

FBT-CR20-00336785-T : SUPERIOR COURT
STATE OF CONNECTICUT : JUDICIAL DISTRICT OF BRIDGEPORT
v. : AT BRIDGEPORT, CONNECTICUT
NICHOLAS ROBERT HALL : FEBRUARY 18, 2025

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE PETER MCSHANE, JUDGE
AND JURY

A P P E A R A N C E S :

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1 THE COURT: Can we go on the record, please?

2 THE MONITOR: Of course. Okay, ready, your
3 Honor.

4 THE COURT: Okay. We're on the record with
5 State of Connecticut versus Nicholas Hall. The
6 parties are present. Mr. Hall is here. We're going
7 to get the jury in. And your witnesses are upstairs?

8 ATTY. DAVIS: Yes, she is. Sorry.

9 THE COURT: Witness. Sorry.

10 (JURY ENTERS THE COURTROOM)

11 THE COURT: Good morning, ladies and gentlemen.

12 JURY PANEL: Good morning.

13 THE COURT: Thanks, for all coming back. I hope
14 the letters suffice. If not, let me know. The --
15 Madame Clerk indicated that there may be another
16 letter that's - that's necessary. Just -- just write
17 -- write down a note, and I'll - I'll be happy to do
18 that, now that I've figured out the printer and
19 letterhead, I'm getting good at it. You may be
20 seated. I'm sorry.

21 So, we're -- I want to tell you this, we did
22 meet yesterday. Not here. They closed the building
23 down, but we met via Teams. So, we got a lot done.
24 So, we're -- we are on target. On schedule, I should
25 say, or on our revised schedule. So, with that
26 being -- do you have something? Oh, yeah. Will
27 Counsel stipulate to the full presence of the jury?

1 Thank you.

2 ATTY. DAVIS: Yes, your Honor.

3 ATTY. BERKE: Yes, your Honor.

4 THE COURT: And alternates. Alright. If you
5 could call your next witness, please?

6 ATTY. PALERMO: Thank you, your Honor. State
7 calls Janet Murphy.

8 THE COURT: Hello, Ms. Murphy. How are you?
9 Please.

10 MS. MURPHY: Thank you.

11 THE COURT: If you could remain standing -- step
12 up, please. If you could remain standing, raise your
13 right hand, and face Madame Clerk, you're going to be
14 put under oath.

15 MS. MURPHY: Okay.

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1 JANET MURPHY : having been called as a
2 witness, been duly sworn, testifies in this matter as
3 follows:

4 THE COURT: Thank you, Ms. Murphy. Hi. I'm
5 just going to ask that you keep your voice up. Okay?

6 MS. MURPHY: Yes.

7 THE COURT: Thanks. You'll be good.

8 DIRECT EXAMINATION BY ATTORNEY PALERMO:

9 Q Good morning.

10 A Good morning.

11 Q Ms. Murphy, are you presently working?

12 A No, I'm not. I'm retired.

13 Q When did you retire?

14 A In October of 2022.

15 Q Prior to retiring, where were you working?

16 A Prior to that, I was working as a Pediatric Nurse
17 Practitioner in a pediatric specialty clinic, with Yale-New
18 Haven Hospital, where we would see children for concerns of
19 child abuse.

20 Q And how long were you working there?

21 A So, I began working there in December of 1988. At
22 that point, it was just one day a week. And I combined that
23 with doing primary care. And then in 2008, I came on full-
24 time and worked with that clinic. At -- when I started with
25 the clinic, it was just a once-a-week, one day a week
26 clinic. And then it expanded into a full-time clinic.

27 Q And your position there was what, when you left?

1 A As a Pediatric Nurse Practitioner.

2 Q Where did you work before you worked for Yale?

3 A Okay. So, my -- my work history, when I graduated as
4 a pediatric nurse practitioner, which was May of 1988, from
5 Yale School of Nursing, I got my Master's -- my RN and
6 Master's in that program.

7 When I graduated, I was hired by the School of Nursing to
8 work in the primary care clinic and cover a caseload of
9 patients that the students covered. So, I covered that for
10 the summer. And -- and then while I was working there, I
11 worked with a pediatrician who saw children for concerns of
12 child abuse. And he asked me to work in the one day a week
13 clinic, to see kids for concerns of sexual abuse.

14 So -- and then in 1996, I took a position with a private
15 pediatric practice in Branford, Branford-North Branford
16 Pediatrics. And continued to work in the specialty clinic
17 one day a week. In 2008, I -- the clinic where we saw
18 children for concerns of abuse expanded into a full-time
19 clinic. And I came on there full-time and left the primary
20 care practice in Branford.

21 Q And then you went to the position at the Yale -- at
22 Yale?

23 A That's right. I was -- so I was in that position, at
24 Yale, since December of 1988, and then came on full-time in
25 2008.

26 Q And could you tell the ladies and gentlemen of the
27 jury, what was your position -- what were your duties and

1 responsibilities when you were working for -- at Yale?

2 A So, in the clinic -- in this particular --

3 Q In the clinic.

4 A In the specialty clinic when I saw kids for --
5 children for concern -- I -- I saw them -- I worked as part
6 of a medical team. I was -- in my position, I saw children
7 for concerns of sexual abuse. There were other
8 pediatricians that I worked with who did -- they took call,
9 and they did -- really -- all kinds of abuse concerns that
10 were raised.

11 So, in my role, I would see -- I would do medical
12 appointments for kids when there was a question of abuse or
13 if children had reported some things where it indicated they
14 should get medical care -- medical care. I would see them
15 for appointments.

16 I worked with social workers, who were forensic
17 interviewers, and interviewed children who would talk about
18 if something happened and what happened. And then I would
19 watch many of those interviews. When I was in New Haven, I
20 would watch the interviews. And then after those
21 interviews, all the children would be, at least, offered a
22 medical exam. And then most of them wanted a medical exam.
23 And so, I would conduct there.

24 And then we expanded our services. There were parts of
25 the state that didn't have access to medical appointments
26 for these kinds of concerns. And so, I worked -- we had
27 satellite clinics. One was in Bridgeport and there was

1 another one that was in Greenwich. So, I worked in both of
2 those, and worked with various teams from those parts of the
3 state where children would have their forensic interviews in
4 those locations, and there would be other multi-disciplinary
5 members involved. Like DCF, police, mental health staff,
6 and so forth, that were part of that -- those teams.

7 Q And this specialty clinic was for child sexual abuse
8 and other types of child abuse?

9 A My role in doing medical appointments was for sexual
10 abuse concerns. But they would, really, pretty much review
11 all cases of any kind of child abuse concern that would be
12 raised at the Team meetings. And I would be attending those
13 meetings, but in terms of medical care, for my role, I saw
14 children for -- when there was a concern of sexual abuse
15 raised.

16 Q And you talked about multidisciplinary teams that you
17 were a part of. Could you just explain what that is, just
18 so the jury -- kind of -- understands the various roles in
19 that?

20 A Sure. So, within the State of Connecticut, it's
21 divided into Judicial Districts. I think there is -- I'm
22 not sure how many. I think there might be 13. I'm not
23 sure. And within each of those districts, there would be a
24 team of professionals who would be involved in the
25 investigation, treatment and care of kids who had concerns
26 of sexual abuse, or abuse that was raised.

27 And so, on these teams -- so, there would be meetings --

1 so, I was part of the New Haven -- they were called MDT's,
2 which stands for multidisciplinary team. So, I was part of
3 the New Haven MDT, the Bridgeport MDT, the Norwalk MDT and
4 the Stamford MDT.

5 And these MDT's would have someone who would run the
6 meeting. And they would include the police from the towns
7 of -- that were part of those -- that region, Department of
8 Children and Families, mental health services that were part
9 of that. Sometimes school staff would be part of that. And
10 these meetings would review cases that were raised and then
11 continue to track cases that were still on-going in some
12 sort of investigation.

13 Q And you also talked about a forensic interviews.
14 Were you ever a forensic interviewer, yourself?

15 A No.

16 Q And what is a forensic interviewer?

17 A So, a forensic interviewer is someone who is trained
18 to do the interviews of kids when there is concerns of abuse
19 raised. It's a very particular method. They are very
20 careful with being open-ended, not leading. I mean, their
21 training is pretty extensive, and they continue to have
22 reviews of their work as they -- as they -- you know -- to
23 make sure they're doing it right.

24 And these forensic interviews are videotaped and observed
25 by the people involved in an investigation. So, typically,
26 the police and the Department of Children and Family staff
27 who are assigned to a case would watch a forensic interview

1 while it was happening.

2 As the medical person, I would watch those that I was
3 going to do a medical appointment with, in New Haven. In
4 Bridgeport areas, I would receive a referral, which would
5 summarize the results of the forensic interview. So, I
6 would have information about what needed to be checked, what
7 needed to be done, medically.

8 Q What was the age range of the children you did
9 medical exams on, in terms of -- that had concerns of child
10 -- child sexual abuse?

11 A So, the kids that I saw ranged from infancy up to
12 early 20's. Some of these young adults would -- typically,
13 the young adults we would see would have some sort of
14 developmental disability, or something where they would
15 needed a pediatric approach. Someone who would just have an
16 understanding of what developmental level they were at, and
17 kind of work with them that way.

18 But really, anywhere from infancy on up, if a concern was
19 raised. Many of these pre-verbal kids, like the under two
20 or under three kids, their concern was raised based on,
21 perhaps an observed event or behavior, or a physical symptom
22 of a child, or an exam that, perhaps, a pediatrician had
23 seen and was concerned about. So, those younger children --
24 preverbal children -- would be referred, and they would not
25 have a forensic interview. But they would be referred for a
26 medical appointment.

27 Q How many medical exams did you do of children where

1 there was concern -- concern of child sexual abuse.

