closing arguments? How long are you going to need for closing arguments?

MR. GREEN: Your Honor, we have some exhibits to introduce.

THE COURT: Folks, I'm sorry, I need to send you out again.

(Whereupon, the Jury exited the courtroom and the further following proceedings were then held in the presence of the Court, Counsel, and the Defendant.)

(Whereupon, a copy of a calendar for October 2004 was then marked as Defendant's Exhibit D for purposes of identification.)

THE COURT: First, how much time are you going to need for closing argument?

MS. EISENHOWER: The whole thing, your Honor, probably half-hour, forty-five minutes.

THE COURT: Half-hour, is that about right?



MR. GREEN: Your Honor, I have exhibits.

THE COURT: What do you have?

MR. GREEN: Well, just a calendar. And, your Honor, we would ask the Court to take judicial notice of what October 1st, 2nd, and 3rd of 2004 is.

THE COURT: Give that to Miss Eisenhower, please.

MR. GREEN: (Complying.)

THE COURT: Do you have an objection on the calendar?

MS. EISENHOWER: Yes, your Honor.

THE COURT: What is your calendar objection?

MS. EISENHOWER: Well, only because I believe the issue he is trying to get at is that she may or may not have been in the presence of the Defendant during those days, and there's absolutely no evidence to hold that theory up. I don't think there's anything to substantiate that.

THE COURT: Here's what I'm

going to do. The calendar will not come in. I'm going to let him make whatever arguments he wants to make with regard to the calendar.

MR. GREEN: Exhibit A is the letter sent to Scott Sadowsky, that we presented in the State's case.

THE COURT: A is in.

Show me what month you've got.

MR. GREEN: (Providing.)

THE COURT: What other things do you want in?

MR. GREEN: I think these probably have to be copied before they go to the Jury, because of the highlighting, but there's the letter from Tricia Carchedi, from Medina County Job and Family Services.

THE COURT: It's here.

MR. GREEN: That is her summary sheet that she provided to the prosecutor, which is Exhibit B.

And then Defendant's C, which was the Patient Care Communication Form that Dr. LeSure used.

THE COURT: Any objection, ma'am?

MS. EISENHOWER: I have an



objection to C. That is a foundational requirement, that you examined her directly on, and I don't think it should go to the Jury. It was -- it went to her purposes for the exam, and -- that was outside the presence of the Jury, and -- first of all, I don't think they're going to understand what they have, but second of all, I don't think it's part of what the Jury should see.

THE COURT: I'm going to let in C.

MR. GREEN: She testified there was a referral to --

THE COURT: You win. You don't have to talk anymore. It's in.

MR. GREEN: I just wanted the record to reflect --

THE COURT: Do you want to make a proffer for the record? I'll step away.

MR. GREEN: No. She testified to the dates that are on the documents and what took place.

THE COURT: There you go. A, B, and C are admitted.

Anything else?

At this time I will note the renewal of counsel



for the Defendant's motion for a Rule 29; I will note the same ruling from the Court.

Chris, bring them in.

(Whereupon, the further following proceedings were then held in the presence of the Court, the Jurors, Counsel, and the Defendant.)

THE COURT: Everybody be seated. We are back on the record in Case Number 05 CR 0365; that is State of Ohio versus Frank Wood.

You can all be seated.

We've reached the end of the third stage of the proceeding; that was the presentation of evidence. You've heard all the evidence you're going to hear from the State and from the Defendant. There's going to be no other evidence that's going to be presented in this case. All right?

So we're going to move from the third stage to the fourth stage, which is closing arguments. Remember opening statements? It was about a week ago when the attorneys stepped in front of you and told you what they would try to prove to you in the case, and then you've had the trial, all the witnesses' testimony.

We're now moving into the fourth stage, where the attorneys will, once again, have a chance to



stand up in front of you and tell you what they think they have proven to you or not, depending on the perspective of the attorney. This is called closing arguments. It's important to understand that closing arguments are not evidence; they're not. They're designed to assist you and give you an idea about what they think they have proven to you.

Closing arguments are persuasion. That's the reason for closing arguments. Why should you believe one witness and not another, or this part of the testimony of this witness and not another part. That's the reason for closing arguments. They are important.

Each attorney's going to spend maybe a half an hour with you, maybe a little longer, probably not much longer than that, and then when that's done they will sit down and I'll read you the jury instructions which I've prepared. I'll read these to you, that's the fifth stage, and I'll hand them to you. They're in writing so you can review them as well as me reading them to you.

Then the sixth stage will be your deliberations, and we'll get to that.

All right. With that in mind, understanding that it is the State of Ohio that has the burden of

Q Did you understand this case was within their jurisdiction?
A A portion of it, yes.
MR. GREEN: That's all.
THE COURT: Miss Eisenhower, anything else?
MS. EISENHOWER: No.
THE COURT: The Court is going to overrule the motion to suppress. We're going to proceed to trial with regard to these matters.

The next thing we're going to talk a little bit about are the offenses, all the offenses contained in the initial indictment as issued on August 3rd. Are there any supplemental indictments?

MS. EISENHOWER: No supplemental indictments.
THE COURT: So I'm looking at one felony 1 rape, and one felony 3 gross sexual imposition, right?
MS. EISENHOWER: A life rape, your Honor. It's a child under ten. There's a specification in the language that indicates a child under ten.
THE COURT: All right. I



understand.

Your allegation then is that on or about the 1st of October through the 31st of October --

MS. EISENHOWER: Right.
THE COURT: -- 2004, in Medina County, Ohio, that the Defendant did purposely engage in sexual conduct with S.L. --
MS. EISENHOWER: Hm-hm.
THE COURT: -- and it gives a date of birth and, also, indicating that that child was less than ten years of age at the time of the commission of the offense.
MS. EISENHOWER: We subsequently filed a Bill of Particulars, your Honor, indicating -- narrowing down that time frame for them, between the 1st and the 3rd of October.
THE COURT: I'm hunting.
MS. EISENHOWER: It was just filed over a week ago.
THE COURT: Okay.
MS. EISENHOWER: There was one filed, and then we filed an amended one because of a typo, but it basically says --
THE COURT: I just want to advise the Jury -- what I usually do is advise



the Jury what the offense is, so that they know going in.

MR. GREEN: Judge, we would agree to the reading of the amended Bill of Particulars.
THE COURT: Thank you, sir.

What we're going to do is, we're going to -- I'll talk to the Jury first, basically indicating what the case is about. I'll have you introduce yourselves, who you are, where you work, where you're from, what this case -- I'm sorry, who your witnesses are. You can introduce Mr. Wood.

Mr. Wood, you can stand up and say hi if you wish. That's your business. If you don't want to, if your attorneys don't want you to, you can just remain quiet, it doesn't matter to me. But I want the Jury to have a chance to take a look at you to see if they know you --

MR. WOOD: Understood.
THE COURT: -- just to kind of find out who knows who.

I'm pretty direct with them about what the case is about. I'm going to indicate to them I expect the case to take about a week. I don't know that it



will; it may take a little longer or a little shorter, but I think that they should be prepared to understand that's what it's going to be about.

I'll tell them basically what the case is about. I'll read them the Indictment -- or the amended Bill of Particulars so they know what they are looking at.

I'll talk to them about the kind of things that when I was a prosecutor I felt was important and what was important to me when I was a defense attorney, but I could be just shortchanging you.

I'm going to give you both an opportunity, when I get done, to supplement my questions to the folks who are in the box. If you address your questions only to these folks, the rest of them can hear you. If we need to, you can individually talk to the folks in the back later. Just kind of see what I do and follow me and you'll be just fine.

We go through the selection process with me first asking each of you if you have any challenges for cause. We do it right there. If you do and you want to come to sidebar, that's fine.

After we get done with the challenges for cause, we go through four preemptory challenges. I do it by round, so I'll ask the State first, "State, your

But first we're going to take a break. Don't discuss the case among yourselves or begin to form or express an opinion about the matter until you get the instructions of law and begin your deliberations.

See you in ten minutes.

(Recess taken.)

THE COURT: Thanks, folks, you all can be seated.

We are back on the record in Case Number 05 CR 0365, State of Ohio versus Frank Wood.

MS. EISENHOWER: Judge, may we approach?

THE COURT: Sure. Folks, go on out, we'll see you in about five minutes. Don't discuss the case among yourselves or begin to form or express an opinion. See you in five minutes.

(Whereupon, the further following proceedings were then held in the chambers of the Hon. Christopher J. Collier in the presence of the Court, Counsel, and the Defendant.)

THE COURT: Yes, ma'am.

MS. EISENHOWER: I apologize, your Honor. I had asked Christine if I could do this before the Jury came back in. I had a question about



the instructions.

And the question was that I believe we're entitled to an instruction on either the definition of "penetration" or that penetration be included as meaning "anything, however slight, by any object." And I was wondering if we can include that in the instruction?

THE COURT: Sure. I'll hunt for an instruction for you. Do you have a cite to OJI that you're going to give me? Or do you need me to find it?

MS. EISENHOWER: Well, I can go find one, real quick, if I can go --

THE COURT: I've got it right here.

MS. EISENHOWER: Thank you.

THE COURT: "Anything, however slight, is sufficient to complete vaginal or anal intercourse." Is that what you're looking for?

MS. EISENHOWER: Yes, your Honor.

THE COURT: All right, fine.

MS. EISENHOWER: Thank you.

(Whereupon, the further following proceedings



were then held in open court in the presence of the Court, the Jurors, Counsel, and the Defendant.)

THE COURT: Come on in, folks. You can be seated.

I'm going to try to read you these jury instructions now.

CHARGE

THE COURT: Members of the Jury, it is now the duty of the Court to instruct you on the law that applies to this case. You and I have separate functions. You decide the disputed facts, and I give you these instructions of law.

Now, it's your sworn duty to apply the law as I give it to you. You are not permitted to change the law or to apply your own conception of what you think the law should be.

A criminal case begins with the filing of an indictment. An indictment informs the Defendant that he's been charged with a criminal offense. The fact that an indictment was filed cannot be considered by you for any purpose. The plea of Not Guilty is a total denial of the charge and puts into issue all of the essential elements of each of the offenses.

The Defendant is presumed innocent in this case until his guilt is established to you beyond a



reasonable doubt. The Defendant must be acquitted unless the State produces evidence which convinces you beyond a reasonable doubt of each and every element of the offenses charged in this indictment.

"Reasonable doubt." Reasonable doubt is present when, after you've carefully considered and compared all of the evidence, you cannot say you're firmly convinced of the truth of the charge.

Reasonable doubt is a doubt based on reason and common sense.

Reasonable doubt is not mere possible doubt, because everything relating to human affairs or depending on moral evidence is open to some possible or imaginary doubt.

Proof beyond a reasonable doubt is proof of such character that an ordinary person would be willing to rely and act upon it in the most important of his or her own affairs.

What is "evidence"? Evidence is all the testimony you got from the witness stand, any exhibits admitted during the trial, any facts agreed to by counsel, or any facts that I require - the Court requires - you to accept as true.

Evidence can be direct or circumstantial or a combination of both.

Direct evidence is the testimony given by a witness who has seen or heard the things concerning which he or she testified. It also includes the physical exhibits admitted during trial.

Circumstantial evidence has a more difficult definition. I'll try to define it for you the way that the law gives it to me and then I'll stop.

"Circumstantial evidence is proof of facts or circumstances by direct evidence from which you may reasonably infer other related or connected facts which would naturally or logically follow according to the common experience of mankind.

"To infer, or to make an inference, is to reach a reasonable conclusion of fact which you may, but are not required to, make from other facts which you find have been established by direct evidence. Whether an inference is made rests entirely with you."

That's the definition of circumstantial evidence. I don't think I like that definition very much. You've got to abide by it, but let me give you an example of circumstantial evidence so that you understand what it is.

You know what direct evidence is, right? If a witness saw something or heard something and then



testified to it, that's direct evidence. Circumstantial evidence must mean something different, and to explain that to you, let me take you back to a situation that happened to me when I was a little boy back in Euclid, Ohio, back in 1964.

I was ten years old and it was Christmastime. My little brother Marcus and I, we grew up in a small house. Christmas Eve is a big time in my family. Christmas was important, but sledding was more important actually.