2 A So, over my whole career, about 5000.

3 Q And have you ever testified in Court before?

4 A Yes.

5 Q Regarding your medical examinations?

6 A Yes.

7 Q Do you know how many times?

8 A More than 50 times.

9 Q I'd like to show you what's been previously marked as
10 Court's Exhibit one and tell me if you recognize the first
11 name on there. Don't read it out loud, please.

12 A Yes, I do.

13 Q And how do you recognize that name?

14 A She was a patient that I had seen at the Bridgeport
15 Clinic.

16 Q And do you recall who referred her to you, at the
17 Bridgeport clinic?

18 A She was referred to me by the Bridgeport
19 Multidisciplinary Team after they had conducted a forensic
20 interview with her?

21 Q What was the purpose of the referral?

22 A The purpose of the referral was for medical care
23 around some serious concerns of sexual abuse.

24 Q And just for the jury, what -- what was -- what are
25 her initials. Just so we know who we're talking about?

26 A L.T.

27 Q So, did you examine her?

1 A Yes, I did.

2 Q Prior to examining L.T., did you speak to anyone or
3 get a history from anyone?

4 A Well, at the time when I saw L.T., it was right in
5 the midst of when covid was going on, and everybody was
6 home. We had actually -- actually stopped seeing patients
7 for a couple of months. And the referral came in right at
8 the time when we were starting back to see patients. And
9 so, we were trying to minimize the length of time of these
10 visits, because some of these visits can be an hour or two
11 hours.

12 And so, in this particular case, to condense it, I was
13 getting histories over the phone. So, in this -- for this
14 child, I spoke to her mother over the phone, because her
15 mother was going to be bringing her to the appointment, and
16 obtained my history that way. And so, then I saw her then,
17 July 23rd, of 2020.

18 Q Did you review any information prior to examining
19 L.T.?

20 A I had referred -- reviewed the referral that came to
21 me from the Bridgeport Multidisciplinary Team.

22 Q And did you watch the forensic interview in this
23 case?

24 A No.

25 Q And why was that?

26 A Because it -- it's just that I am so tightly
27 scheduled in all the different locations I'm at, I -- I

1 can't go down to attend those interviews, because it's at a
2 different location then where I even see kids for the
3 medical care.

4 Q Did you get a summary of the forensic interview
5 regarding L.T.?

6 A Yes, I did.

7 Q Were you aware of what the sexual allegations were
8 before you did the exam?

9 A Yes.

10 Q Is that important?

11 A Yes.

12 Q Why is that important?

13 A Well, it helps me know what kind of medical care is
14 indicated. Do I -- what parts of the body the child has
15 talked about that something has happened to. Are -- is
16 there a need for testing for sexually transmitted
17 infections. Depending on the age, is there a concern of
18 pregnancy. Just to help me be prepared on what testing is
19 needed to be done ahead of time.

20 Q What was your understanding of the allegations before
21 you did your exam?

22 A So, the results of the forensic interview --

23 ATTY. BERKE: Objection, your Honor.

24 THE COURT: What was the question, again?

25 ATTY. PALERMO: What was your understanding of
26 the allegations?

27 THE COURT: Alright. I'm -- I'm going to

1 sustain the objection.

2 Q What -- what -- did you know what the allegations
3 were?

4 A Yes.

5 Q Do you need to what the allegations were before you
6 can do your exam?

7 A Ideally, yes.

8 Q And so was it important to gather that information?

9 A To have that information ahead, yes.

10 Q And how did you obtain that information?

11 A From the referral, because I -- that information is
12 especially important, because we don't want to re-interview
13 these kids. And so, there's -- that's just important that I
14 don't do that. It's traumatic for these kids to talk about
15 it over and over. And if it's already been done in a
16 thorough way, which it is with these forensic interviews,
17 that information is important to me to know, and to have it
18 ahead of time, to be prepared to what to check and what to
19 do, medically.

20 Q So -- so, what were you looking for, medically, based
21 on the allegations as you understood them? What were -- I'm
22 going to withdraw that, your Honor.

23 I'm going to ask -- I'm going to ask, did you have an
24 understanding of what the allegations were?

25 A Yes.

26 ATTY. PALERMO: And I'm going to ask what those
27 -- what was your understanding? I'm not asking it

1 for the truth of the matter. I'm asking it for,
2 based on that information, what kind of exam she did.
3 I mean, otherwise, she wouldn't know what to do.

4 THE COURT: Alright.

5 ATTY. PALERMO: So, it's not for the truth.

6 THE COURT: I'm going to allow you to ask this,
7 and I'll ask it. Based on the information you
8 received from the MDT, from the referral, what type
9 of exam did you do on L.T.?

10 THE WITNESS: Well, based on what she -- based
11 on what the forensic interview had -- what I was
12 sent -- was I needed to check her anal area.

13 THE COURT: Yeah.

14 THE WITNESS: I needed to check her mouth. And
15 so, those were the critical things. But it also
16 -- it was also very clear that I needed to do testing
17 for sexually transmitted infections, as well.

18 Q And you checked her anal area, her mouth and sexually
19 transmitted tests because why?

20 A Because she had talked about --

21 ATTY. BERKE: Objection.

22 THE COURT: Did -- did she talk to you about
23 this, or is this with the referral source?

24 THE WITNESS: No, the -- so, the referral gave
25 pretty --

26 ATTY. BERKE: I object, your Honor.

27 THE COURT: Hold on. I'm --

1 ATTY. BERKE: She's testifying what the referral
2 source is telling her.

3 THE COURT: No. I don't believe she was. Were
4 you going to say --

5 THE WITNESS: Well, what I -- yeah, I was going
6 to reference what information was given to me prior
7 to the appointment.

8 THE COURT: Okay. Why -- why don't we do this?
9 Ladies and gentlemen, if you could step out for a
10 moment. There is some things we need to hear outside
11 your presence. Thanks.

12 (WHEREUPON THE JURY WAS EXCUSED)

13 THE COURT: Okay, there's -- there's an
14 objection with regards to hearsay. And you were
15 saying?

16 ATTY. PALERMO: Your Honor, I'm not asking her
17 what someone told her. I don't want her to say what
18 they told her. I want to ask her what was your
19 understanding of the allegations because she needs --
20 which were penile/anal, penile/oral, penile/hand
21 contacts, penile/ejaculation. Not for the truth that
22 that happened, but for what she did because of that.
23 Just like --

24 THE COURT: Effect on the listener?

25 ATTY. PALERMO: Effect on the listener. She has
26 to tell the jury what she knew, otherwise how could
27 she do her exam? So, it's not for the truth -- that

1 the allegations are true, it's what effect did that
2 information have on you, performing your exam. So,
3 it's not for hearsay. It's for what she did as a
4 result of the information.

5 THE COURT: Alright. Before I hear from you,
6 Attorney Berke, can I just hear what her response
7 would be?

8 ATTY. BERKE: Sure.

9 THE COURT: And the question, again, is phrased
10 -- I'm going to have you do it, because you'll do it
11 better than me.

12 Q What was your --

13 THE COURT: What was your understanding --

14 Q -- understanding of the allegations?

15 THE COURT: And the jury is not in any -- Ms.
16 Murphy, you're not doing anything wrong.

17 THE WITNESS: No, no, no. I know that.

18 THE COURT: I just -- I've seen you before. I
19 think I've seen you more as a retired person --

20 THE WITNESS: Yes.

21 THE COURT: -- than -- than when you were
22 working. But -- so, if you could just -- do you
23 understand the question?

24 THE WITNESS: Yes. Yes. So, the parts of her
25 body I needed to check were her anus and her mouth.

26 ATTY. PALERMO: No, that's not my question, your
27 Honor.

1 THE COURT: I know.

2 THE WITNESS: Okay.

3 ATTY. PALERMO: Could I?

4 THE COURT: Yes, you can.

5 THE WITNESS: Okay.

6 ATTY. PALERMO: What was your understanding of
7 the allegations? Not what you checked, but before
8 you checked, what was your understanding of the
9 allegations of sexual abuse? What were they?

10 THE WITNESS: That there was penile/anal
11 penetration, penile/oral penetration and penile
12 ejaculation and contact with her hand with the penis.

13 ATTY. PALERMO: That's the question I'm asking
14 her, your Honor.

15 THE COURT: Okay. And your objection?

16 ATTY. BERKE: It's two-fold. It's not
17 constancy, because the complainant, to be constancy,
18 has to state that she made the statements to the
19 constancy witness. Number one.

20 THE COURT: Agreed.

21 ATTY. BERKE: It's not a medical treatment
22 exception because it's not the patient providing the
23 information, it's a third-party.

24 THE COURT: Agreed.

25 ATTY. BERKE: So, it's double hearsay.

26 THE COURT: But Counsel is offering it for
27 something else. They are saying, hey look, Murphy,

1 here, did an exam -- excuse me for being so informal
2 -- Ms. Murphy did an exam and she -- she gets to say
3 -- and why don't I tell the jury, ladies and
4 gentlemen, this is not being offered for the truth of
5 the matter. This is being offered solely for the
6 effect on her, and this is why she conducted the
7 examination she did.

8 ATTY. BERKE: I don't make this statement to be
9 arrogant, but --

10 THE COURT: No, no. I know that.

11 ATTY. BERKE: You do it -- you can conduct a
12 medical exam and have findings, and it doesn't have
13 to include the information that was shared by a third
14 party.

15 THE COURT: Mm-hmm.

16 ATTY. BERKE: I mean, you can ask someone what
17 examination did you conduct? You conduct an
18 examination, what are your findings? I'm not sure
19 how it makes a difference that you share the hearsay
20 aspect of that.

21 THE COURT: Go ahead. Do you want to respond?

22 ATTY. PALERMO: Your Honor, I think it -- if
23 someone is going to perform an exam, I would think
24 Ms. Murphy is going to say I need to know what I'm
25 looking for. And in order to do that, I need to know
26 what the allegations are. So, I'm not going to check
27 her ear for this exam if I think that -- you know --

1 I mean, that doesn't make sense.

2 This isn't for the truth of the matter. It's
3 for what she did with the information. What kind --
4 what -- what the effect had on her. Why did you look
5 in -- why did you do this particular exam?
6 Otherwise, it's out of context. This isn't for the
7 truth of the matter.

8 ATTY. BERKE: Your Honor -- I'm sorry.

9 ATTY. PALERMO: This is standard questioning, I
10 believe, your Honor, for a person who did a medical
11 exam. Of course, we need to know why she did that.

12 THE COURT: But you -- you -- you understand,
13 though, for a person who is doing a medical exam,
14 it's -- it's different. It -- it -- it may be a
15 standard question. I get it. But it's a standard
16 question if I go to the doctor and say I broke my arm
17 and this is how I broke it. And -- because I --
18 there's an inherent truthfulness in me telling a
19 medical person that. But here, it's a third party
20 telling her.

21 ATTY. PALERMO: It -- it -- this is how medical
22 -- this is how it works, your Honor. You get a
23 referral. You need to know why they are being
24 referred there. You need to know why they're going
25 to this clinic. Otherwise, it makes no sense. And
26 the Court can indicate, the allegations -- her
27 understanding of the allegations and why the child is

1 here is not to be taken for the truth that those
2 allegations are true, but she did -- what she did
3 with that information. What her exam consisted of.
4 I think the Court could, clearly, explain that.
5 Otherwise, this makes no sense. It's out of context.

6 THE COURT: Anything further?

7 ATTY. BERKE: The only thing I would say is that
8 I would imagine that the admissibility of those
9 statements probably opens the door to me asking
10 questions about aspects of the exam that are not
11 relevant to the complaint that was made.

12 THE COURT: I'm not quite sure about that.

13 ATTY. BERKE: I don't know if you follow what
14 I'm getting --

15 THE COURT: No, I'm not. I must not be.

16 ATTY. BERKE: Well, I guess we'll wait to see
17 when that time comes.

18 THE COURT: Well, I'm going to overrule the
19 objection. I -- I will tell the jury that this
20 question, and the response, is permitted because it
21 is being offered to show what Ms. Murphy's
22 understanding of the allegations are, and that's why
23 she conducted the -- the examination the way she did.

24 And I will further say that this is not being
25 offered as proof that these allegations are true, but
26 it's based -- it -- it -- it is solely for her
27 response, so to speak.

1 ATTY. PALERMO: Thank You, your Honor.

2 THE COURT: Alright. And I'll note your
3 objection and exception. And I'll tell the jury it
4 was objected to and overruled, and this is what it's
5 being offered for. Just -- can you just phrase it
6 the same way you did, and that's perfect. I know you
7 will.

8 ATTY. PALERMO: I will. I'm going to ask --

9 THE COURT: I know you will.

10 ATTY. PALERMO: -- what was your understanding
11 of the allegations.

12 THE COURT: I know. Sometimes, because a judge
13 talks so much, I used to have this -- and then I
14 would forget what the question was.

15 ATTY. DAVIS: Okay.

16 THE COURT: So, if you could do it.

17 ATTY. PALERMO: I'll ask that question.

18 THE COURT: Thanks. If you could bring in the
19 jury, please. How is retired life?

20 THE WITNESS: Good.

21 THE COURT: You should be in someplace warm.
22 not here.

23 (WHEREUPON THE JURY WAS SUMMONED)

24 THE COURT: Thank you, ladies and gentlemen.
25 Counsel stipulate to the presence of the jurors and
26 alternates?

27 ATTY. PALERMO: Yes, your Honor.

1 ATTY. DAVIS: Yes.

2 ATTY. BERKE: Defense stipulates.

3 THE COURT: Alright, ladies and gentlemen, there
4 was an objection, beforehand. And this is why we
5 have you leave the room. I've overruled the
6 objection. And I'll say this. There's going to be
7 an question asked. The question has to do with what
8 Ms. Murphy's understanding of the allegations are. I
9 want you to know this; it's -- she's allowed to
10 testify as to what her understanding of the
11 allegations are. I'm not saying that the allegations
12 are -- are truthful as a result of that. Her
13 understanding of the allegations helped her in
14 considering what type of medical procedures or
15 examination to do.

16 So, it's not being offered for the truth of the
17 matter -- that -- that the allegations actually
18 happened. But it's being offered more for her state
19 of mind, that is Ms. Murphy's state of mind, with
20 regards to what she -- what kind of exam she
21 performed. Thank you.

22 DIRECT EXAMINATION BY ATTORNEY PALERMO, CONTINUED:

23 Q So, Ms. Murphy, what was your understanding of the
24 allegations, prior to you doing the exam?

25 A The allegations were penile/anal penetration,
26 penile/oral penetration, penile to hand contact, and penile
27 ejaculation.

1 Q When did you perform the exam on L.T.?

2 A On July 23rd, 2020.

3 Q And where was the exam performed?

4 A At the Bridgeport Satellite Clinic, which was located
5 in the primary care clinic, which is part of Bridgeport
6 Hospital.

7 Q How old was L.T. at the time you did the exam?

8 A She was nine years and three months.

9 Q Did you have an opportunity to speak to L.T. before
10 you did the exam?

11 A Yes.

12 Q And what was the purpose of speaking to her?

13 A So, a few reasons. To check in with her, to see if
14 she understood why she was here, why we were going to do a
15 check-up for her. And to explain what I was going to check,
16 and the tests that I was going to do, and to see if she had
17 any questions, and worry -- and see if she had any worries
18 about her body.

19 Q Okay. Did L.T. tell you -- did she provide you with
20 any information about why she was -- why she thought she was
21 there?

22 A What I -- she just -- well, she did let me know she
23 was nervous to have her genital and anal area checked. She
24 was really reluctant to have that done. I had said to her
25 that she was here because she had talked about something
26 that happened to her body, and my job was to check her body,
27 to make sure it was okay. And it was at that point that she

1 let me know that she was really going to have a hard time
2 with having her genital and anal part checked.

3 Q Did she agree to having you do an exam?

4 A She did.

5 Q What did she agree to?

6 A She agreed to the full body check-up. To start, like
7 the head part, the listening to her lungs and heart. When
8 it came to the genital area, she did not want me to look at
9 the front genital area, but did agree to let me look at her
10 anal area.

11 Q And when you say front genital area, what do you
12 mean?

13 A I mean the urethra, where you pee from, the vagina
14 part of the check-up is what she declined. What she really
15 said that was going to be too hard for her.

16 Q Okay. But she did agree to have you check the anal
17 area?

18 A Yes.

19 Q So, why don't you -- was anyone present during the
20 exam, besides you and L.T.?

21 A Yes. She -- I work with a Child Life Specialist, and
22 that's kind of the model of care we have. And that's a
23 person who is very skilled at helping kids with procedures
24 and prepping kids for procedures. And so, L.T. had a chance
25 to meet with this Child Life Specialist when I, briefly, met
26 with her mother to sign releases, and that sort of thing.
27 And that Child Life Specialist had prepped her, just to tell

1 her about the exam. So, she already had some information
2 about the check-up and what we do in that room where the
3 check-up happens. And L.T. chose to have the Child Life
4 person present for the check-up.

5 Q And so could you take the jury through what your exam
6 consisted of?

7 A So, the exam, really, I start with the eyes, the
8 ears, the nose, the mouth. When I checked the mouth,
9 because I knew she -- the information I had was that
10 something happened to the mouth, so I needed to do a swab of
11 the mouth for testing for gonorrhea, and chlamydia.

12 I listened to her heart, her breathing, checked her
13 stomach. And then the exam for the genital and anal area, I
14 used the instrument called a colposcope. It's basically a
15 light that magnifies what I'm checking. It has the ability
16 to take exam photos.

17 And so, when I got to do the genital area, which usually,
18 the front genital area is the part I check first. She was
19 real clear that was going to be too hard. She couldn't do
20 that. And so that was fine. I did ask her if anything
21 happened to that part of the body -- you know -- just
22 wondering do I need to check it. And she said no. And then
23 I asked would it be okay to check the anal area. And she
24 was -- she was okay with that.

25 And so, the position -- there area a couple of positions
26 I can check that part in. She -- for the way I checked it,
27 I had her lay on her back and she pulled her knees into her

1 chest, so that I could take a look at the anal area,
2 spreading the butt-cheeks apart, to look at that. I used
3 the colposcope light that I had. And mom had consented to
4 exam photos. And so, I did take a couple of exam photos.

5 Q And so, could you describe what the exam is of the
6 anal area? You described it a little bit.

7 A A little bit.

8 Q You took some photos.

9 A Right.

10 Q What else did you do?

11 A Right. So, I have gloves on. I separate the anal
12 cheeks apart to see it. Use the colposcope so I can -- the
13 light is good and then the photos are there, in case I see
14 something I'm not sure about, and I can always consult with
15 one of the other medical professionals I work with. I also
16 needed to do a swab for sexually transmitted infection
17 testing. The swab tests for gonorrhea and chlamydia, so I
18 also did a swab which goes inside the anal folds. It's just
19 very quick. It feels like wiping the bottom, but it does go
20 inside the anal folds a little bit.

21 Q Was there any type of fecal leakage as a result of
22 that swab in the anal area?

23 A No.

24 Q Did you do anything else, in terms of the exam?
25 Body-wise.

26 A That was it, because it was really hard for her. I
27 made a note -- my note indicates, at the very end, that mom

1 and L.T. were emotional during the visit. And so I didn't -
2 - I -- I -- my focus was to look at the parts she had talked
3 -- that was indicated to me. And so, I did. And so, and
4 that was it. So, then I had her get dressed.