And on Christmas Eve 1964, right before we went to bed, my brother looked outside the window and confirmed what I had seen - which is no snow. It's going to be a bad Christmas because we can't go sledding.

We pulled the drapes closed and went to bed. It was actually a blanket that we had kind of hung up over a couple of nails in the window. It was warmer than the drapes were.

The next morning Marcus gets up and pulls down the blanket - which always got us into trouble - and it almost blinded us, because there was, that morning, Christmas Day 1964, six, freshly-fallen inches of snow on the ground.

Marcus and I went outside, we ran out of the



back of the house and grabbed the garbage can lids. I don't know if you all remember, but you don't have sleds for heaven's sake, you've got garbage can lids. They're better than you can possibly imagine.

We put our boots on - come on, you remember, those were the boots with the little snap things, the big ones that had five or six different snaps, they came up to here on you (indicating) - and we ran across the street, down Briardale, down to where it crosses Lakeshore Boulevard. There's a really nice place north of the Boulevard, it goes down the hill to where the lake is, and we slid on our garbage can lids until almost 2 o'clock. My parents didn't mind too much because they could see our tracks. And it was Euclid 1964; Mr. Montenaro was watching, everyone's watching.

It was the best Christmas I've ever had.

Now, here's my question for you. Could I have testified by direct evidence that it snowed that night, Christmas Eve? You're right, I couldn't. Because I didn't see it, right?

But is there circumstantial evidence that I could rely on that it snowed? Sure. Because circumstantial evidence is proof of facts or circumstances by direct evidence from which I may



reasonably infer other related or connected facts.

What direct evidence am I talking about? Well, there was no snow the night before, I saw that; the next morning there was snow, I saw that. I could infer that it snowed that night. Do you see that? That is an inference that you may make if you want to as a Jury, but you don't have to make it. Whether an inference is made rests entirely with you. You can decide to make that inference or not.

Now, let me step back, now that I've defined for you circumstantial evidence and I've given you an example. Direct evidence - what the witnesses see and hear and testify to - and circumstantial evidence - what you can infer, as I've described - are of equal weight. No one is better than the other. Under the law they're of equal weight. Isn't that interesting?

Do you see that those are the kinds of evidence? Okay, good.

What's not evidence? We talked a little bit about this. The indictment, the opening statements of counsel, the closing arguments of counsel, are not evidence. Opening statements and closing arguments are always interesting, always fascinating, but they're never evidence, right? The opening

statements and closing arguments are designed to assist you only.

Statements or answers that were stricken by the Court, you're to disregard. They're also not evidence. You have to treat them as though you never heard them. And you can do that, you're big boys and girls, you all know how to do that.

You must not speculate as to why I sustained an objection to any question - please, don't do that - or what the answer to that question might have been. That's also not important.

You must not draw any inference or speculate on the truth of any suggestion included in a question that wasn't later answered.

Okay. So what are you supposed to do? This is it.

You are the sole judges of the facts in this case, the credibility of the witnesses, and the weight to be given to their testimony. That's your job.

To weigh the evidence, you have got to consider the credibility of the witnesses, and please apply the tests of truthfulness that you are accustomed to applying in your daily lives. Here's what the tests are you that you're to use for each witness.



Consider the appearance of the witness upon the stand; his or her manner of testifying; the reasonableness of that testimony; the opportunity that that witness had to see and to hear and to know the things concerning which he or she testified; his or her accuracy of memory; his or her frankness to you, or lack of it; his or her intelligence, interest, and bias, if any; together with all the facts and circumstances surrounding that witness' testimony.

Folks, apply these tests to each witness' testimony and determine the weight you'll give the testimony of that witness. You will assign to the testimony of each witness such weight as you deem proper.

Now look, folks, you're not required to believe the testimony of any witness simply because he or she was under oath. You can believe or disbelieve all or any part of the testimony of any witness. Because it's your province to determine what testimony is worthy of belief and what testimony is not worthy of belief. That's exactly what jurors do. That's your job.

Now, the Defendant did not take the witness stand in his own behalf. That's not necessary. He



has a Constitutional right not to testify, and the fact that he did not testify must not be considered by you for any purpose.

Now let's talk about the charges. The Defendant's been charged with one count of rape and one count of gross sexual imposition. These are two separate charges that will be described for you separately, and you're to consider them separately.

"Rape." The Defendant is charged with rape. Before you can find the Defendant guilty, you must find beyond a reasonable doubt that on or about the 1st day of October 2004 through the 3rd day of October 2004, and in Medina County, Ohio, that the Defendant purposely engaged in sexual conduct with the child with the initials S.L., the date of birth being REDACTED, and that the said S.L., date of birth being REDACTED, being less than ten years of age at that time. Okay? That's the charge.

Let's define some of the terms.

"Sexual conduct," what does "sexual conduct" mean? Sexual conduct means vaginal intercourse between a male and a female, or anal intercourse or fellatio or cunnilingus between persons regardless of sex, without privilege to do so. Penetration, however slight, is sufficient to complete vaginal or



anal intercourse.

"Vaginal intercourse" means penetration of the penis into the vagina.

"Anal intercourse" means penetration of the penis into the anal opening of a man or woman.

"Fellatio" means a sexual act committed with the penis and the mouth.

"Cunnilingus" means a sexual act committed with the mouth and the female sex organ.

That's sexual conduct; I've defined it for you. It's probably pretty much common sense, so now you've got the legal definition of it.

"Purposely." Purpose to engage in sexual conduct is an essential element of the crime of rape.

A person acts purposely when it is his specific intention to cause a certain result. It must be established in this case that at that time in question there was present in the mind of this Defendant a specific intention to engage in sexual conduct with the victim.

When the essence of the offense is a prohibition against conduct of a certain nature, a person acts purposely if his specific intention was to engage in conduct of that nature, regardless of what he may

have intended to accomplish by his conduct.

Purpose is a decision of the mind to do an act with a conscious objective of engaging in specific conduct. To do an act purposely is to do it intentionally and not accidentally. Purpose and intent mean the same thing. The purpose with which a person does an act is known only to himself unless he expresses it to others or indicates it by his conduct.

The purpose with which a person does an act is determined from the manner in which it is done, the means used, and all the other facts and circumstances in evidence.

If you find that the State of Ohio proved beyond a reasonable doubt all the essential elements of the offense of rape as I've defined them for you, your verdict must be Guilty on that charge.

If you find that the State of Ohio has failed to prove beyond a reasonable doubt any one of the essential elements of the offense of rape, then your verdict must be Not Guilty to that charge.

I'm also going to include a request for special findings from you, and that has to do with the age of S.L. This special finding reads as follows - you'll see this attached to the verdict form - it says, "We



the Jury in this case, duly impaneled and sworn and affirmed, further find that the victim with the initials S.L. was or was not less than ten years of age at the time of the commission of the offense of rape against her." You'll make that determination with regard to the special findings about the victim S.L., and you'll circle "was" or "was not." It's not an additional element, it's the same element, it's just on a separate page.

The Defendant is charged with gross sexual imposition. Before you can find the Defendant Guilty, you must find beyond a reasonable doubt that on or about the 1st day of August 2000 through the 31st day of October 2000, and in Medina County, Ohio, that the Defendant purposely had sexual contact with K.S., date of birth [REDACTED], who is not his spouse, to have sexual contact with him, and the said K.S., date of birth [REDACTED], was less than thirteen years of age at the time of the commission of the offense, whether or not the Defendant knew the age of such person.

"Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or if the person is a female, the breast, for purpose of sexually arousing or gratifying either



person. That's what sexual contact means.

"Purposely" was defined for you before. You'll use that definition here.

Purpose to engage in sexual contact is an essential element of the crime of gross sexual imposition.

If you find the State of Ohio proved beyond a reasonable doubt all the essential elements of the offense of gross sexual imposition, your verdict must be Guilty to that charge.

If you find the State of Ohio has failed to prove beyond a reasonable doubt any one of the essential elements of gross sexual imposition, then your verdict must be Not Guilty to this charge.

I'm also going to give you a special finding with regard to that related to the age of the purported victim in that particular case. That special finding will read, "We the Jury in this case, duly impaneled and sworn and affirmed, further find that the victim with the initials K.S. was or was not less than thirteen years of age at the time of the commission of the offense of gross sexual imposition against her."

This will be attached to the Guilty verdict form. If you find the Defendant did not commit this



offense, you won't consider that. It's not in addition to the offense. In other words, I'm not adding an additional element to the offense, I just need it on a seperate form.

You may not discuss or consider the subject of punishment. Your duty is confined to the determination of the guilt or innocence of this Defendant. In the event that you find the Defendant guilty, the duty to determine punishment is placed by law on me alone.

You must not be influenced by any consideration of sympathy or prejudice. It's your duty in this case to carefully weigh the evidence, to decide all the disputed questions of fact, to apply these instructions to your findings, and to render your verdict accordingly.

In fulfilling your duty, folks, your efforts must be to arrive at a just verdict. Consider all of the evidence and make your findings with intelligence and impartiality, and without bias, sympathy, or prejudice, so that both the State of Ohio and the Defendant will feel that their case was fairly and impartially tried. If you keep that in front of you, you can't go wrong.

Look, this is important. If during the course

say "rape" - sexual abuse having taken place between [redacted]'s birthday and Halloween. Do you remember that? Again, it's not October 1st, 2nd, or 3rd.

And she didn't say "rape." She doesn't have "rape" in her notes.

Now we go to Donna Abbott. And yes, she's seen a lot of these cases. I probably differ with Ms. Eisenhower on what I heard on about ninety percent of the cases. That was put in with the total of all the cases that she sees, of which she said forty percent that can't be verified. Forty percent. She had a lot of different statistics for us.

And then she acknowledged, because of the history, this can be sexual abuse. She didn't have a time frame for you, she has statements - again, that she received from a social worker, and she got statements that were on a videotape that she didn't even look at - and she makes that conclusion.

But I think most importantly, while the prosecution wants you to believe this isn't important, I think it is - we're in a serious charge here - there's no physical evidence.

Along that line, you heard from the officer from BCI, Mr. Saraya. They took in evidence, immediately



contemporaneous to the time that it was discovered that anything had happened on these mattresses and mattress pads and sheets and clothes, and nothing. Nothing.

You heard Officer Kollar -- Det. Kollar, excuse me. He came in with a search warrant to get his computer. Did you hear any results on the computer? Nothing you heard about that.

You heard that there wre no findings by McCourt, by Carchedi - I think that's the name, I'm struggling with it - and the people at Akron Children's. Nothing conclusive. No charge brought by Travis McCourt, no further investigation. The case was closed by Ohio Job and Family Services, Children's Services; it was closed February 25th.

Nothing in this case has changed as of that date. You've got people that work with this, with criminal offenses, with sex abusers; nothing has changed since that time. There's no new evidence that has happened in the [redacted] [redacted] case. Nothing new.

Then along comes Robyn Spencer. And Robyn, who still had some sort of a talking relationship of some sort with Frank Wood, and was getting some support from him, he was helping her, she decides, "I've got



to come forward because I heard at the bank something happened, but I don't want to file charges against Frank. I don't want to hurt him."

I find that to be a bit in conflict.

And here we are; that's the only new evidence.

Well, you get K[redacted] in here and everyone's trying to say she's reticent, she's this, she's that, she doesn't want to talk about it. But this was the day she had to talk about it - or yesterday - and you had to hear from her. She is the direct evidence. When she was asked about being upstairs with Frank, she couldn't remember, and she said, "No." She said, "No."

She was brought back in the courtroom, and all she did was say, "Do you know who Frank Wood is?"

"Yeah, I know who Frank Wood is," and she left.

They tried to bolster the testimony through Dr. LeSure and Det. Kollar.

Again, another major missing piece of evidence for you. What did Det. Kollar tell you he did when he interviewed K[redacted]? He recorded her. Where's the recording?

MS. EISENHOWER: Objection, your Honor.



THE COURT: Overruled. This is closing argument, it's not evidence.

You can continue, sir.

MR. GREEN: You heard him say there was one. Where is it? Why didn't you hear it? Because it doesn't say what they want you to hear.