5 Q And what was your -- what were your findings
6 regarding the exam?

7 A That her anal area was normal. Everything about her
8 exam was normal.

9 Q And does a normal anal exam mean there was no sexual
10 abuse?

11 A No.

12 Q What does it mean?

13 A It means that there's no sign of injury, or if there
14 was something, it's completely healed.

15 Q Do most children who allege sexual abuse have normal
16 medical exams?

17 A Yes.

18 Q Does that include children who allege penile/anal
19 penetration?

20 A Yes.

21 Q Can you explain why? Why those exams are normal?

22 A Okay. Probably the best indicator, if we are going
23 to see some sort of abnormal findings, is a history of
24 bleeding. But even when there is bleeding, things can heal
25 quite quickly. Things can heal quickly and then completely.
26 And so, the amount of time between when something's happened
27 to when we see these kids, healing can happen, because most

1 kids don't tell right away. There's usually some sort of
2 delay and lapse of time. So, most of the kids that we do
3 see, because there's been a delay in telling, will have a
4 normal exam.

5 Q What percentage of children, that you see, have no
6 findings of sexual abuse?

7 ATTY. BERKE: Objection, your Honor.

8 THE COURT: Grounds?

9 ATTY. BERKE: Relevance.

10 ATTY. PALERMO: Well, I think it goes to what's
11 -- I think it goes to -- she's examined 5000
12 children.

13 ATTY. BERKE: Your Honor, if we can be heard
14 outside the presence of the jury on this?

15 THE COURT: Yeah. I'm sorry, ladies and
16 gentlemen. I'm going to have you step outside. And
17 that's just me.

18 (WHEREUPON THE JURY WAS EXCUSED)

19 THE COURT: The jury is outside the room.

20 ATTY. PALERMO: Yes, your Honor.

21 THE COURT: So, you're offering -- the question
22 is what percentage --

23 ATTY. PALERMO: I'm going to ask what the
24 question was, actually.

25 THE COURT: What percentage?

26 ATTY. PALERMO: Actually, what I probably should
27 have said is in what percentage of cases where there

1 is allegation of anal/penile penetration do you see
2 physical injury, in her experience.

3 THE COURT: That's a lot different than the
4 question you asked.

5 ATTY. PALERMO: Yeah. So, I'll withdraw the
6 question. It probably was not worded the way I
7 wanted it.

8 THE COURT: Yeah. Basically, you asked her what
9 percentage of cases are -- are actually real.

10 ATTY. PALERMO: Okay. I withdraw that.

11 THE COURT: And there's an objection that's --

12 ATTY. PALERMO: Yeah, I understand.

13 THE COURT: And thank you for asking the jury,
14 because there was no other way to say that. And how
15 do you feel about this question? Let's get that out
16 of the way, while we're here.

17 ATTY. BERKE: The frustration I have with that
18 question, and obviously, with the answer, is when you
19 look at the studies, they try and have certain
20 controls and certain ways to validate whether a
21 claim that's made is a truthful claim. And it's very
22 complicated, because asking someone -- if you have a
23 hundred people and you examine a hundred people, and
24 a number of those don't have any findings, how do you
25 know that those aren't included in the false
26 positives. So, it's hard to respond to that
27 question, or hard for me to allow -- or the Court

1 to allow that question to go in front of the jury,
2 because there's no control with that.

3 Now, if -- if Mrs. Murphy was able to say that
4 the -- 65 percent of these were based on confessions,
5 I get it, there's some -- and your Honor, the studies
6 do clarify that, where there were certain studies
7 that say they base it on controls with no find --
8 with no allegations of sexual abuse and confessions
9 to match against some legitimacy of the complaint.
10 Just asking the general question, you examine a
11 hundred people, and they don't have -- or maybe three
12 percent have findings, you don't know what percentage
13 of those are accurate, as far as being --

14 THE COURT: But I think the way that it's being
15 asked now and ask it -- it is permissible. And
16 you're going to ask it which way?

17 ATTY. PALERMO: In what percentage of cases
18 where there is an allegation of anal/penile
19 penetration, do you see physical injury?

20 THE COURT: Okay.

21 ATTY. BERKE: And the problem with that is,
22 once again, it's the allegation. How do you confirm
23 that that is something -- an event that occurred.

24 THE COURT: Well --

25 ATTY. BERKE: If it's an event that occurred,
26 that's proven, and the studies -- this is not my
27 argument. Studies prove it by confessions. Then

1 there is some legitimacy to the fact that this event
2 occurred. Without knowing the event occurred, how
3 can you say that you never find any findings?

4 ATTY. PALERMO: I think this is two-fold, your
5 Honor. She has -- she has clinical information,
6 where she's examined tons of kids, and then there is
7 the literature that I'm going to -- I think she will
8 say supports her findings. Her examinations, what
9 percentage of the exams that you've done were --
10 where there is a concern of penile/anal penetration
11 have you -- have been -- have been normal exams?

12 And then -- yeah, that is one question. Then
13 the studies are a different question. You know, do
14 those -- is -- is your -- in your clinic and in your
15 experience, are you an abnormalcy (sic) is that
16 abnormal? Or -- you know -- does the literature
17 support that? I think there's two-folds. She has a
18 whole -- like -- clinical basis of experience and
19 knowledge. So, I -- I think -- you know -- Counsel
20 can, certainly, ask her his follow-up questions. But
21 I think it's important to ask these questions.

22 In these type of exams, where you're looking --
23 where you're looking -- where there's a concern of --
24 I can say a concern of penile/anal penetration, what
25 percentage do you see physical injury. And she's
26 going to answer it.

27 THE COURT: I have no problem with that

1 question.

2 ATTY. BERKE: I'll -- I'll object, your Honor.
3 That's a different question that was asked,
4 previously.

5 THE COURT: Right.

6 ATTY. PALERMO: Yeah.

7 ATTY. BERKE: Is the Court going to sustain --
8 sustain the objection?

9 THE COURT: Sustain the original objection, but
10 it sounds like it's withdrawn.

11 ATTY. PALERMO: It is.

12 THE COURT: So, I sustained it. But, withdrawn,
13 so, it -- but there is new questions going to be
14 asked.

15 ATTY. BERKE: Okay.

16 THE COURT: Please object, and I'll overrule,
17 at the time.

18 ATTY. BERKE: Okay.

19 THE COURT: And then, what's the other category,
20 so that the jury doesn't have to keep getting up?

21 ATTY. PALERMO: In terms of?

22 THE COURT: You said there were other category
23 of questions?

24 ATTY. PALERMO: Oh, well, there's also oral. I
25 mean -- you know -- there is an allegation of oral.

26 THE COURT: I get it. You're going to ask that.

27 ATTY. PALERMO: Yeah, and then I --

1 THE COURT: You weren't going into the
2 literature.

3 ATTY. PALERMO: Well, I think Counsel is going
4 to end up going into the literature.

5 THE COURT: And he may.

6 ATTY. PALERMO: So, I may ask her a general
7 question -- you know -- this is from your clinical
8 experience, and are you familiar with the literature,
9 does the literature -- you know -- kind of support
10 that -- that -- those percentages? So --

11 THE COURT: Can you answer that?

12 THE WITNESS: Yes.

13 THE COURT: Okay.

14 ATTY. PALERMO: So --

15 THE WITNESS: Yes.

16 THE COURT: Okay.

17 ATTY. PALERMO: Okay.

18 THE COURT: Okay. Alright, bring the jury in.
19 I'm sorry. I don't have a water. Do you want a
20 water?

21 MS. MURPHY: I would love a water. Yeah.

22 THE COURT: Alright. Let me see if I have one
23 in here. The Marshal is going to get you one.

24 MS. MURPHY: Thank you.

25 (WHEREUPON THE JURY WAS SUMMONED)

26 THE COURT: Counsel stipulate to the presence of
27 the jury and alternates?

1 ATTY. PALERMO: Yes, your Honor.

2 ATTY. BERKE: Defense stipulates.

3 THE COURT: Okay. You may proceed. I'm sorry.

4 ATTY. PALERMO: Thank you.

5 THE COURT: So, just to let you know what
6 happened. The -- the original question, there was
7 an objection. I sustained the objection. The
8 question is withdrawn, but a new line of questioning
9 is being asked now.

10 DIRECT EXAMINATION BY ATTORNEY PALERMO, CONTINUED:

11 Q In what percentage of cases, where there's a concern
12 of anal/penile penetration, do you see physical injury?

13 ATTY. BERKE: Objection.

14 THE COURT: And that is overruled. Go ahead.

15 Do you -- from your observations?

16 Q From your observations.

17 A So, over the course of time, of the cases I've seen,
18 in terms of abnormal anal exams, I've seen less -- fewer
19 than five out of the 5000. Probably four or five, perhaps.
20 To -- I don't recall the histories on those cases. I know
21 there was just a concern raised. I can remember one of the
22 kids was a preverbal child, so I didn't have the allegation
23 present to know what -- So, it's hard for me to link it to
24 the history, because I can't -- I don't have the memory of
25 that for each of the cases. But over my career, of the 5000
26 cases I've seen, four or five -- I've had four or five
27 abnormal anal exams.

1 Q And are you familiar with the literature in this
2 area, regarding the anal/penile penetration?

3 A Yes.

4 Q Okay. And what percentages of -- what does the
5 literature indicate regarding being able to see a physical
6 injury where there is a concern of anal/penile penetration?

7 A There is a very low percent. There is several
8 studies that looked at the rate of findings when there is a
9 concern of abuse raised. And this one particular study,
10 done by Astrid Hager, where she looked at -- like about --
11 they reviewed charts for, it's like 2500 children who were
12 seen in an emergency department setting. And this was all
13 in California. And the rate of some sort of abnormal
14 finding for all the cases was four percent. When they just
15 at the cases when there was some sort of penetration
16 involved, the rate went up to five percent. So, it still
17 was a very low number.

18 There was another study that I think it's really -- still
19 a really good study and relevant. It's from 1994. And the
20 title of it: It's normal to be normal. And in that study,
21 they -- the person who conducted it looked at cases where
22 there was some sort of trial or plea deal done. So, these
23 were all where a conviction happened. Somebody was found
24 guilty. They reviewed only those cases. So, that was kind
25 of the standard of looking at, to validate did this happen
26 or not. And I believe one percent of those cases had an
27 abnormal anal exam -- excuse me -- anal exam. I think it

1 was a slightly higher percentage for an abnormal vaginal
2 area exam. But again, it's still a very low number.

3 Q Okay. And in your experience, in your clinical
4 experience, what percentage of cases where there's a concern
5 of oral/penile penetration do you see physical injury?

6 A It's just very rare. I've never had an abnormal oral
7 exam on any child I've seen. I've had, a couple of times --
8 like -- a positive sexually transmitted infection, like
9 gonorrhea or chlamydia, cultured from the mouth. But the
10 exam, itself, was normal.

11 Q And you talked about the anal area. Is this a
12 vascular area?

13 A Yes.

14 Q So, could you describe, in terms of injury to that
15 area, and the healing process. Could you, kind of, explain
16 that a little bit more. I know you, kind of, touched on it
17 a little earlier. Could you go into a little more detail on
18 that?

19 A Yeah. Well, injuries to that part of the body heal
20 very quickly. There is a lot of blood flow to that part of
21 the body, which really aids in healing. Things can heal
22 completely. I've seen kids -- whenever kids are seen in the
23 emergency department, and their concerned on exam, they see
24 -- we see them right away from -- they'll send them over to
25 us. And we need to do it right away, because you wait a day
26 or two, it's completely normal. It's healed quickly.

27 Q And are you talking exams of the anal?

1 A Anal exams. Yes. But -- I mean -- any of the exams
2 for that part of the body, it heals quickly. But especially
3 the anal area. I -- it's just very quick. A day. I'm
4 talking days. Days to maybe a week, but it depends on
5 whether it's a superficial injury versus something more
6 extensive. But it heals quickly.

7 Q Days, up to a week, maybe?

8 A Yes.

9 Q And is that in -- is there a certain age group? Say,
10 prepubescent female, what -- what would that be?

11 A The same. It would be the same.

12 Q And the anal area, is that an area that expands and
13 stretches?

14 A Yeah.

15 Q Could you -- does that impact the healing process or
16 -- or -- or the indication of an injury? Let me put it to
17 you that way.

18 A Well, that's a part of the body that's used every day
19 by everyone. And it does -- it's got -- there are these two
20 sphincters at the very end that open -- sort of dilate to
21 open, to let bowel movement pass through it. And bowel
22 movement, or poops, can be various sizes. Really large,
23 small. You know, constipated or diarrhea. I mean, there's
24 all kinds of things that pass through, and that part of the
25 body just accommodates that all the time. So, it's less
26 likely to get injured than another part of the body that may
27 be isn't as -- that can, sort of, stretch to a certain size

1 to allow something to pass through it.

2 Q In what kind of situation would you, typically, see
3 on an exam, an injury to the anal area? Like -- without --
4 I'll withdraw that.

5 THE COURT: Withdrawn.

6 Q In what type of cases do you usually see injury, if
7 there is a concern of anal/penile penetration?

8 A That's a hard question to answer, because it's hard
9 to predict when -- what injury will happen from something.
10 But --

11 Q Maybe I'll rephrase it. If there a concern that
12 there was a traumatic injury to the anus, or the anal area,
13 would you more likely see an injury when there is some type
14 of traumatic injury there, or? That's kind of what I'm
15 getting at.

16 A I think the only way I can answer it is that the best
17 predictor, if we're going to see an injury, is if there is
18 bleeding. Like I -- if parents see blood there -- like,
19 I've seen kids -- I can think of a couple of cases where --
20 and these are kids who were in diapers, but there was blood
21 there. I mean, there could be other things --

22 ATTY. BERKE: Your Honor, I object to the
23 relevance of a child that age being brought into this
24 analysis.

25 ATTY. PALERMO: I think she's answering --

26 THE COURT: It's a hypothetical that I'll allow
27 the witness to answer. So, overruled.

1 A You know, blood can be from a lot of different
2 things. But one of it could be trauma from penetration.
3 And so, blood is really the best indicator we have that
4 there was some sort of trauma. There is -- I've seen kids
5 where there is trauma and there is no sign of injury.
6 Things really didn't get injured, or at least not visible to
7 the eye. I mean, we're looking at things where we can
8 actually -- we're using our eye. I've got a colposcope that
9 can magnify it. But there -- things, most of the time, are
10 normal, even when lots of things have happened.

11 Q You talked, I think, earlier about L.T.'s emotional
12 state. Could you describe that a little bit?

13 A Well, she was real clear with me about what was going
14 to be hard for her. I didn't question her further about
15 that. But I did make a note, in my conclusion, which is
16 remarkable for me, because I don't only mark that if
17 somebody has been crying a lot during the visit, that both
18 she and her mother were emotional for the visit.

19 Q You ordered some tests. Correct?

20 A Yes.

21 Q What did you order?

22 A So, I did a swab for gonorrhea and chlamydia of the
23 mouth and the anal opening. And then we did bloodwork to
24 test for HIV, syphilis, and hepatitis germs.

25 Q What -- do you know the results of those tests?

26 A Yes. Everything was normal.

27 Q You indicated, a little earlier -- I guess I'll ask

1 this, can anal/penile penetration cause pain?

2 A Yes.

3 Q And I think you indicated anal/penile penetration may
4 cause bleeding, as well?

5 A Yes.

6 Q Were you aware of any complaints to L.T.'s anal area,
7 where she had some trouble in that area?

8 A During the history with the mother, I --

9 ATTY. BERKE: Objection.

10 THE COURT: Yeah, I'm going to sustain that
11 objection.

12 Q Can repeated penetration to the anal area cause
13 problems with bowel movements?

14 A Yes.

15 Q Why so?

16 A So, I've had older kids tell me when they -- when
17 they --

18 ATTY. BERKE: Objection.

19 THE COURT: It's a -- it's a hypothetical and
20 I'm going to allow it. And ask the question again,
21 hypothetically speaking. Go ahead.

22 Q Can repeated anal penetration cause a child to -- to
23 have trouble with bowel movements? And if so, can you
24 explain, in your experience, what those are?

25 A I've had many kids. So, I think about this when I
26 hear that as a concerned raised from my medical care. I've
27 had kids tell me that when they've had an anal penetration,

1 having a bowel movement afterwards, the sensation reminds
2 them of the abuse. And so, they go on to retain their bowel
3 movement and become constipated. And I've had kids where it
4 becomes very retained, where they have this condition called
5 encopresis, so we need to do a process to clean them out,
6 which is very hard for them. So, we try to really soften
7 the poop, so they don't feel it so much, to minimize
8 whatever trigger that is for them, on having a bowel
9 movement.

10 Q The cases where you've examined children where there
11 was a concern of anal/penile penetration, in those type of
12 cases, did you ever come across situations where the child
13 was complaining about feces leaking out, or anything like
14 that?

15 ATTY. BERKE: Objection, your Honor.

16 THE COURT: Hypothetically speaking, can you
17 answer that question?

18 THE WITNESS: Yeah.

19 THE COURT: Overruled. Go ahead.

20 Q And maybe I could phrase that better. In your
21 experience, where there is a concern of anal/penile
22 penetration, is leakage or fecal leakage an issue,
23 generally?

24 A No.

25 THE COURT: Your objection is noted, and it's
26 overruled.

27 Q And was a sex kit done in this case?

1 A Not in my -- not in my care.

2 Q Are you aware if there was one?

3 A I don't believe so.

4 Q When is a sex -- and first of all, what is a sex kit?
5 I think that's the first question. Can you just explain,
6 briefly, what a sex kit is?

7 A So, the sexual assault kits are done when there's a
8 report of a sexual assault within a certain time frame. And
9 that's to, really -- where there's an ability to look for --
10 is there DNA present -- excuse me -- DNA present. It's a
11 pretty involved kit, doing swabs and all kinds of things.
12 And in our regions, the emergent kids are sent to the
13 emergency department to have those done. And that's really
14 when -- these tests -- these kits have become more
15 sensitive, so they are now available to do five days out.
16 It used to be within three days. So, when you're beyond
17 that time-frame, it's really not useful because the DNA is
18 not available to be tested if it was. But in kids, when
19 we're talking with prepubertal kids -- kids who haven't had
20 any puberty changes yet, which L.T. is in that category, she
21 hadn't had any puberty changes when I saw her. She was
22 nine.

23 The clinical thinking and decision making around a kit is
24 a little different. It's usually within 24 hours. If it's
25 beyond 24 hours, because they've usually bathed or changed
26 clothes, there is -- the yield of those kits is really low.
27 And -- and the kits can be traumatic. So, there's thinking

1 about whether to do a kit or not for kids that are seen
2 within that time frame.

3 Q So, it's a very short time frame when you would use
4 it for a prepubescent child?

5 A That's right.

6 ATTY. PALERMO: May I have a moment, your Honor?

7 THE COURT: Take your time.

8 ATTY. PALERMO: Thank you. I have no further
9 questions.

10 THE COURT: Okay. Cross exam?

11 CROSS EXAMINATION BY ATTORNEY BERKE:

12 Q Are you aware of the date of the forensic interview?

13 A Yes.

14 Q And what was that date?

15 A I believe it was June 3rd, 2020.

16 Q And from that interview, there was a referral name
17 for your exam, the medical exam.

18 A Yes.

19 Q And do you know when that was, initially, scheduled
20 for?

21 A I don't have access to the electronic record, but I
22 did check in with somebody to look at that. And I believe
23 there was -- the original appointment was the end of June.

24 Q And do you know why this medical exam did not occur
25 at the end of June?

26 A The only note it had there was that the mother
27 canceled. So, I don't remember the circumstances around

1 that.