These are awful charges to have against this man. And as I told you in opening statement, you want to make sure in your decision you're right. And I believe to find Frank Wood Guilty, in order to find him Guilty, you've got to feel comfortable with it, that there's something more than stories given to third parties or second parties or whatever. You've got to know. They had the opportunity to let you know, but they played with it, they moved it around, they twisted it to make it fit. They have tried to make this thing fit into October 1st, 2nd, or 3rd that a rape took place. Not gross sexual imposition, not sexual contact, a rape, and you're charged with attempting to find that there's a rape here.

I didn't get out of [redacted] the same things that Ms. Eisenhower says happened. [redacted] said when these events took place, whatever they were, that most of the time she had her eyes closed, and

would have had an opportunity to take a look at these issues without the specter of double jeopardy hanging over this case.

But you didn't do that. Instead, knowing what happened, you put me in this position, and I don't know what to do. I don't know what I would have ruled, but I would have made a ruling.

I'm going to deny the State's request for a mistrial at this point. I'm going to proceed to trial in this case. I am not going to encumber the Defendant's right to examine these witnesses. I do so extremely reluctantly. I feel as if, frankly, I've been taken advantage of here, and that what's happened here is something that should not have happened, and it should not have happened because of, Mr. Stanley, your behavior in this case.

I don't know what else to do. I think that's the right of your client in this particular case to proceed in this way, and you've chosen to continue to proceed in this way, and to this end, finally, it trumps even my feelings about what's happened here.

So with that in mind, we will reconvene in five minutes and proceed to trial.

MS. EISENHOWER: Your Honor, at

Exhibit-53



this point, I would request -- the State of Ohio requests, as I've stated before, that it doesn't simply impact Danielle Sadowsky but the next two witnesses I plan on calling. Now, I would request that the Court review the questions that are going to be asked of these three witnesses and strike any questions that may or may not have come or could have come from Danielle Sadowsky's privileged information.

THE COURT: Every question could come from privileged information.

MS. EISENHOWER: That's correct, your Honor.

THE COURT: That's the problem. That's the problem.

MS. EISENHOWER: And I need to build a record for that.

THE COURT: I appreciate what you're doing. I would be doing exactly the same thing.

I'm going to, on the record, overrule your motion and permit him an unfettered opportunity to cross-examine the witness over your strenuous objection.

I don't know what else to do. I don't want to



be in a position where I have jeopardy attaching to this client on this, where this client did not have the opportunity to have a trial where a jury made a determination as to whether he's guilty or not guilty. That's the touchstone of what I'm trying to do here.

Again, Miss Eisenhower, they put me in a position and, frankly, you in a position where there are no good choices here. I can't pick something to make this right at this point. I'm trying to pick something to make it the least unfavorable choice, and that is to know what I'm doing, why I'm doing it, what my concerns are for the record, so that any reviewing court can review it. I let everybody here know my feelings about this, because I think that's important, too. We can all learn from this. And finally, to take your objections as they come and to show my rulings on the record for it.

We'll begin in five minutes. Thanks.

MR. STANLEY: Your Honor, before you leave, could I have a word?

I am sorry to have put the Court in this position. I didn't mean to harm this case or anybody else. And I can understand the position that the witness would be in, knowing that I have been



involved in this, a lot of other people also, but the witness particularly, being Danielle. If the Court wishes, I will step out.

THE COURT: It doesn't matter now. I can only presume three or four things. You've been involved in the preparation of the case. One assumes you've given your case direction. It may not have been specifically what Danielle told you. You could have simply said -- and I did what you're doing right here for almost fifteen years. You could say, "Look at this piece of information." You could say, "Call this witness on the phone." You could say, "There's a file that exists in this particular case. Take a look at the third or fourth page in the file."

You don't have to have given specific information to taint the case. That's the problem. The problem is, it's unfixable. It's unfixable. The problem is that your involvement in the case, your involvement in the case without disclosure and waiver, by her disclosure to the Court, puts the Defendant in a situation in which they have this advantage that is not fixable to the other side. It doesn't matter at this point whether you're here or not. It isn't going to make any difference.

(CONTINUATION OF THE PROCEEDINGS OF THE ABOVE-CAPTIONED CASE ON MONDAY, THE 1ST DAY OF MAY, 2006, COMMENCING AT APPROXIMATELY 9:00 A.M., THE JURY CONTINUED WITH ITS DELIBERATIONS.)

- - -

VERDICT

THE COURT: We're on the record in Case Number 05 CR 0165, that's the State of Ohio versus Frank Wood.

We began this trial with jury selection almost exactly one week ago. It is now 11:25 on the 1st day of May, 2006.

My bailiff has indicated to me that the Jury has reached a verdict on the two counts in the case. What happens in the next couple of minutes is a matter of some importance, so I need you to bear with me.

First, did the Jury select a foreman or forelady, and if so, who is he or she?

MR. GARMON: (Indicating.)

THE COURT: Sir, has your Jury reached a verdict?

MR. GARMON: Yes, we have.

THE COURT: Have you filled out the appropriate verdict forms?



MR. GARMON: Yes.

THE COURT: Did you have your Jury sign those verdict forms in ink?

MR. GARMON: Yes, we did.

THE COURT: Did you hand those verdict forms to my bailiff when you came in?

MR. GARMON: Yes, I did.

THE COURT: I'm going to take it over from here.

Chris, can I have the verdict forms, please.

THE BAILIFF: Yes.

THE COURT: Thanks.

You need to stand up at this time.

In Case Number 05 CR 0165, the verdict is as follows:

State of Ohio versus Frank P. Wood, Indictment for rape, "We, the Jury in this case, duly impaneled and sworn and affirmed, find the Defendant, Frank P. Wood, Guilty of rape of a child less than ten in the manner and form as he stands charged in the indictment."

And it's dated April 28th, 2005, and it's signed by all twelve jurors.

I asked the Jury to make a special finding with regard to the age of the child, and it says, "We, the



Jury in this case, duly impaneled and sworn and affirmed, further find that the victim with the initials S.L. was less then ten years of age at the time of the commission of the offense of rape against her." And it's dated the same date, April 28th, 2005, and it's signed by the same twelve jurors.

In Count Number II, the verdict form reads as follows:

"We, the Jury in this case, duly impaneled and sworn and affirmed, find the Defendant, Frank P. Wood, Guilty of gross sexual imposition, in the manner and form as he stands charged in the indictment."

And that's dated May 1st, 2006, and it's signed by all twelve jurors.

The special finding that I requested the Jury to make states, "We, the Jury in this case, duly impaneled and sworn and affirmed, further find that the victim with the initials K.S. was less than thirteen years of age at the time of the commission of the offense of gross sexual imposition against her whether or not the Defendant knew the age of K.S." And it's dated the 1st of May, 2006, like the verdict in the gross sexual imposition case. It's also signed by all twelve jurors.



Does either counsel for the State or counsel for the Defendant want the Jury polled?

Counsel for the State?

MS. EISENHOWER: No, your Honor.

THE COURT: Counsel for the Defendant?

MR. GREEN: Yes, your Honor.

THE COURT: What that means is that the State of Ohio and the -- I'm sorry, both the State of Ohio and the Defendant have the right to ask that I ask each of the jurors if the verdicts and the special findings that I just read are their verdicts. I'll ask you, "Are the verdicts I just read your verdicts," and you'll answer, "Yes, it is," "No, it's not."

And, ma'am, I'm going to start in the back with you.

Ma'am, are the verdicts I read your verdicts?

MS. O'CONNOR: Yes.

THE COURT: Sir, are the verdicts that I read your verdicts?

MR. GARMON: Yes.

THE COURT: Sir, are the verdicts that I read your verdicts?

STATE OF OHIO, )
) SS:
COUNTY OF MEDINA. )

MEDINA COUNTY COMMON PLEAS COURT

STATE OF OHIO,

vs.

Case No. 05 CR 0365
Appeal No. 06 CA 0044-M

FRANK P. WOOD,

Defendant.

FILED
MARY E. SWINEY
MEDINA COUNTY
CLERK OF COURTS
06 AUG -3 PM 2:52
COURT OF APPEALS

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

Dean Holman, Medina County Prosecutor,
by Anne Eisenhower, Assistant County Prosecutor,
on behalf of the State of Ohio.

F. Harrison Green, Esq., and
Ronald Stanley, Esq.,
on behalf of the Defendant.

FILED
MARY E. SWINEY
MEDINA COUNTY
CLERK OF COURTS
06 AUG -3 PM 2:46
COMMON PLEAS COURT

MEDINA COURT REPORTERS, INC.
REGISTERED PROFESSIONAL REPORTERS
209 North Broadway Street
Medina, Ohio 44256
(330) 723-2482

92A

Exhibit-55



BE IT REMEMBERED, that commencing on Monday, the 24th day of April, 2006, being a day in the April 2006 Term of said Court, before the Hon. Christopher J. Collier, Judge of said court, the following proceedings were had and placed upon the record:



INDEX





EXHIBITS:

WITNESS:

| Defendant's: | Voir Dire |
|---|---|
| Reed, M. | 465 |

- - -

| EXHIBITS: | Marked | Identified | Admitted |
|---|---|---|---|
| A - Letter - 12/25/05 | 350 | | 488 |
| B - JFS document - 2/28/05 | 350 | | 488 |
| C - Patient Care Communication Form | 405 | | 488 |
| D - Calendar - October 2004 | 485 | | -- |



PROCEEDINGS

(Whereupon, the following proceedings were then held in the jury room prior to the commencement of voir dire.)

THE COURT: We're on the record in Case Number 05 CR 0365, State of Ohio versus Frank Wood. Mr. Wood is present with his counsel; State of Ohio is represented by Assistant County Prosecutor Anne Eisenhower.

We're here today just before trial starts, and I wanted to talk about a couple of things. The first thing is, the Court's had an opportunity to review the documentation provided to the Court by Dr. LeSure. It's in my chambers; I've spent two weekends looking at it. At this time I'm going to make the determination that there's nothing exculpatory in there, but what I will do for counsel for Defendant is, I'm going to make a copy of it and place that under seal and put it with my court reporter as an exhibit so that any reviewing court can take a look at what I've taken a look at. If they make a determination different than mine, you'll have that opportunity to be able to make that argument on appeal should it get to that point.



The second thing relates to a suppression of evidence issue, and we only got as far last time as to discuss who had the burden in this case. The Court's going to make sort of a bright line rule determination that where there's a warrant issued, and that the question is attacking the warrant, that the burden's on the Defendant to call the witness.

When there's no warrant, a warrantless search, the burden's on the State.

The Court, having made a determination that there was a warrant, meaning that at least partially that there was no authority of the municipal court judge to issue that warrant after this case had been indicted, that counsel for the Defendant had the burden of proceeding.

We've have the officer - who's here, he wasn't here last time - here today. He's sitting here in chambers -- I'm sorry, in the jury room with us. And so, counsel for the Defendant, you can ask him any questions you want to in order to support your contention.

I will also note for the record your exception to me requiring you gentlemen to proceed in the matter. Either one of you, go ahead.

MR. GREEN: Thank you, your



Honor.

THE COURT: I'll swear in the witness.

- - -

Whereupon, the Defendant, to maintain the issues to be maintained by him, called one MARK KOLLAR, who, after having been first duly sworn, was examined and testified as follows:

DIRECT-EXAMINATION

BY MR. GREEN:

Q State your name for the record, please.
A Mark Kollar.
Q And how are you employed, Mr. Kollar?
A I'm a detective with the Medina City Police Department.
Q And how long have you been so employed?
A I've been in Medina going on nine years.
Q You're aware that we're here today based upon a couple of search warrants that you sought to have issued?
A Correct.
Q And they were in the jurisdiction of the Medina Municipal Court?
A Correct.
Q All right. And where did the Defendant live --
A He lived --

F. Harrison Green Co., L.P.A.
Attorneys - at - Law

F. Harrison Green*
R. Michael Phelps**

*admitted in Ohio & Indiana
**admitted in Ohio, Kentucky & Georgia

Exhibit-56

June 27, 2007

Frank Wood
#504-107 Man. C.I.
P.O. Box 788
Mansfield, OH 44901

Dear Frank:

I was disappointed to receive the news from you that your appeal has failed. I had a great belief that you would succeed in the appeal as I felt there were considerable prejudicial errors made during the course of the pre-trial motions and during the trial. It is my opinion that the evidence failed in several respects relating to the age of the victim and, also, the conduct, in particular, of any rape. Still, I felt the evidence was insufficient as to the second gross sexual imposition charge. As far as your request is concerned, I would suggest that you contact the office of the Ohio Public Defender at 6 East Long Street, 11th Floor, Columbus, Ohio 43215. They do have phone numbers, which may be available to you at (614) 466-5394 or (800) 686-1573.