2 Q That's all you know, that she canceled?

3 A That's right.

4 Q You mentioned that L.T. and her mother were emotional
5 during the -- this process in meeting with you?

6 A Yes.

7 Q Was the mother emotional during the medical exam or
8 was she not part of that?

9 A The mother was not in the room for the medical exam.

10 Q And who's decision was that?

11 A The child's.

12 Q And in place of the mother, it was the Life
13 Specialist. Is that what it's called?

14 A Child Life Specialist. Yes.

15 Q As collateral information, did you contact L.T.'s
16 pediatrician?

17 A I did not, in this case, because the practice the
18 mother said she was bringing the children to, she was going
19 to switch to another practice. And I, typically do, in a
20 note, my note that's generated gets sent. But in this case,
21 it was not sent, because the mother said she was going to go
22 to another practice. But I didn't have that information.

23 Q And at what point would you follow up, or have
24 someone on your behalf follow up, to provide the information
25 to the pediatrician of someone you've seen?

26 A I, typically, call and check in with the parent. But
27 I did not -- I don't have access to the chart to, kind of,

1 see what I had done. And I don't remember, in this
2 particular case, what follow up on that was done.

3 Q Were you able to identify, up to this point in time,
4 up to this point in time, who the child's primary care
5 physician is? Pediatrician?

6 A Mother had said it was a practice in Trumbull called
7 PHA. And -- but mom, for me to contact them, needs to sign
8 a release of information. And I believe that was not
9 signed, because she said she was moving to another practice.
10 So, I didn't have a name for her to sign on the release of
11 information. I need that permission to make contact. And
12 sometimes parents decline that -- that contact.

13 Q Well, she didn't decline it at that point. She told
14 you she was changing.

15 A That's right.

16 Q And at that time she relayed to you, she was changing
17 from a pediatric practice in Trumbull, to another practice
18 that was unknown.

19 A That's right.

20 Q Did you follow up with a therapy plan for L.T.?

21 A What I did do, after my medical appointment, I --
22 kind of -- related to the Multidisciplinary Team group at
23 the next meeting about the visit. And the Victim Advocates
24 -- that's their job, to kind of, make the linkages to
25 therapy. I would have related that information to them.
26 Because that's their job to do that.

27 Q Do you have any documentation to substantiate that

1 you did that?

2 A I do not, but that would be in the Multidisciplinary
3 Team minutes.

4 Q Do you recall being concerned, after the examination,
5 that the mother needed to clarify where she brings the
6 children for primary care?

7 A Can you repeat that, please?

8 Q Certainly. Do you recall, after the exam, expressing
9 a concern that there was a follow up that needs to be done,
10 clarifying where the mother brings the children, L.T., for
11 primary care?

12 A It was in my notes, in my assessment and plan, that I
13 -- that I wanted more information on that. Yes.

14 Q And did you obtain that information?

15 A Not that I recall.

16 Q But that was a concern of yours after the exam?

17 A Yes.

18 Q You indicated that you had taken photographs during
19 the anal exam that you conducted of L.T.?

20 A Yes.

21 Q Are you aware that studies have more recently
22 suggested that video is the preferred method?

23 A I know in -- yeah, the guidelines, they have
24 indicated -- yeah -- that the video is -- it's -- I don't
25 know if they said preferred. I forget the language they
26 used. But, yeah, it's -- it's -- but the photos, and I
27 think what they're referring to, when they say that, is more

1 for the vaginal exam and the exam of they hymen, is where
2 that's a more useful documentation of the exam.

3 Q Do you recall which study had indicated that video
4 was the preferred method of documentation?

5 A It's -- it was an update to the 2018 guidelines. I
6 believe Joyce Adams was the lead author on that. I don't
7 know what journal it was in.

8 Q Are you familiar with that Adams article?

9 A A little bit.

10 Q And your recollection is that the Adams article says
11 that it's -- the videography is preferred for -- for vaginal
12 examinations?

13 A Right. And the other piece to that is, especially if
14 it's an abnormal finding.

15 Q What do you mean by that?

16 A If you're seeing -- your documentation is critical if
17 you're seeing something that you're concerned that is not
18 normal, especially to then peer review it. If it's normal,
19 it's -- when you're -- when you're dealing with expert
20 examiners, you know it's -- it's less of a worry. Less of a
21 concern. The documentation is especially critical if you've
22 got an abnormal finding that you're trying to document.

23 Q So, you indicated that you had written a report
24 pursuant to this examination?

25 A Yes.

26 Q And do you recall that your report indicates that
27 digital video, digital photos or both were taken of the anal

1 exam of L.T.?

2 A Yeah, and that's a checkbox on the report. Yes.

3 Q What do you mean by a checkbox?

4 A Our reports are electronic. And so, there's part of
5 them that are -- you check a box on -- kind of -- what
6 you've done. And then there are other parts that you
7 actually type in information. But the -- so -- so that full
8 sentence was a checkbox, that I had taken photos of -- used
9 the colposcope and taken photos.

10 Q So the fact that it says digital video/digital photos
11 or both, that's basically a form?

12 A Yes.

13 Q And you didn't -- you can't alter that?

14 A No. Not on that. No.

15 Q What other aspects of your report or form that you
16 can't alter like that?

17 A Some of the exam, the -- the -- I have to look at my
18 report to kind of tell you what was a checkbox, and what was
19 my written in piece. I'd have to look at it.

20 Q Did you have a chance to look at your form before you
21 testified?

22 A Yes.

23 Q And when did you have a chance to look at that?

24 A I was sent, when I was subpoenaed, I was sent a copy
25 of my report. So, I had a chance to look at it. I have it
26 -- like -- a copy with me.

27 Q So, you had testified that injuries to the anal area

1 heal quickly.

2 A Yes.

3 Q Would you agree that there is literature that says
4 that there are findings of anal injuries that can exist up
5 to six months? I'm referring to the Hobbs study that was
6 from 2014.

7 A Okay. I haven't read that article by Hobbs, but
8 Hobbs wrote many articles with another -- out of Great
9 Britain -- he's out of -- I believe he's out of Great
10 Britain with another one, the last name is Wynne. And some
11 of their early work, in the early 90's and late 80's, they
12 had a more generous view of what an abnormal anal exam was.
13 I'm not sure how that's changed with -- with them. But that
14 was a little different than what some of the studies over
15 the 90's and the early 2000's, really helped us know more
16 about what normal is. But I have not -- so, I guess I'm
17 giving you more information. But I have not -- I don't
18 believe I've read that article by Wynne. I have seen that
19 in references, the Wynne article.

20 Q This is the 2014 study I'm referring to. Not
21 something --

22 A Yeah. No, I know.

23 Q -- from the 90's.

24 A But it's the same person.

25 Q Now with the studies that you were referencing
26 earlier, were those studies based upon allegations of
27 repeated abuse or single trauma?

1 A I think -- I don't -- I don't know. I don't -- I
2 believe it had a mix of both. Some had single trauma. Some
3 had multiple incidents. It was -- these were kids who were
4 seen for concerns. So, there's usually a mix of both in
5 that.

6 Q Do you know any studies that dealt with -- that were
7 longitudinal studies based upon periods of abuse and not a
8 single trauma?

9 A I know longitudinal studies done when there was an
10 injury and they followed the injury over time to see how
11 long it healed. John McCann is, kind of, one who had done
12 that, and shown that most of the time things heal
13 completely. There -- it depends -- you know -- some -- the
14 ones where there was still something there to see after --
15 like -- six months, it was really changed, and it wasn't
16 very often.

17 Q But there are a percentage of those results in those
18 longitudinal studies that do show over more than just a day
19 or two, like you were suggesting, that there is effects for
20 a period of time. Much more than a day or two. Much more
21 than a week or two.

22 A And those are ones where the injury was pretty
23 significant. I actually have seen John McCann present his
24 findings on that and saw the slides. And these were kids
25 where there was a pretty extensive injury. And those were
26 the ones that still had something after six months. The
27 kids who had a superficial injury were the ones that healed

1 quickly.

2 Q But you couldn't differentiate the superficial
3 injuries from whether that's a single day of abuse or
4 multiple days of abuse?

5 A On his study, all I remember is him showing when
6 there was a significant injury, and the child was seen for
7 care. And then they, from there, followed those -- how
8 those injuries healed over time. And most of them healed
9 completely, and there were still a few that had some --
10 something -- a scar or something, to -- kind of -- tell
11 there was an injury. But those were significant injuries at
12 the initial -- when they were acutely seen.

13 Q And acutely being what time frame?

14 A I'd have to look at the study to see. I don't -- I
15 haven't read that in a long time.

16 Q Is it significant to have your -- your type of
17 medical examination as soon as possible after a disclosure?

18 A That would be ideal to do. For -- but kids don't
19 tell right away. That's pretty typical.

20 Q But once the disclosure is made, obviously, as time
21 goes on, is it fair to say the chance of not having an
22 abnormal finding diminishes greatly?

23 A Yes.

24 Q So, it would make sense to have that exam conducted
25 as soon as possible?

26 A If -- I think when there's a delay in telling and
27 it's been months or years, waiting for the next available

1 appointment, we wait on the medical care. I think it's
2 helpful to have the history inform us on the exam, so those
3 forensic interviews occurring before the medical care -- if
4 there's been a lapse of time, where it is just fine.

5 When kids are seen, tell and they've got symptoms, then
6 those kids, absolutely, I think there is -- we -- kind of --
7 just use our own -- we think about -- like -- which kids can
8 we see. Like, if there -- if a child is talking about
9 bleeding or a parent talks about bleeding, yes. We see
10 those kids right away. A child talks about something
11 happened just recently, those kids are seen quickly. But
12 when there's been a lapse of -- like -- a month or several
13 weeks, those kids -- and there is -- you know -- when you
14 ask about other symptoms of things, and if everything's
15 fine, waiting until they talk to a trained interviewer, and
16 then having that information to inform us about the exam is
17 -- is, I think, a good way to do it.

18 Q L.T. did not display any symptoms -- I'm not talking
19 about your examination and your conclusions -- there were no
20 symptoms of sexual abuse?