It is my recollection that you had a court appointed attorney for the purposes of your appeal out of the Medina Court of Common Pleas. The Ohio Public Defender's office is a State agency that works for the benefit of indigent defendants that performs these services on a full-time basis.

It is my hope that you can receive the appropriate assistance and justice can be served in your case.

With best regards, I remain.

Very truly yours,

F. HARRISON GREEN CO., L.P.A.

F. Harrison Green
Attorney at Law

FHG/lsk

Executive Park, Suite 230 • 4015 Executive Park Drive • Cincinnati, Ohio 45241
Phone (513) 769-0840 • Fax (513) 563-2953
19 South Beech Street • Oxford, Ohio 45056 • (513) 523-1426

COURT OF COMMON PLEAS
MEDINA COUNTY, OHIO

2015 FEB 26 AM 11:58

DAVID B. [illegible]TH
MEDINA COUNTY
CLERK OF COURTS

STATE OF OHIO,

Prosecutor,

vs.

FRANK P. WOOD,

Defendant.

Exhibit-57

CASE NO. 05CR0365

JUDGE CHRISTOPHER J. COLLIER

MOTION FOR DISQUALIFICATION OF PROSECUTOR AND FOR RETRACTION OF STATE 'S BRIEF OF APPELLEE

---

MOTION FOR DISQUALIFICATION OF PROSECUTOR AND FOR RETRACTION OF STATE'S BRIEF OF APPELLEE

---

Defendant Frank P. Wood (hereinafter "Wood"), directly seeks the immediate disqualification of the Medina County Prosecutor's Office, in its entirety, from State of Ohio vs. Frank P. Wood, Medina County Case No. 05CR0365, and for the retraction of the State's Brief Of Appelle that was filed on January 12, 2015, for the biased and prejudicial reasons stated more fully below.

On November 10, 2014, Attorney Marilyn A. Cramer filed a Motion To Dismiss, With Prejudice, On Grounds Of Prosecutorial And Judicial Bad Faith And Misconduct in State v. Hartman, Medina County Case No. 09CR0229. Within this brief, Wood's Affidavit and Exhibits (Exhibit-A of this motion), which reveal that the Prosecutor's Office acted in bad faith, are being used as Direct Evidence against their Office. Wood's proof is itemized as "Exhibit Twenty-Two" and his case is cited on pages ix, xvi, 35, and 66 of the Hartman brief, which can be readily viewed by the eyes of the general public at http://medinacorruption.blogspot.com.

As a County Corruption Case, Wood is an adverse and hostile witness, who is eager to testify, against the Medina County Prosecutor's Office. This

renders the Prosecutor's Office disqualified by reason of conflict of interest with a prejudice that prevents an objective consideration of, and approach to, Wood's **two pieces of newly discovered evidence.** For clarity, Wood, an incarcerated pro se litigant who never finished college, must rely on the Prosecutor's Office to uphold the law and seek true justice regarding Wood's two pieces of new evidence. Now, through the Hartman case, the Prosecutor's Office and Wood are fully engaged in direct conflict, and

> You cannot depend on that which you are in conflict with.
> -Stephen R. Covey, The 7 Habits of Highly Effective People

The Medina County Prosecutor's Office is now in a defensive-offensive position regarding Wood, his activity in the Hartman case, and his new evidence. Obviously, their Office can no longer remain impartial. Therefore, their Office can no longer maintain the staunch position of an objective Government Prosecutor: One that seeks **truth** and justice, and that values **fact** over conjecture. The immediate disqualification of their Office, in its entirety, is the **only** way to remedy this adverse situation and protect Wood from being unfairly disadvantaged by such prejudice. Failure to do so would result in the deprivation of Wood's U.S. 1st Amendment Constitutional rights to redress of grievances, his U.S. 6th Amendment rights to proceed pro se, and his U.S. 14th Amendment rights to Due Process and Equal Protection. At this juncture, the Ohio Rules of Professional Conduct and the ABA Standards of Conduct for Prosecutors demand disqualification; recusal, at the very least.

Unfortunately, Wood has already suffered extreme prejudice in this situation. The Hartman brief was filed on November 10, 2014. Logically, the Prosecutor's Office would have been made readily aware of any adverse witnesses and evidence (e.g., Wood, his Affidavit, and Exhibits). This

knowledge would have come into their possession through Assistant Prosecutor Jesse W. Canonico of the Cuyahoga County Prosecutor's Office; the Office assigned to the Medina County Hartman case. After the Hartman filing, on December 1, 2014, Wood filed his Brief Of Appellant into the Ninth District Court Of Appeals to vindicate the admission of his first piece of new evidence. Then, on January 12, 2015, armed with the knowledge of Wood's active participation in the Hartman case, Assistant Prosecutor Matthew A. Kern of the Medina County Prosecutor's Office filed a Brief Of Appellee into the Ninth District, challenging the admission of Wood's first piece of new evidence;

**TWO FULL MONTHS AFTER THE HARTMAN FILING!**

In light of, or dare we say overshadowed by, the above,

> Prisoners have a constitutional right of access to the courts. The Due Process Clause requires that prisoners have meaningful access. Drexell Greene, Petitioner vs. Anthony Brigano, Respondent, 1995 U.S. Dist. LEXIS 16664, HN2.

Since the Prosecutor's Office can no longer remain impartial, the very act of filing the State's Brief Of Appellee, and the brief itself, were so **tainted with bias**, that Wood was denied his U.S. Constitutional rights to "Due Process," Equal Protection, and "meaningful access" (Id). For verification of this assertion, the State went so far as to accuse Wood of "calumny" (State's Brief, p.14) in order to goad Wood into giving up the names of two "deputies" (State's Brief, p.13). These witnesses will remain in anonymity, for the moment. After all, new evidence seems to be surfacing in Wood's case on a regular basis.

The State's reckless assertion was nothing more than an attempt to discredit Wood, his first piece of new evidence, and his Pre-Trial "Histor[ies]" (State's Brief, p.13), for his active participation as a

material witness in the Hartman case. What more, Wood's Pre-Trial Histor[ies] (Exhibits B and C) were officially made part of the "Record" pertaining to the proceedings regarding Wood's first piece of new evidence on November 18, 2014 (Exhibit-D), as part of his Notice Of Dismissal Of Counsel Of Record/With Exhibits, Aug. 27, 2013. Both Histor[ies], their admission and content, twice went unchallenged by the State. Well, at least until Wood surfaced in the Hartman case.

The prejudice suffered by Wood is further compounded by several factors. Historically, the State accused Wood of slander **after** the Hartman filing knowing that 1) The Office Of Job & Family Services/Children Services sent their Office a letter stating that there is "no evidence" against Wood (Tp.342, Ln.6-10), that their Office "closed" the case against Wood (Tp.339, Ln.11); and The Montville Twp. Police Dept. "Terminated" the case against Wood (Tp.47, Ln.15-23), all **pre-indictment**.

Continuing with 3) The letter from Children Services was suppressed by the State during Trial. Wood's valid claim of a Brady Violation is presented as CAUSE III, Ground II in his delayed Motion for new trial pertaining to his first piece of new evidence (Exhibit-E); and 4) The State still cannot challenge Wood's **uncontested** Claim Of Actual Innocence (Exhibit-F); a claim comprised solely of State's evidence from the face of the incomplete and materially altered Trial Record.

And their Office accused Wood of slander?

Query: Since action is distilled intent, will Wood's second piece of new evidence, that was recently filed, receive the same prejudicial treatment?

Regarding Wood's first piece of new and exonerating evidence, as a direct result of his involvement in the Hartman case, it is crystal that the

Prosecutor's Office acted in bad faith, filed a tainted Brief Of Appellee, and denied Wood his

> Fourteenth Amendment right to an adequate appellate review. Drexell Greene, Petitioner-Appellee v. Anthony J. Brigano, Warden, Respondent-Appellant, 1997 U.S. App. LEXIS 22366; OUTCOME.

Having Constitutionally prejudiced Wood in this fashion,

> Ohio Const. art. I, § 16 and U.S. Const. amend XIV guarantee that no person will be deprived of life, liberty, or property by the State without due process of law. State v. DeFronzo, 1978 Ohio Misc. LEXIS 95, HN2. (Greene v. Brigano, 1995 (Supra)).

For reinforcement of the above, Wood filed his Reply Brief Of Appellant Frank P. Wood (Exhibit-G) into the Ninth District on January 26, 2015, challenging the State's Brief Of Appellant. Within this brief, Wood cited his involvement in the Hartman case on page 1 (see also: Exhibit-E, CAUSE III, Ground I). Considering, as of the filing of this motion for disqualification, the Medina County Prosecutor's Office has made no move towards recusal. This is not only unConstitutional, but highly dishonorable.

Wood now has valid Constitutional Grounds for the issuance of Writ and dismissal of indictment.

Overshadowed by the above causes and conditions, as supported by law and fact, the entire Medina County Prosecutor's Office must not only be disqualified with a Special Prosecutor appointed, but must retract its Brief Of Appellee, forfeiting any challenge.

In finality, this blatant form of Prosecutorial Misconduct, that borders on Malicious Prosecution, the prejudicial effects suffered by Wood, and their remedies, must be immediately addressed to protect Wood from any further detrimental damages to his human and Constitutional rights.

## CONCLUSION

The disqualification of the Medina County Prosecutor's Office in its entirety, the retraction of the State's Brief Of Appellee, and the appointment of a Special Prosecutor to Wood's case are requested to prevent any further Constitutional Prejudice against Wood. Notice of the above must then be forwarded to the Ninth Appellate District, without delay, to avoid any impropriety.

Relief is accordingly sought.

Submitted in the eyes of many,

Frank P. Wood

Frank P. Wood (#A504-107)
Grafton Correctional Institution
2500 S. Avon Belden Rd.
Grafton, Ohio 44044

## CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Motion For Disqualification Of Prosecutor And For Retraction Of State's Brief Of Appellee was sent via Regular U.S. Mail on this 24th day of February, 2015, to:

Matthew A. Kern/Assistant Prosecutor
Medina County Prosecutor's Office
72 Public Square
Medina, Ohio 44256.

Frank P. Wood

Frank P. Wood

File-Stamp-Return

IN THE COURT OF COMMON PLEAS
MEDINA COUNTY, OHIO

COMMON PLEAS COURT
2015 APR -3 AM 10:49
DAVID B. WADSWORTH
MEDINA COUNTY
CLERK OF COURTS

| | | |
|---|---|---|
| STATE OF OHIO, | ) | CASE NO. 05CR0365 |
| Prosecutor, | ) | |
| vs. | ) | JUDGE _____ (Visiting Judge to be Assigned by the Supreme Court of Ohio) |
| FRANK P. WOOD, | ) | |
| Defendant. | ) | FRANK P. WOOD'S RESPONSE TO STATE'S BRIEF IN OPPOSITION |

Exhibit-58

---

FRANK P. WOOD'S RESPONSE TO STATE'S BRIEF IN OPPOSITION

---

On March 27, 2015 Defendant Frank P. Wood (hereinafter "Wood") received a copy of the State's Brief In Opposition To Motion For Disqualification And Retraction Of Brief. This Brief was filed on March 24, 2015 by Assistant Prosecutor Matthew A. Kern (hereinafter "Kern") of the Medina County Prosecutor's Office. As the State's Brief was a dilatory response in an attempt to avoid inevitability, and a rare opportunity for Wood, for the reasons stated more fully below, the State's Brief should be rejected and Wood granted his requested relief.

On p.1 of the State's Brief, Kern claims that since the Hartman case "is being handled by the Cuyahoga County Prosecutor's Office" that their Office "has no interest in the case anymore."

Really?

The Medina County Prosecutor's Office, in its entirety, was replaced by Cuyahoga County for a reason. Has anybody asked the all-probing question "Why?" Chances are, for the same reasons the Medina Office should be disqualified from Wood's case. The Medina Office is under direct attack in State v. Hartman, Motion To Dismiss, With Prejudice, On Grounds Of

Prosecutorial And Judicial Bad Faith And Misconduct, Medina County Case No. 09CR0229, November 10, 2014, with a valid Brady Violation (pp.44, 52-53), and for invading the Defense Camp (p.65), inter alia. Their Office is now a Defendant. Kern's claim of "no interest" is truly spurious and should be deemed a lack of respect for this honorable Court; contempt, to say the least.

In accord, Wood is not just an "adverse and hostile witness" in the Hartman case; he is an injured party. As presented in Wood's Motion For Disqualification, Wood's Affidavit (Exhibit-A) reveals proof that his Transcripts were materially altered in an attempt to destroy Wood's proof of innocence, and to cover up wrongdoings of both Court and State; as was Hartman's (Hartman, pp.22-43, 66). This is a Federal crime. Wood's Affidavit also reveals Jury tampering (Exhibit-A, ¶7-8). As this Direct Evidence is being used against Kern and friends in the Hartman case, it is crystal that their Office can no longer remain impartial in Wood's case. Regarding such,

> The prosecutor carries into court the prestige of "the representative * * * of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest * * * is not that it shall win a case, but that justice shall be done. * * * Consequently, improper suggestions, insinuations and, especially, assertions of personal knowledge are apt to carry [***4] much weight against the accused when they should properly carry none." Berger v. United States (1935), 295 U.S. 78, 88, 55 S. Ct. 629, 633, 79 L. Ed. 1314, 1321. (citing State v. Keenan, 66 Ohio St. 3d 402, 1993 Ohio LEXIS 1214, HN2; REVERSED ON GROUNDS OF PROSECUTORIAL MISCONDUCT).

Blinded by pride and defense, the Medina County Prosecutor's Office cannot remain impartial. Kern deliberately avoided the presence of common sense and logic presented in Wood's Motion to disqualify. Kern also believes that, despite the existing conflict of interest (the White Elephant in the room), that there is no need for disqualification. So consider this: Upon filing Wood's Motion for disqualification, both Judges Collier and Kimbler

recused themselves; the very next day. At least they were smart enough to get out of the way of tne bulldozer of truth.

On p.2 of the State's Brief, Kern cites White, 2004 Ohio 5200. White claimed conflict of interest through prior representation. Wood is an adverse and hostile witness (and an injured party) in the Hartman case against the Medina Office. Irrelevant to the distinguishing facts of the case at bar, Kern cites no authority.

Within pp.3-4 of the State's Brief, Kern viciously attacks Hartman (Defendant), his father Paul M. Hartman, and retained counsel Attorney Marilyn A. Kramer. Here, Kern accused Paul Hartman of "send[ing] tne email messages, about which the defense complained, and attempted to pass them off as messages of other people." Kern then alleged that Attorney Kramer was involved due to her "access" to Hartman's blog account. There are three events here worth noting:

EVENT 1: If Kern's **false** allegations were true, then **why** did the Medina Office file a motion to **"quash"** Atty. Kramer's subpoenas to multiple Internet Service Providers? (Hartman, Motion To Dismiss (Id), p.67).

Fear is a motivator.

If the Medina Office had nothing to hide, they never would have filed the motion to quash and revealed their integrity. The State has failed to shine. In all actuality, the State should have rushed to the Internet Service Providers to obtain proof of their innocence; not try to hide it.

EVENT 2: This was nothing more than a desperate and reaching attempt to discredit Wood because of "his new friends" (State's Brief, p.4).

Turning the table, Kern has friends too. As is stands, Kern's office associates, Prosecutor's Salisbury and Eisenhower, seem to be in the habit of suppressing Brady Evidence (Hartman, pp.44, 52-53; Wood's Motion For

Disqualification, Exhibit-E, pp.4-5). Kern's reckless assertions: his M.O., will be his downfall. You see, Kern is standing on the porch of a glass house throwing stones. If Kern seeks to reveal any integrity, he's welcome to challenge Wood's Brady Violation (Motion For Disqualification, Exhibit-E) and **uncontested** Claim Of Actual Innocence (Motion For Disqualification, Exhibit-F) in open court. Yes, let's see who's glass house holds up to the Windex® Stress Test. For once we remove the grime and crud, it will be quite interesting to see what's hiding behind the glass.

EVENT 3: Kern has attempted to obtain this Honorable Court's ruling on a material issue in the Hartman case by litigating it in Wood's case, preventing Hartman from utilizing his U.S. Constitutional rights to Due Process and Equal Protection, thus denying Hartman and Wood access to a meaningful adversarial process. This is true, for there has been no ruling on this matter in the Hartman case. As to Wood and Hartman, Constitutional Prejudice has occurred. The Hartman Defense Camp will be notified, for it is clear that Kern sought ruling by this Honorable Court to use as a tool or weapon or choice against Hartman. And the Medina Office "has no interest in the [Hartman] case anymore?"

Wood is unsure of the legal ramifications, but to the best of his pro se knowledge, the State's Brief, as it was at inception, just like Wood's indictment, is void and should be disregarded by this Honorable Court. Truly, misconduct has peaked.

Query: Since Wood is a witness and injured party in the Hartman case, via Kern's argument, has the State invaded the Hartman Defense Camp for the second time?

Not looking good for the home team.

Since Kern loves to throw around the word "calumny" like bread to the

poor (State's Brief, p.4), let's go there.

During Wood's arraignment, Chief Prosecutor Dean Holman, challenging Wood's request for bond reduction, which was fraudulently revoked (Motion For Disqualification, Exhibit-A, ¶2; Exhibit-C, pp.D-6 -7), told the Court that Wood had "two last names," "two Social Security numbers," and "mafia connections in Europe." Now **that's** calumny. These lies were later printed in the Medina County Gazette; and that's libel.

For historical proof of this pre-trial media character assassination, Wood was adopted by a most Honorable member of the United States Air Force. He was given a new last name and Social Security number at age (7) seven. At age (8) eight, Wood moved to Italy (Ghedi Air Base) as a military brat. Wood then came to Ohio at age (12) twelve. Mafia connections? No. Then, much later, as an adult, through the Law Office of Attorney Ronald R. Stanley (Wood's co-counsel at Trial), Wood **merged** both last names and Social Security numbers via a legal action in the Medina County Court Of Common Pleas, **pre-indictment**. Brilliant investigative work on behalf of the State. With no public retraction of statement, calumny and libel have been perfected.

Here's the irony: Wood corrected a Government agency's mistake, of his own volition, when he merged both names and numbers. Now, with **uncontested** proof of innocence, and an exonerating Brady Violation, Wood will correct another Government agency's error. Much to his chagrin, it would seem that Wood has a destiny and that

Fate rarely calls upon us at our time of choosing.

-Unknown

Wrapping up Government wrongdoings, Kern failed as a Government Prosecutor to mention the valid and exonerating Brady Violation that was

presented in Wood's Motion For Disqualification (Exhibit-E) and impartially seek justice (Berger, Keenan, Supra). Such a brutually blatant violation of Wood's human and Constitutional rights by a Government Prosecutor, who throws the bread of "calumny" at will, went unmentioned and uncontested; just like Wood's Claim Of Actual Innocence (Supra). Ignoring something neither invalidates it nor makes it go away. And regarding Kern's willful avoidance of the matter,

There is nothing more deafening than the octaves of silence.
-Unknown

Wrapping up the valid and premeditated Brady Violation, on March 25, 2015 Wood forwarded his Request For Brady Hearing And Dismissal Of Indictment to the Medina County Clerk Of Courts for filing and to Kern via Regular U.S. Mail. We'll settle the matter there.

Now for the retraction of the State's Brief Of Appellee.

Yes, the conflict of interest with Wood not only requires disqualification, but retraction of Brief. Should the Appellate Court erroneously rule against the admission of Wood's first piece of newly discovered and exonerating evidence, this would result in a Due Process violation on top of a Due Process violation.

Once the Prosecutor's Office is disqualified, per Wood's pro se knowledge, logically, retraction of Brief would naturally follow suit. Indeed, this may very well result in a case of first impression. However, in Kern's own words,

> "[t]his Court lacks jurisdiction to take action except in aid of the appeal. See, e.g., State ex rel. Special Prosecutors v. Judges, Belmont County Court of Common Pleas, 55 Ohio St. 2d 94, 97, 378 N.E.2d 162 (1978) (holding that once the notice of appeal was filed, the trial court lost jurisdiction except to take action in aid of the appeal); State v. Phillips, 9th Dist. Summit No. 25408, 2011 Ohio 1348, ¶8." (State's Brief, p.5).

Perfect! Under such extenuating circumstances this Court can now take action and aid Wood's appeal by disqualifying the Prosecutor's Office and ordering their Office to rescind its Brief. In turn, this Court would be aiding the appeal by eliminating the bias and prejudice that tainted the Brief with bad faith. Further, such action would uphold Wood's

> Fourteenth Amendment right to an adequate appellate review. Drexell Green, Petitioner-Appellee v. Anthony J. Brigano, Respondent-Appellant, 1997 U.S. App. LEXIS 22366; OUTCOME.

In finality, on p.5 of the State's Brief, Kern claims that Wood was "lawfully convicted." What he fails to disclose to this Honorable Court is that, post-Brady Violation, with a fabricated case, Wood was **unlawfully** convicted by what the Trial Court declared to be a **"cynical"** Jury (Tp.135, Ln.7-11). Failure to be tried and adjudicated by an impartial Jury resulted in the deprivation of Wood's U.S. Const. 6th Amend. right. This further deprived Wood of his U.S. 14th Amend. right to a fair trial. The United States Constitution is the Supreme Law of the Land. Lawfully convicted? **No.** Unlawfully convicted? **Yes.**

In harmony, Wood implores this Sagacious Court to engage its powers of sua sponte, and to set this insolent injustice right.

## CONCLUSION

Wood prays this Honorable Court to grant the relief sought in his Motion For Disqualification Of Prosecutor And For Retraction Of State's Brief Of Appellee; to Order the repeal of the State's Brief Of Appellee that was filed into the 9th District Court Of Appeals; and to declare the State's Brief In Opposition To Motion For Disqualification And Retraction Of Brief void at inception.

Relief is accordingly sought.

Submitted with integrity and respect,

Frank P. Wood

Frank P. Wood (#A504-107)
Pro Se Litigant
Grafton Correctional Institution
2500 S. Avon Belden Rd.
Grafton, Ohio 44044

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Frank P. Wood's Response To State's Brief In Opposition was sent via Regular U.S. Mail on this 31ST day of March, 2015 to:

Matthew A. Kern/Assistant Prosecutor
Medina County Prosecutor's Office
72 Public Square
Medina, Ohio 44256.

Frank P. Wood

# IN THE COURT OF COMMON PLEAS
# MEDINA COUNTY, OHIO

COMMON PLEAS COURT
2015 FEB 27 AM 11:05

DAVID E. WAINSWORTH
MEDINA COUNTY
CLERK OF COURTS

| | | |
|---|---|---|
| STATE OF OHIO | ) | CASE NO.: 05CR0365 |
| Plaintiff, | ) | |
| | ) | JUDGE CHRISTOPHER J. COLLIER |
| vs. Exhibit-59 | ) | |
| FRANK P. WOOD | ) | **JOURNAL ENTRY WITH INSTRUCTIONS FOR SERVICE** |
| Defendants. | ) | |

To avoid any appearance of impropriety, Judge Christopher J. Collier and Judge Joyce V. Kimbler hereby recuse themselves from the within matter. The non-oral hearing presently scheduled for March 27, 2015 is cancelled. The Supreme Court of Ohio will be notified of this recusal and the appointment of a Visiting Judge will be requested.

IT IS SO ORDERED.

CHRISTOPHER J. COLLIER
JUDGE

JOYCE V. KIMBLER
JUDGE

The Clerk of Courts is instructed to send copies of the foregoing Journal Entry to the following parties or their counsel of record.

Atty. Kern
Frank P. Wood

Copies of this Entry were mailed by the Clerk of Courts on 2/27/15.

Renee Hellman
DEPUTY CLERK OF COURT

COMMON PLEAS COURT

# The Supreme Court of Ohio

15 MAY -6 AM 10: 23

FILED
DAVID B. WADSWORTH
MEDINA COUNTY
CLERK OF COURTS

**Exhibit-60**

CERTIFICATE OF ASSIGNMENT

The Honorable Patricia Ann Cosgrove, a retired judge of the Summit County Court of Common Pleas, General Division, is assigned effective April 17, 2015, to preside in the Medina County Court of Common Pleas, General Division, to hear case 05 CR 0365, State of Ohio v. Frank P. Wood and to conclude any proceedings in which she participated.