21 A At the time I saw her, there were no symptoms.

22 Q Now you concluded that the anal folds were
23 symmetrical?

24 A Yes.

25 Q And that there was no gapping or lesions within the
26 anal folds?

27 A That's correct.

1 Q And were you able to identify whether there was any
2 laxity?

3 A There was no laxity.

4 Q Did you identify any fissures?

5 A No.

6 Q Did you identify any anal twitching?

7 A No.

8 Q Did you identify any venous congestion?

9 A No.

10 Q Did you identify any reflex anal dilation?

11 A No.

12 Q Are you aware that those findings can occur several
13 months after an assault?

14 A Not all of those. I mean, some of those are normal.
15 Some, like the anal twitching, there's different things --

16 Q That wasn't the question I asked you. I asked you,
17 as far as abnormal findings, based upon a complaint of
18 sexual assault. Are those findings available up to six
19 months?

20 ATTY. PALERMO: I'm going to object to the form
21 of the question. It's a little confusing. And I'm
22 not -- I'm going to object to the form.

23 THE COURT: Okay. Do you understand the
24 question?

25 THE WITNESS: No, I did not.

26 THE COURT: Okay. Then -- then -- I -- I think
27 that's the more important, if the witness understands

1 it. But thank you.

2 Q You said you weren't familiar with the Hobbs report?

3 A I don't believe I've read it. No.

4 Q So, out of fairness, if I were going to ask you a
5 question about it, would you like an opportunity to review
6 it?

7 A I'm sorry?

8 Q Would you like an opportunity to review it, if I'm
9 going to ask you questions about it?

10 A Oh, sure. Yes.

11 ATTY. BERKE: You want to -- can we take a
12 recess to allow the witness to review this report?

13 THE COURT: Well, it's about time, anyway.
14 Ladies and gentlemen, it's quarter to twelve. We're
15 going to take our 15-minute recess. It may be a
16 little longer. I don't know how long the article is.
17 I'm a slow reader. I'm sure Ms. Murphy is a lot
18 faster than I am. So, we'll take 15-minutes.
19 Thanks.

20 (WHEREUPON THE JURY WAS EXCUSED)

21 THE COURT: Okay. How long of an article is it?
22 It looks very lengthy.

23 ATTY. BERKE: Most of it is references.

24 UNIDENTIFIED SPEAKER: Your Honor, are we --

25 THE COURT: No. No. Recess.

26 (WHEREUPON COURT STOOD IN RECESS)

27 (WHEREUPON COURT RECONVENED)

1 THE COURT: Oh, good. It cooled off a little
2 in here. It was getting warm. Alright, we'll bring
3 in the jury.

4 (WHEREUPON THE JURY WAS SUMMONED)

5 THE COURT: Counsel stipulate to the presence
6 of jurors and alternates?

7 ATTY. DAVIS: Yes, your Honor.

8 ATTY. BERKE: Defense stipulates.

9 THE COURT: Alright. You may proceed.

10 ATTY. BERKE: Thank you.

11 CROSS EXAMINATION BY ATTORNEY BERKE, CONTINUED:

12 Q You've had a chance to review the Hobbs and Wright
13 article?

14 A Yes, I did.

15 Q From 2014?

16 A Yes.

17 Q And do you recall whether Hobbs was cited in the
18 normal to normal article that you had referenced earlier
19 today?

20 A Not that article, because the normal -- It's Normal
21 to be Normal was in 1994. But I know Hobbs has other
22 articles from the late 80's that might be referenced in
23 there. I'm not sure.

24 Q Maybe I should have made the question clearer. He's
25 been cited by other researchers in this field?

26 A Yes.

27 Q And you've had a chance to review the article that

1 we're referencing? The 2014 article?

2 A Yes.

3 Q And am I correct that it outlines certain symptoms or
4 findings that can be seen between a period of less than
5 seven days, seven days to six months, and greater than six
6 months?

7 A He cited findings that, in the guidelines, that are
8 followed by most people in the United States, not in other
9 countries -- are not considered abnormal findings for anal
10 abuse.

11 Q Is it fair to say that there are findings that we
12 discussed earlier, for example, laxity can be seen in 25
13 percent, according to his study, between seven and nine
14 months from abuse?

15 A That's what he saw and found for the kids he studied.
16 But there could be other explanations for that finding.

17 Q Are you also aware that he found laxity in 23 percent
18 of the children he followed for a period of six months after
19 the abuse?

20 A That's right. But like I said, that also could be
21 other explanations for that finding.

22 Q But this study was based upon children that alleged
23 sexual abuse?

24 A I believe so.

25 Q Are you aware -- would you agree that he found 34
26 percent of the abused children, seven days to six months
27 after the abuse to present with venous congestion -- venous

1 congestion?

2 A Right. And venous congestion is -- there is a lot of
3 reasons why you see venous congestion on an exam that's not
4 from abuse.

5 Q But the point is he was investigating children that
6 claimed abuse.

7 A That's right.

8 Q And analyzing what findings there were, and the time-
9 frame of those findings?

10 A That's right. But it doesn't mean those findings
11 were from the abuse. It could be some other explanation.

12 Q I understand that. But his -- it's a study on
13 children that alleged abuse.

14 A Yes.

15 Q And the findings that he found, versus the controls,
16 demonstrated those percentages?

17 A That's right. But we -- and I've seen venous
18 congestion, but it's not -- venous congestion is where there
19 is -- there are veins that surround the opening to the anus.
20 And when kids -- one of the exam positions they did in this
21 study are where they're on their hands and their knees.
22 They call it a knee-chest position. The kids are down on
23 their elbows, and their butt is in the air. You separate
24 the anal opening. And their technique was to hold it for
25 six -- thirty seconds, I believe. In that position,
26 sometimes that vessel just becomes more prominent and
27 congested. And sometimes it can even look like a bruise,

1 and you have to have these kids sit down to look at it
2 again, better. But it's not from abuse, it's just an
3 occurrence that occurs.

4 I know they found it in their -- in their group of kids
5 that alleged abuse versus the controls. But it's the -- the
6 cause of that is not necessarily from abuse.

7 Q But it's fair to say that they did find, in some
8 respects, significant percentages of symptoms even beyond
9 six months?

10 A I read up to six months, he saw some of the things.
11 But the things he described are not things we consider
12 findings of abuse.

13 Q So, the presentation of laxity would not be
14 consistent with sexual abuse?

15 A No.

16 Q Reflex anal dilation would not be consistent with
17 sexual abuse?

18 A No.

19 Q So, you would disagree with the findings of his
20 study? That there was support --

21 A I would disagree -- I would disagree. I would -- the
22 position of when we look at kids, those findings are not --
23 there are studies that find those to be in normal kids. And
24 that's when you look at the -- when you combine all the
25 studies that are done. Those findings are also seen in
26 normal kids.

27 Q But in this study, they were comparing the children

1 that alleged abuse versus the controls, which didn't allege
2 abuse?

3 A That's right. That's what his study said. Yes.

4 Q And his findings are based upon the children that
5 alleged abuse, and this was the percentages of findings that
6 were found between less than seven days, seven days to six
7 months, and greater than six months?

8 A That's right. But when we look at the guidelines
9 that we utilize, who've really looked at all the studies
10 that are done, when there is any conflict on the results,
11 it's not then considered abnormal. We then -- it may -- I
12 forget the language they use now, for this category, where
13 the studies don't agree. So, it's not in the abnormal
14 category.

15 Q Yet, the studies that you referenced relied on Hobbs'
16 other articles that predated?

17 A Well, they cited him. It doesn't mean they relied on
18 him. And this study, what we rely on, especially for this
19 case that I saw, the updated guidelines were done in 2018,
20 which was after that study. And I looked, and his study is
21 not referenced in that article. So, I don't -- they did not
22 -- I didn't see his study in that particular -- and there's
23 another update that I didn't have with me to look and see if
24 he -- his reference is utilized in that one.

25 Q So, you worked in a pediatric practice for a number
26 of years, and then subsequently, with children through your
27 role doing forensic medical exams?

1 A Can you repeat that, please?

2 Q Certainly. You have significant experience working
3 with children in a pediatric private practice?

4 A That's right. Yes.

5 Q And then subsequent to that, you worked as a forensic
6 medical examiner. In fact, that's probably a poor way to
7 describe it.

8 A Mm-hmm.

9 Q But that's the field that you were in?

10 A Yes. Pretty much.

11 Q Was it significant to look at the physicals -- the
12 physical exams that L.T. had? The yearly physicals, in
13 regards to your analysis?

14 A The history is -- kind of informs me on that. Not
15 necessarily. I mean -- I know what -- when -- I'm kind of
16 presented with information about what the allegation is, and
17 then doing the exam, I already -- kind of -- know -- you
18 know -- there has already been a lapses of time from when
19 something happened to me seeing her. I know what findings
20 I'm looking for that would -- would make me concerned if I
21 saw them. But like -- in her case, it was a normal exam,
22 but that is pretty typical for what we see. Most of these
23 kids will have a normal exam, even when we have information
24 to suggest things have happened.

25 Q Are you aware if Connecticut has any guidelines
26 regarding a gold standard of what pediatricians are supposed
27 to evaluate in regards to sexual abuse in a yearly physical?

1 ATTY. PALERMO: Objection, your Honor. I
2 think --

3 THE COURT: Are you aware of -- I'm going to
4 overrule the objection. Are you aware if there is
5 some standard that pediatricians should follow?

6 THE WITNESS: There are guidelines. I mean --
7 and there are local resources to call if you have
8 questions. You know -- and since I retired, I don't
9 know if there's anything different that's come out.

10 Q If you can backtrack -- I mean -- the examination
11 here occurred in 2020.

12 A That's right.

13 Q Do you know -- do you recall, at that point, what
14 those guidelines were about how those were conducted?

15 THE COURT: Well, actually, that's two separate
16 questions. You had asked if there was a gold
17 standard.

18 ATTY. BERKE: Yes.

19 THE COURT: Or if there was a standard and she
20 there was guidelines. So, there were guidelines in
21 2020, when you did this exam. But there wasn't a
22 standard.