Maureen O'Connor
Chief Justice

15JA0938

# The Supreme Court of Ohio

OFFICE OF JUDICIAL SERVICES
65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE
MAUREEN O'CONNOR

JUSTICES
PAUL E. PFEIFER
TERRENCE O'DONNELL
JUDITH ANN LANZINGER
SHARON L. KENNEDY
JUDITH L. FRENCH
WILLIAM M. O'NEILL

DIRECTOR
W. MILTON NUZUM III

TELEPHONE 614.387.9400
FACSIMILE 614.387.9409
www.supremecourt.ohio.gov

Exhibit-61

June 24, 2015

Frank P. Wood
A504-107
Grafton Correctional Institution
2500 S. Avon Belden Road
Grafton, Ohio 44044

Re: Medina County Case Nos. 05 CR 0365 and 09 CR 0229

Dear Mr. Wood:

In your letter, you mentioned two cases in the Medina County Court of Common Pleas and inquired if a visiting judge had been assigned. Judge Patricia Cosgrove is assigned to preside in the Medina County Court of Common Pleas to hear case 05 CR 0365, State of Ohio v. Frank P. Wood. Judge Patricia Cosgrove is assigned to preside in the Medina County Court of Common Pleas to hear case 09 CR 0229, State of Ohio v. Matthew J. Hartman.

Sincerely,

Diane Hayes

Diane Hayes
Judicial Assignment Specialist

Exhibit-62

COMMON PLEAS COURT
2015 OCT -7 AM 10: 03
FILED
DAVID B. WADSWORTH
MEDINA COUNTY
CLERK OF COURTS

**IN THE COURT OF COMMON PLEAS**
**MEDINA COUNTY, OHIO**

**STATE OF OHIO**

**Plaintiff,**

**v.**

**FRANK P. WOOD**

**Defendant.**

**CASE NO. 05-CR-0365**

**JUDGE PATRICIA A. COSGROVE**
**(Sitting by Assignment)**

**ORDER ON DEFENDANT'S MOTION TO DISQUALIFY PROSECUTOR'S OFFICE AND FOR RETRACTION OF STATE'S BRIEF**

The Defendant, Frank P. Wood, pro se, has filed a motion to disqualify the Medina County Prosecutor's Office from this case. Wood posits that the entire Medina County Prosecutor's Office should be disqualified because he filed an affidavit in support of a Defendant in an unrelated case, *State v. Mathew J. Hartman*, Case No. 09-CR-0229. The conviction in *Hartman* was reversed and remanded to the Medina County Common Pleas Court. The Cuyahoga County Prosecutor's Office is handling the prosecution of the case.

Before addressing Defendant's arguments on the merits, the Court will review the standard in Ohio regarding the disqualification of a prosecutor's office. A decree disqualifying a prosecutor's office should only be issued by a court when actual prejudice is demonstrated. *State v. White*, 8th Dist. Cuyahoga No. 82066, 2004 Ohio 5200.

In deciding whether disqualification is appropriate, the Court shall consider 1) the type of relationship the disqualified prosecutor had with the defendant, 2) the screening mechanism, if any employed by the office, 3) the size of the prosecutor's office, and 4) the involvement the disqualified prosecutor had in the case. *Id. White.*

The crux of the Defendant's argument is that because he filed an affidavit in support of Hartman's motion to dismiss (pending before this Court) that this demonstrates a conflict of interest for the Medina County Prosecutor's Office in handling the post-conviction motions in this case. Since, the Cuyahoga County Prosecutor's Office handling the re-trial of the Hartman case, the Medina County Prosecutor's Office has had no involvement in the case.

Mr. Wood, in his affidavit filed in the Hartman case (Defendant's Exhibit A), alleges that based upon his memory in his own trial proceedings, some portions of the trial transcript were not taken down correctly and/or altered by the court reporter. This claim mirrors the allegations made by Mr. Hartman in his case. Mr. Wood believes that there is a conspiracy between the trial court and staff to manufacture or alter the trial record. Wood cites by way of example, the fact the transcript of the voir dire of his 2006 trial was never transcribed. (See, Defendant's Affidavit, D & E).

The Defendant has failed to demonstrate that there was any existing prior relationship between him and the Medina County Prosecutor's Office prior to his case. *Id. White.*

The fact the Defendant believes that the reason that the Medina County Prosecutor's Office opposes his numerous post- conviction pleadings is due to his filing an affidavit in support of Mr. Hartman's motions, is nothing more than speculation on his part. The vicarious disqualification of an entire prosecutor's office should be allowed only when *actual prejudice* is demonstrated." *State v. Vidu* (1998), Cuyahoga No. 71703 & 71704, 1998 Ohio App. LEXIS 3390 *10 (emphasis added), *White*, supra.

The Defendant also moves this Court for an order to withdraw the State's previously filed appellate brief in opposition to the Defendant's first request to file a delayed application for a new trial (*State v. Wood*, 9th Dist. Medina No. 14CA0093-M). This Court is without jurisdiction

to withdraw a brief filed in the appellate case. Further, this motion is moot as the Ninth District Court of Appeals affirmed the judgment of the Medina County Common Pleas Court on July 20, 2015, denying Wood's first application to file an application for a delayed appeal.

## CONCLUSION

In conclusion, the Court finds that the Defendant has failed to demonstrate that there was a prior relationship between him and the Medina County Prosecutor's Office prior to his rape case. *Id. White.* The Defendant has produced no evidence that he would suffer "actual prejudice" by having the Medina County Prosecutor's Office remain on this case. The Court is without jurisdiction to order the withdrawal of any brief filed by the State in the case *State v. Wood*, 9th Dist. Medina No. 14CA0093-M.

The Defendant's motion to disqualify the Medina County Prosecutor in this case and the Defendant's motion to retract the State's appellate brief in *State v. Wood*, 9th Dist. Medina No. 14CA0093-M, are denied.

**The Medina County Clerk of Courts is instructed to mail a time-stamped copy of this order to the parties listed below and this Court.**

This is a final and appealable order. There is no just cause for delay.

IT IS SO ORDERED.

JUDGE PATRICIA A. COSGROVE

cc: Defendant, Frank P. Wood, Pro Se, Inmate # 504107, Grafton Correctional Institution, 2500 S. Avon Belden Road, Grafton, Ohio 44044
Assistant Prosecuting Attorney Mathew A. Kern

Exhibit-63

**IN THE COURT OF APPEALS**
**FOR THE NINTH JUDICIAL DISTRICT**
**MEDINA COUNTY, OHIO**

| | | |
|---|---|---|
| **STATE OF OHIO,** | ) | Case No. 06CA0044-M |
| | ) | |
| Appellee, | ) | |
| | ) | |
| -v- | ) | |
| | ) | An Appeal from Medina County Court |
| **FRANK P. WOOD,** | ) | of Common Pleas Case No. 05-CR-0365 |
| | ) | |
| Appellant. | ) | |

---

**BRIEF OF APPELLANT**

---

JOSEPH F. SALZGEBER (#0063619)
P.O. Box 1589
Medina, Ohio 44258-1589
(330) 725-1199 phone
(330) 722-1968 fax

Counsel for Appellant,
Frank P. Wood

DEAN HOLMAN (#0020915)
Medina County Prosecuting Attorney
RUSSELL HOPKINS (#0063798)
Assistant Prosecuting Attorney
72 Public Square
Medina, Ohio 44256
(330) 723-9536

Counsel for Appellee,
State of Ohio

## STATEMENT OF THE CASE

On August 3, 2005, a Medina County Grand Jury indictment was filed charging Defendant-Appellant Frank P. Wood (hereinafter "Mr. Wood") with two counts: one count of rape in violation of O.R.C. 2907.02(A)(1)(b)(B), a felony of the first degree; and one count of gross sexual imposition in violation of O.R.C. 2907.05(A)(4), a felony of the third degree.

Mr. Wood was arraigned on August 15, 2005 before the Honorable Christopher J. Collier, Judge of the Medina County Court of Common Pleas, and entered a plea of "not guilt" to the indictment. Mr. Wood subsequently retained both Attorney F. Harrison Green of Cincinnati and Attorney Ronald Stanley of Medina to represent him in this matter.

On April 7, 2006—after waiting months for the State to finally provide requested discovery in the form of copies of the search warrants issued by the Medina Municipal Court for Mr. Wood's home and laptop computer following his indictment and arrest on August 3 and 4, 2005—Mr. Wood filed a motion to suppress the fruits of those searches on grounds that the municipal court lacked jurisdiction to issue those search warrants once the case was before the Medina County Court of Commons Pleas. The State of Ohio filed a response in opposition thereto.

A hearing on Mr. Wood's motion to suppress was held on April 24, 2006 before Judge Collier. (Tr. 8-17).[1] Mr. Wood was present in the courtroom and represented by Attorneys F. Harrison Green and Ronald Stanley. (Id). The State of Ohio was represented by Anne Eisenhower, Assistant Prosecuting Attorney. (Id). The sole witness at suppression hearing, Detective Mark Kollar of the Medina City Police Department, testified that he was aware that an indictment against Mr. Wood had already been filed in the Medina County Court of Common

[1] There are multiple transcript volumes filed as part of the record on appeal in this case. The abbreviation "Tr." Will refer to the 560-page trial transcript. Other transcript volumes will be abbreviated accordingly so as to differentiate between them and the trial transcript.

On May 15, 2006, both a sexually-oriented offender hearing and a sentencing hearing were held before Judge Collier. (Sent. Tr. 4-19). After hearing testimony from Detective Kollar, who was the investigating officer, the trial court erroneously determined that Mr. Wood was a sexual predator and advised him of his registration duties under the sexual predator statutes. (Sent. Tr. 5-12, 15-16). Next, the trial court erroneously overruled Mr. Wood's Crim.R. 29(C) motion for acquittal filed after the jury's verdict. (Sent. Tr. 12). The trial court then sentenced Mr. Wood to life imprisonment as to the rape count and to a prison term of three years as to the gross sexual imposition count, with both sentences ordered to run consecutively. (Sent. Tr. 16-18). Mr. Wood thereafter filed a timely notice of appeal to this Honorable Court.

## STATEMENT OF FACTS

### A. Background

Mr. Wood is now thirty-nine years old. He was born in New Jersey and, as a small child, was adopted in Maine. His adoptive father was in the United States Air Force, so Mr. Wood spent part of his childhood as a "military brat" living in Western Europe. Unfortunately, Mr. Wood's parents divorced when he was only twelve years old. In 1979, Mr. Wood moved with his mother and three siblings to Medina County, Ohio, where he completed both middle and high school. For the past eight years, Mr. Wood has been a self-employed construction contractor based in Medina County, Ohio.

Mr. Wood is a heterosexual male interested only in adult females. (Tr. 468-77). He does not meet the diagnostic criteria for pedophilia, because he had no history of sexual behavior with minors and none of the signs of sexual interest in minors typically exhibited by pedophiles. (Id).

assuming *arguendo* that the evidence was somehow minimally sufficient, the jury clearly lost its way and created such a manifest miscarriage of justice that Mr. Wood's rape and gross sexual imposition convictions must be reversed and a new trial ordered. *See* Otten, supra. Appellant's fifth assignment of error should therefore be sustained.

## CONCLUSION

Based on the foregoing, Mr. Wood respectfully urges this Court to sustain his five assignments of error and to reverse the judgment of conviction below.

Respectfully submitted,

JOSEPH F. SALZGEBER (#0063619)
P.O. Box 1589
Medina, Ohio 44258-1589
Phone: (330) 725-1199
Fax: (330) 722-1968

Counsel for Appellant Frank P. Wood

## CERTIFICATE OF SERVICE

A copy of the foregoing **Brief Of Appellant** was hand delivered on this 22th day of September, 2006 to: Russell Hopkins, Assistant Prosecuting Attorney, 72 Public Square, Medina, Ohio 44256.

JOSEPH P. SALZGEBER (#0063619)
Counsel for Appellant Frank P. Wood

COPY

Exhibit-64

IN THE COURT OF APPEALS OF MEDINA COUNTY, OHIO
NINTH JUDICIAL DISTRICT

COURT OF APPEALS
07 AUG 31 PM 3:16
FILED
KATHY FORTNEY
MEDINA COUNTY
CLERK OF COURTS

STATE OF OHIO,
Plaintiff-Appellee,

vs.

FRANK P. WOOD,
Defendant-Appellant.

C.A. No. 06CA0044-M

Case No. 05 CR 0365

APPLICATION TO REOPEN DIRECT APPEAL PURSUANT TO APP.R.26(B)

Now comes the Defendant-Appellant, Frank P. Wood, acting in pro se, purusant to App.R.26(B) and State v. Murnahan(1992), 63 Ohio St.3d 60, who respectfully moves this Honorable Court for an order granting the instant application to reopen direct appeal for the reasons more fully explained in the brief in support, which is attached hereto and incorporated herein by reference.

Respectfully Submitted,

Frank P. Wood

Frank P. Wood #504-107
Mansfield Correctional Inst.
P.O. Box 788
Mansfield, OH 44901-0788

DEFENDANT-APPELLANT IN PRO SE

OPY

## Assignment of Error No. I:

The appellant was denied his U.S. 6th and 14th Amendment and Ohio Article I, Section 10 Constitutional rights to the effective assistance of appellate counsel, when counsel failed to raise for direct review that trial counsel was ineffective for failing to object to the State's use of subsequent other acts testimony to mislead the jury in its adjudication on the indicted offense of rape, thus prejudicing the appellant to a fair trial.

Prior to the instant trial, assistant prosecutor Eisenhower amended the Bill of Particulars for the jury to consider, inter alia, if the alleged rape of Samantha Lazard (S.L), born October 3, 1994 (T.P. 537 Ln. 9-18), occurred between the dates of October 1st thru the 3rd of 2004. (T.P. 18 Ln 13-16)

During trial, the prosecutor introduced a significant amount of testimony of an unindicted allegation, of an additional rape of S.L., to have been committed by the appellant Frank Wood, on October 20, 2004. (Opening Statements - pg. 34; Ofc McCourt - pgs. 57-58; (S.L.'s Maternal Guardian) Danielle Sadowsky - Pgs. 88-105, 114; (S.L.'s Paternal Guardian) Scott Sadowsky - pgs. 187-188, and S.L. pgs. 224-231).

The appellant contends that all of the testimony concerning October 20, 2004 was "wholly separate" and "unrelated" to the charged offense, and was inadmissible as "other acts" evidence per Onio Rules of Evidence 404(B) and State v. Thompson (1981), 66 Ohio St.2d 496, 422 N.E.2d 855.

In the case at bar, Thompson was charged with G.S.I. of his daughter, Brenda Thompson, to have occurred between June 1st through September 30, 1977.

During trial, as in the instant case, testimony of incidents, to have taken place subsequent to the dates being tried, were elicited.

OPY

After a guilty verdict at trial, the Court of Appeals reversed Thompson's conviction (citation omitted), which was later affirmed by the Ohio Supreme Court, whom stated:

> "other acts" testimony is relevant and, thus, admissible under the "scheme, plan or system" exception of R.C. 2945.59 where those acts form part of the immediate background of the crime charged, and hence are "inextricably related" to the act alleged in the indictment; that is where the challenged evidence plays an integral part in explaining the sequence of events and is necessary to give a complete picture of the alleged crime." id at 856. See also Ohio Rules of Evidence 404(b) and R.C. 2907.02(D).

And decided that:

> "According to Brenda's testimony, appellee's subsequent acts occurred, at earliest, 10 days after the time alleged in the indictment. Some of subsequent acts occurred nearly two years later. Here... the acts testified to were "chronologically and factually" separate occurrences..(that were)... not "inextricably related" to the facts alleged in the indictment." id at 856-57.

As referenced in the instant case, the State specified the commission dates for the indicted rape as being between October 1st through October 3rd, 2004 (T.P. 537 Ln. 9-18). The complained of "other acts" testimony reflects a date of October 20, 2004, which is seventeen days after the dates that were tried in the instant matter, exceeding the earliest subsequent other acts testimony in Thompson by seven days.

Subsequently, in the prosecution's closing argument, Ms. Eisenhower referred to the Oct. 20th allegation as "the last time it happened" and the indicted charged as "the First time it happened" (T.P. 495-96 Ln. 23-4).

Here, the State establishes for the jury that the alleged incidents are separate events, by giving each allegation it's own distinction, hence, "first time" and "last time", effectively conceding the events to be "wholly separate" occasions under the standards of inadmissibility as described in Thompson:

)PY

> "As a general rule, evidence of previous or subsequent criminal acts, wholly independent of the criminal offense for which a defendant is on trial, is inadmissible." id at 856.

Also, by referring to the allegations as the "first" and "last" time, the State here invites the jury to view the allegation as events of similar criminal conduct. Whereby she further states in closing: "The Judge is going to tell you "on or about" (Oct. 1st-3rd or 2004) (T.P. 537-Ln. 9-18), but that's not---that doesn't even matter." (T.P. 524 Ln. 19-20). Hence, further inviting the jury to forego their responsibility to adjudicate the appellant's trial based on the dates alleged and specified by the State in the Bill of Particulars, and to convict the defendant on the probability of his guilt on the unindicted, "wholly separate", inadmissible subsequent other acts testimony of October 20, 2004. Concerning this, the U.S. Supreme Court has repeatedly asserted:

> "Because jurors are likely to place great confidence in the faithful execution of the obligations of a prosecuting attorney, improper insinuations or suggestions (by the prosecutor) are apt to carry (great) weight against a defendant and therefore are more likely to mislead a jury." United States v. Carter, 236 F.3d 777, 786 (6th Cir. 2001), citing United States v. Smith, 500 F.3d 293, 295 (6th Cir. 1974) (quoting Berger v. United States, 295 U.S. 78, 85, 55 S.Ct 629, 79 L.Ed 1314 (1935).

Especially here where:

> "Such evidence ( of other acts testimony) is never admissible when it's sole purpose is to establish that the defendant committed the act alleged of him in the indictment." Thompson, supra at 856; see also: State v. Cotton (1996), 113 Ohio App.3d 125, 132, 680 N.E.2d 657, 661 (quoting State v. Flannery, 31 Ohio St.2d 124, 60 O.O. 2d 95, 285 N.E.2d 726 (1972).

Moreover, the appellant's trial was void of any hard evidence establishing guilt and relied primarily on S.L.'s credibility. Also, the appellant did not testify and relied solely on his advocate to ensure that his right to a fair trial were preserved. The appellant now avers that the trial counsel's failure to object to the State's introduction and use of subsequent other acts testimony that mislead the jury in their adjudication on the indicted charge of rape, prejudiced the defendant to the effective assistance of trial counsel and thus a fair trial. State v. Bradley, 42 Ohio St.3d 136, 538 N.E.2d 373 (1989), Strickland v. Washington, 466 U.S. 688, 693-696, 104 S.Ct 2052, 2067-2069, 80 L.Ed 2d 674 (1984).

Had counsel objected to the State's introduction and use of subsequent other acts testimony, the jury would have been able to consider that the dates alleged in the Bill of Particulars, October 1st, 2nd and 3rd of 2004, fell on a Friday, Saturday and Sunday. Whereby, both Danielle Sadowsky (T.P. 87 Ln. 17-22) and Scott Sadowsky (T.P. 185 Ln.8-9), S.L.'s legal guardians, testified to S.L being "typically" and "traditionally", at Scott Sadowsky's house every Friday, Saturday, Sunday and Monday, which concurred with S.L.'s testimony that on Sunday, October 3, 2004, she was at her dad's (Scott Sadowsky) house where they had a party celebrating her tenth birthday. (T.P. 247 Ln. 7-16) While further testifying that she spent that whole weekend (Oct. 1st, 2nd and 3rd of 2004: All of the dates alleged in the indicted offense) with her dad and not at Frank Wood's house. (T.P. 247 Ln. 7-16).

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Also, the jury would have been able to fairly assess, as the prosecutor stated, "who doesn't remember their tenth birtnday." (T.P. 495 Ln. 17-18), while adjudicating the likelihood of Mr. Wood committing tne crimes alleged, when S.L. confirmed that she was with Scott Sadowsky, at his house, on all the dates in question. State v. Bradley, supra; Strickland v. Washington, supra; see also Hodge v. Hurley, 426 F.3d 368, 385-386 (6th Cir. 2005) (where counsel was deemed ineffective for failing to object to prosecutorial misconduct.)

The appellant now submits that had appellate counsel raised on direct review, from the record, that trial counsel was ineffective for failing to object to the state's introduction and use of subsequent other acts testimony, that the prejudice against his U.S. Sixth and Fourteenth Amendment and Ohio Article I, Section 10 Constitutional rights to the effective assistance of trial and appellate counsel would not exist, as tne outcome of his direct appeal would have been different. The appellant now prays that this Honorable Court will adjudicate this issue in favor of Mr. Wood and grant him a reopening of his direct appeal, or a new trial.

Assignment of Error No. II:

The appellant was denied his U.S. 6th and 14th Amendment and Ohio Article I, Section 10 Constitutional rights to the effective assistance of appellate counsel, when counsel failed to raise for direct review that trial counsel was ineffective for failing to object to the prosecutorial misconduct, where the state shifted the burden of proof and argued defense counsel's opinion of the defendant's guilt, prejudiced the appellant to a fair trial.

In the instant trial, assistant prosecutor Eisenhower, in her final summation stated:

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> "So what did we give you? We gave you facts. We gave you evidence. We gave you testimony. We gave you things that dovetailed and fit and that you can rely on. What has the defense given you? His opening statements were not evidence. His closing argument is not evidence. And folks, most importantly, you need to remember that his questions are not evidence. His questions were the very definition of innuendo, with no evidence to support them. None." (TP. 523-24 Ln. 22-16).

The appellant contends that the prosecutor's statements violated Mr. Wood's U.S. Fifth and Fourteenth Amendment and Ohio Article I, sectional rights to due process, where the state caused the jury to directly consider that the prosecution presented evidence of guilt, that, as opined by Ms. Eisenhower, was "facts..that dovetailed and fit and that you can rely on.", in comparison to the defense being void of any evidence to "support" the defendant's innocence, ultimately, shifting the burden of proof. The appellant notes that:

> "(C)ourts have consistently recognized that the prosecution is entitled to wide latitude and freedom of expression in summation in discussing what evidence has shown and what reasonable inferences may be drawn therefrom." State v. Smith, 130 Ohio App.3d 360, 720 N.E.2d 149 (Ohio App. 1st Dist. 1988).

But avers, that the prosecution's above quote, fails to discuss what any specific evidence adduced at trial has shown, as well as, the only reasonable inferences to be drawn therefore, would be that the State produced evidence of guilt and the defense proferred nothing to "support" the defendants innocence. Concerning such, as an Ohio Trial Judge, whom was faced with jurors who felt and believed that a defendant must/should testify to his innocence, stipulated that:

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> "(A defendant is not required to prove that he is innocent. He's not required to put on any evidence and if he chooses to follow that route, (the jury is not allowed, under the law to consider that against him because the burden of proof is upon the prosecution." Franklin v Anderson (6th Cir. 2006), 434 F.3d 412, 422. See also; O.R.C. 2901.05(A).

Whereby the State's invitation for the jury, to consider the defendant's failure to produce evidence of innocence, was improper, see O.R.C. 2938.08, and prejudiced Mr. Wood to a fair trial.

The appellant now contends, that this misconduct was not isolated as evidence where the prosecutor states:

> "The Judge is going to tell you "on or about", but that's not ---that doesn't even matter. She sat here and told you "couple of days before my birthday." And that evidence. That's evidence. There's been no evidence to the contrary, none." (T.P. 524 Ln 19-24).

Here, the State tells the jury that the dates concerning the alleged rape of S.L., that Judge Collier will instruct them on as part of their consideration in their deliberation, "doesn't even matter." (See Error I for prejudice), while reinforcing the main argument, from the primary complained of quote, that the State presented evidence of guilt, and the defense has not proferred any to the "contrary".

Further, Ms. Eisenhower then states:

> "But what you, as a jury, must remember is that the State of Ohio has given you cold evidence. Hard evidence. Evidence that you got to see. Evidence you get to interpret. Evidence that you get to judge. Not questions, not innuendo, not imaginary concocted plots." (T.P. 525 Ln. 16-21)

She continues:

> "No. We have a defense like this. Well, it happened, but it didn't happen here and here." (T.P. 524. Ln. 13-18) See, State v Keenan, 66 Ohio St.3d 402, 613 N.E.2d 203, 206.

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Concerning the prosecutor's comment on defense counsel's opinion, the appellant turns to the Ohio Supreme Court's decision in Keenan, supra. Id at 203, where the court reversed inter alia, where the State improperly stated that the defense was: "(n)ot looking this objectively. They are paid to do that. They are paid to get him off the hook." Id. at 206, upon which the court concluded that this comment: "(i)mputed insincerity to defense counsel, thus suggesting that they believed Keenan guilty."

Mr. Wood now submits, that the instant issue is disingenuous to the issue cited in Keenan, id., where the prosecutor made comments that bore directly upon defense counsel's opinion of his client's guilt. Concerning such, the Court in Keenan, supra., further decided that: "Such comment is forbidden because it is both irrelevant and prejudicial... the personal opinion of defense counsel of their client's guilt or innocence is no more relevant than the opinion of the prosecutor. Yet, if the jury believes that, even the defendant's own advocates think him guilty, that belief will naturally carry great weight into their deliberations. The jury is also likely to resent defense counsel's preceived insincerity." Id. at 207. (See also, State v Freeman, 138 Ohio 3d. 408, 741 N.E. 2d 556 (2000) (Stating that a comment that suggests that defense counsel believes his client is guilty is strictly forbidden.)

Appellant asserts that appellate counsel's failure to raise the issue of trial counsel's failure to object to prosecutorial misconduct, where the State shifted its burden of proof upon defense, arguing defense counsel's opinion as unreasonable.

Therefore, appellant now prays that this Honorable Court adjudicate these issues in his favor and re-open his direct appeal or grant him a new trial.

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## Assignment of Error No. III

The Appellant was denied his U.S. 6th and 14th Amendment and Ohio Article I, Section 10 Constitutional rights to the effective assistance of appellate counsel, when counsel failed to raise for direct review, when the prosecutor denigrated defense counsel from personal opinion and associated the appellants bad character and guilt therefrom, thus prejudiced the appellant to a fair trial.

In the instant case, Assistant Prosecutor Eisenhower stated, in her final summation, that:

> EISENHOWER: You heard Danielle Sadowsky... testify that during her divorce she was represented by (defense co-counsel) Ron Stanley. There's a reason he's sitting over there.
> GREEN: Objection.
> COURT: Overruled.
> EISENHOWER: He didn't participate. He's sitting there to manipulate the system at the Defendant's instructions, at the Defendant's instructions to intimidate the witness that I have brought in here because he knows things. If Frank Wood can manipulate the system, and rely on attorney's questions, imagine - imagine how he can manipulate two little girls. Imagine how he can manipulate those two mothers. (T.P. 524 Ln. 25 - T.P. 525 Ln 15)

The appellant contends that the prosecutor denigrated defense co-counsel Ron Stanley, and asserted the defendant's bad character when she stated conclusively before the jury, that the sole purpose of co-counsel's attendance was to manipulate the system and at the defendant's instructions to intimidate (state witnesses), effectively depicting Mr. Stanley as a "hired gun".

The United States Supreme Court held, "the law is clear, while counsel has the freedom at trial to argue reasonable inferences from the evidence, counsel cannot misstate evidence or make personal attacks on opposing counsel." (See U.S. v Young (1985), 470 U.S. 1, 9, 105 S.Ct 1088, 84 L.Ed 2d 1), and (U.S.v Carter, 236 F.3d 777, 784 (6th Cir.2001).

The Ohio Supreme Court in Keenan, supra., when faced with a similar situation, where the prosecutor used the bad character of Keenan's friends to attack Keenan's own character, the Court decided that: "By arguing explicitly

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that the bad character of Keenan's friends reflected on Keenan's character, when that character was wholly irrelevant, the prosecutor ignored the fact that "(u)nder longstanding principles of Anglo American Jurisprudence, an accused cannot be ... by proving he ... is a bad person." (quoting State v Jamison, 49 Ohio St.3d 182, 184, 552 N.E.2d 180, 183 (1990).

The appellant now avers, that the State's denigration of his co-advocate from personal opinion, then using co-counsel's supposed, bad character to attack the defendant's character by association, prejudiced the appellant from having a fair trial.

CONCLUSION

Wherefore the foregoing stated genuine issues that were needed to be raised in the appellant's direct appeal concerning the deprivation of the effective assistance of counsel and prosecutorial misconduct, defendant-appellant respectfully asks this Honorable Court to vacate it's prior judgment, reinstate the appeal or grant a new trial, appointing new counsel to represent defendant-appellant.

Respectfully Submitted,

Frank P. Wood

Mr. Frank P. Wood, pro se
ManCI. #504-107
P.O. BOX 788
Mansfield, Ohio 44901.

Dfendant-Appellant (Pro Se)

PY

## CERTIFICATE OF SERVICE

This is to certify that four (4) true copies plus the original of the foregoing Application To Reopen Direct Appeal, with accompanying Brief In Support, for the Appellant, Frank P. Wood, filing in pro se, per App.R.26(B)(3), has been served via Certified U.S. Mail, postage prepaid, to Kathy Fortney, Clerk of Courts, at: Courthouse, 93 Public Square, Medina, Ohio, 44256, on this 27th Day of August, 2007.

Frank P. Wood

Frank P. Wood #504-107

DEFENDANT-APPELLANT IN PRO SE

STATE OF OHIO )
)ss:
COUNTY OF MEDINA )

COURT OF APPEALS
07 JUN -4 AM 8:14
FILED
KATHY FORTHEY
MEDINA COUNTY
CLERK OF COURTS

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

Appellee

v.

FRANK P. WOOD

Appellant

C.A. No. 06CA0044-M

Exhibit-65

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF MEDINA, OHIO
CASE No. 05-CR-0365

DECISION AND JOURNAL ENTRY

Dated: June 4, 2007

This cause was heard upon the record in the trial court. Each error assigned has been reviewed and the following disposition is made:

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MOORE, Judge.

{¶1} Appellant, Frank Wood, appeals the judgment of the Medina County Court of Common Pleas. We affirm.

I.

{¶2} This case arises from Appellant's convictions for rape and gross sexual imposition of two minor children, "S.L." and "K.S."

{¶3} S.L. was adopted by Scott Sadowsky and Danielle Sadowsky when she was a toddler. The Sadowskys were married at the time of the adoption. S.L. is a biological relative of Scott Sadowsky. The Sadowskys also have a son whose



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sexual abuse. As part of that investigation, he searched Appellant's Medina Township home. During the search, Detective Kollar discovered a locked briefcase which "contained numerous files and documents as well as photographs of young children." Detective Kollar testified that a majority of the pictures were of "[y]oung females." Detective Kollar estimated that the young girls ranged in age from "four or five up to probably eleven, twelve." K.S. was one of the individuals in the photographs.

{¶55} Appellant did not testify. Appellant attempted to present one witness, Dr. Reed, to testify on his behalf. However, the trial court limited the scope of Dr. Reed's testimony. As a result, Appellant did not call Dr. Reed to testify.

{¶56} Upon review of the evidence, we find that Appellant's conviction for rape of a victim under age 10 is supported by the manifest weight of the evidence. The State presented ample testimony to establish the elements of R.C. 2907.02(A)(1)(b)(B), rape of a victim under the age of 10. The State presented evidence that Appellant repeatedly engaged in sexual conduct with S.L., who was not his spouse, and who was under the age of ten at the time of the abuse. Further, the State set forth evidence that Appellant purposely compelled S.L. by force. S.L. testified that Appellant would come into her bedroom at night and lay on top of her when he sexually abused her. In addition, Appellant told S.L. not to tell anyone.

{¶57} We similarly find that Appellant's conviction of gross sexual imposition of a victim under age 13 is supported by the manifest weight of the evidence. Although K.S. was unable to testify regarding Appellant's abuse because she was too frightened to testify at trial, the State presented several other witnesses that related the story of abuse she had recounted to them. We find that the State presented ample evidence to establish the elements of R.C. 2907.05(A)(4). The State set forth testimony from K.S.'s mother, Robin Speelman, and Dr. LeSure that Appellant had sexual contact with K.S., who was not his spouse and who was less than thirteen years old at the time of the sexual contact.

{¶58} In this case, the jury heard testimony from several witnesses regarding Appellant's sexual abuse of S.L. and K.S. "[T]he weight to be given the evidence and the credibility of the witnesses are primarily for the trier of the facts." *State v. DeHass* (1967), 10 Ohio St.2d 230, at paragraph one of the syllabus. The trier of fact is in the best position to judge the credibility of the witnesses. In this case the jury believed the witnesses' testimony.

{¶59} As this Court has disposed of Appellant's challenges to the weight of the evidence, we similarly dispose of his challenge to its sufficiency. *Roberts*, supra, at *2. Necessarily included in this Court's determination that the jury verdict was not against the manifest weight of the evidence, is a determination that

Costs taxed to Appellant.

CARLA MOORE
FOR THE COURT

SLABY, P. J.
CARR, J.
CONCUR

APPEARANCES:

JOSEPH F. SALZGEBER, Attorney at Law, for Appellant.

DEAN HOLMAN, Prosecuting Attorney, and RUSSELL HOPKINS, Assistant Prosecuting Attorney, for Appellee.

MIKE DEWINE
★ OHIO ATTORNEY GENERAL ★

Appeals Section
Office 614-466-8980
Fax 614-466-5087

30 E. Broad St., 17th Floor
Columbus, Ohio 43215
www.OhioAttorneyGeneral.gov

**Exhibit-66**

COPY

April 19, 2013

William Suter, Clerk
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543

Re: *Frank P. Wood v. Kimberly Clipper, Warden,*
U.S. Supreme Court Case No. 12-9570

Dear Mr. Suter:

Ohio Attorney General Michael DeWine has received the Petition for Certiorari in this case. Our office does not plan to file a Brief in Opposition unless one is requested by the Court, and we enclose a signed Waiver form for filing with your office.

MICHAEL DEWINE
Attorney General

*Alexandra T. Schimmer* / ksb

Alexandra T. Schimmer
Solicitor General

ATS/ksb
Enclosure
cc: Frank P. Wood, pro se Petitioner (w/ encl.)

# WAIVER

COPY

## SUPREME COURT OF THE UNITED STATES

### Supreme Court Case No. 12-9570

FRANK P. WOOD (Petitioner) v. KIMBERLY CLIPPER, WARDEN (Respondent)

I DO NOT INTEND TO FILE A RESPONSE to the petition for a writ of certiorari unless one is requested by the Court.

Please check one of the following boxes:

☒ Please enter my appearance as Counsel of Record for all respondents.

☐ There are multiple respondents, and I do not represent all respondents. Please enter my appearance as Counsel of Record for the following respondent(s):

_____

_____

I certify that I am a member of the Bar of the Supreme Court of the United States (Please explain if your name has changed since your admission):

Signature Alexandra Schimmer

Date April 19, 2013

Name ALEXANDRA T. SCHIMMER, Solicitor General

☐ Mr. ☒ Ms. ☐ Mrs. ☐ Miss

Firm Office of the Ohio Attorney General

Address 30 East Broad Street, 17th Floor

City & State Columbus, Ohio

Zip 43215-3428

Phone 614-466-8980

A COPY OF THIS FORM MUST BE SENT TO PETITIONER'S COUNSEL OR TO PETITIONER IF *PRO SE*. PLEASE INDICATE BELOW THE NAME(S) OF THE RECIPIENT(S) OF A COPY OF THIS FORM. NO ADDITIONAL CERTIFICATE OF SERVICE IS REQUIRED.

cc: Frank P. Wood, pro se Petitioner

# Supreme Court of the United States
# Office of the Clerk
# Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

May 28, 2013

**Exhibit-67**

Mr. Frank P. Wood
Prisoner ID A504-107
Grafton C.I.
2500 S. Avon Belden Road
Grafton, OH 44044

Re: Frank P. Wood
v. Kimberly Clipper, Warden
No. 12-9570

Dear Mr. Wood:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

William K. Suter

William K. Suter, Clerk