23 THE WITNESS: That's right. It's more
24 guidelines.

25 Q Do you know what the guidelines were in 2020?

26 A Honestly, I guess in reference to what -- like -- I
27 guess, more specifically what do you mean?

1 Q Well, during the -- conducting a yearly physical, are
2 there suggested guidelines on how pediatricians should
3 conduct those in relation to inquiring about sexual abuse?

4 ATTY. PALERMO: Objection, your Honor. One,
5 it's outside the scope of direct. But I don't know
6 if she's qualified to say what pediatricians and
7 guidelines are at that time. I don't -- she wasn't
8 a pediatrician -- and -- in 2020. And I don't know
9 the relevancy of this.

10 ATTY. BERKE: Your Honor, she's offered as an
11 APRN expert, in the field of pediatrics.

12 THE COURT: Alright. I'm going to allow it.
13 Are you aware?

14 THE WITNESS: There are guidelines, through the
15 American Academy of Pediatrics. And I don't know
16 when those were published, in reference to the 2020.
17 And I haven't read them in a long time. So, to give
18 you more specifics than that would be -- I just
19 wouldn't be able to do that right now.

20 Q You tested for sexually transmitted diseases. It
21 came up negative?

22 A Yes.

23 Q You examined L.T., her findings were normal?

24 A Yes.

25 Q Is it fair to say that there is no finding that would
26 substantiate sexual abuse, based upon your examination?

27 A Yes.

1 ATTY. BERKE: Thank you.

2 THE COURT: Re-direct?

3 ATTY. PALERMO: Yes, your Honor.

4 RE-DIRECT EXAMINATION BY ATTORNEY PALERMO:

5 Q Does a normal exam mean there was no sexual abuse?

6 A No. A normal exam does not mean nothing happened.

7 Q Most of the exams that -- in your clinical
8 experience, that you have done -- have they been normal or
9 abnormal, when there is an allegation of penile/anal
10 penetration?

11 THE COURT: Alright. You have to get right near
12 a mic. Did you hear the question?

13 THE WITNESS: I did hear the question. Are you
14 okay -- yeah. Most of them are normal.

15 Q And just clarify, a little. Counsel was talking to
16 you about the Hobbs findings. And you indicated something
17 that most people in the U.S. and most countries do not agree
18 with what he considers abnormal and erect in an anal exam.
19 Is that what you were saying? Or were you saying something
20 different?

21 A That's pretty much what I was saying. Yes.

22 Q Explain that.

23 A So, there are lots of different anal findings, and
24 the causes of them can be -- you know -- I think a lot of
25 what the research on -- when there's an allegation of sexual
26 abuse, and what is an abnormal finding, that's -- you know --
27 - I've been doing this since 1988 until now, and there's

1 been big changes during that period of time, based on the
2 studies of what we know is normal versus what is truly from
3 the abuse. And what we do know is most of these findings
4 heal very quickly. The anal dilation, the venous
5 congestion, redness are all non-specific and causes can be
6 other things other than abuse.

7 When kids get constipated -- fissures are just a tiny cut
8 which can be from trauma. But a child who passes a really
9 hard, large poop, can have a fissure. Dilation, when
10 there's poop ready to come out, but still inside, the
11 dilation can happen. There is a lot about anal dilation,
12 early on, when I was doing this work -- you know -- like --
13 how dilated is normal and is there a size where it crosses a
14 line and it's abnormal. But that got really tricky because
15 the anus can really dilate when there is stool ready to come
16 out.

17 So, the things that are -- are considered more acutely
18 when you see something, certainly a fissure, a cut, a
19 laceration -- and then you have a history indicating there
20 was anal trauma. Those would be abnormal findings. When
21 you're past the acute phase, and you're seeing someone
22 further out, scarring is really the biggest thing that we're
23 looking for. Like, when there's a cut that's healed and now
24 you can still see a mark from that. That's what we're
25 looking for. And beyond that, the anal dilation, redness,
26 the reflex -- the things that were looked at in that study
27 are not -- would have been -- what are utilized as part of

1 our guidelines for abnormal findings.

2 Q And when you say our guidelines, who are you
3 referring to?

4 A So, the guidelines that -- there's a committee -- I
5 don't know the name. But the lead author on that is Joyce
6 Adams. Joyce Adams actually wrote the study -- or did the
7 study in 1994 that I referenced earlier, where she looked at
8 cases where there was a guilty verdict. And so, kind of
9 limited to just looking at those cases. Now, I don't know
10 if she referenced Hobbs -- Hobbs or -- is it Wynne or Hobbs,
11 who wrote that article? I'm sorry.

12 Anyway, I don't know if she referenced that. But she's
13 the one who's really -- that was actually the first time
14 where there was some classification created about, let's
15 just understand what do we know? What do we not know? And
16 then, since that time, there's been numerous studies looking
17 at -- you know -- some with case controls. Some without.
18 Just various designs. Some looking at newborns and
19 following newborns over time. Just to know what's normal.
20 What are the things that we see that are normal? So, that
21 we're not calling something that's normal abnormal from
22 abuse. Not to overcall it. And some of these findings, in
23 some studies, were found normal. Some were found abnormal.
24 And so, because of those -- because you have mixed findings
25 about what those findings are, they're not conclusively
26 considered abnormal from abuse.

27 Q So -- so the Hobbs -- what Hobbs claims is abnormal,

1 is that generally accepted as abnormal in the -- in this
2 field, is what I'm asking?

3 A No.

4 Q Okay. So, he has his own version of normal. Is that
5 what the guidelines called normal?

6 A Well, I don't know if he has his own version. He's
7 just describing findings he had, and they still saw. And
8 they did not see in their controls. So, he's describing
9 that. But what we utilize as a finding that we're looking
10 for, that we consider abnormal, it's not -- it's not in our
11 -- in the guidelines that we're looking at. I'm not being
12 clear on this. But -- so, those findings that he described
13 are not part of what we look at because there are other
14 possible causes of that.

15 Q Okay. Thank you. And does the literature that you
16 cited earlier, does that support the position that most anal
17 exams are normal, even if there is a concern of anal/penile
18 penetration?

19 A Yes.

20 ATTY. BERKE: Objection. Leading.

21 THE WITNESS: Oh, sorry.

22 THE COURT: I'm going to allow it. Go ahead.

23 THE WITNESS: Yes.

24 Q Counsel asked you about whether you used -- I think --
25 -- a video camera versus photographs in your exam of L.T.
26 And you indicated what?

27 A So, there is -- in one of the guidelines, they did

1 indicate that the video gave a better view of the exam
2 versus a still photo. And the practice that's done is to
3 absolutely document if you see something abnormal. But
4 you're utilizing the expert to determine -- so, we -- we
5 still use still photos. And still photos are fine. I think
6 the video, for some exams, especially when you're looking at
7 hymens, in the front genital area, are more useful
8 sometimes, for some exams.

9 But it's more if you're looking at something abnormal. I
10 think that documentation is critical, and to do lots of
11 photos or a lot -- or a video, when you have something
12 abnormal. And then it gets peer reviewed. I mean, so that
13 -- you've just got more input into your assessment of the
14 exam. But when it's a normal exam, the photos are fine.
15 But it is -- the video is -- it just gives you a more fluid
16 view of some of the changes that happen during the exam when
17 you're looking at an exam.

18 Q When you examined L.T., did you have any problem --
19 you said you used a colposcope. What is that, exactly?

20 A So, a colposcope is a big light that magnifies what
21 we're looking at. And this colposcope has a camera attached
22 to it. And I have a foot pedal where I take the photos with
23 that. And I review them afterwards, as well. But my visual
24 of the exam is what tells me do I need to take more photos,
25 or not. So, I already know it's normal. When I'm looking
26 at it, and it's normal, I -- it's normal. If I saw
27 something that I questioned, even if I thought it was

1 something like with all the findings that were described, I
2 would still peer review it with my medical team. But the
3 normal exams, it's not required to get them peer reviewed.

4 Q Did you have any trouble viewing -- seeing, during
5 your exam, with the colposcope?

6 A I did not describe that. So no, I did not.

7 Q Now, you had talked earlier, about -- I'm going to
8 give you a hypothetical. If there is a child that comes in,
9 hypothetically, and it's a delayed disclosure. The child
10 says something happened, but it happened a month, or longer,
11 ago. Would -- in your experience, based on your clinical
12 experience, when that child comes to you a month -- a month
13 later, do -- does the exam -- are the exams usually normal?
14 Meaning, do you usually find any findings of abnormal exams?

15 A Most of the time, it's normal. Sometimes you see
16 something, but most of the time it's normal. And like I
17 said, history of bleeding is the best predictor of if we're
18 going to see - see something.

19 Q So if, hypothetically, a child says something
20 happened to me yesterday, and in that situation, would that
21 be a situation where you would more likely see an injury, if
22 there is an injury, than a month later, or two months later?

23 A Yes.

24 Q You talked about that there was a Child Life
25 Specialist, right? During the exam. And just -- I don't
26 know if I asked you, but just so the jury understands.
27 What's the role of a Child Life Specialist?

1 A Yeah, so the Child Life Specialist, they're really
2 experts at child development, how to prepare kids for
3 procedures and then help them cope while the procedure is
4 happening.

5 And so, in our clinic, we utilize them for just that. I
6 mean -- the exam, they're there to help kids through that.
7 The other thing that kids have a hard time is having blood
8 drawn. So, they really help kids with that. Prep them,
9 help them -- inform them about what to expect. Find out
10 what's going to be hard. And then be there to help distract
11 them. Talk to them. They have all kinds of toys and
12 different things -- depending on the age of the child. And
13 what's needed to help them cope and get through.

14 And then, also, as I'm doing an exam, I'm focused on what
15 I'm looking at. If the child is having a hard time, they --
16 kind of -- alert me -- alright, you need to stop. Or -- you
17 know -- whatever might be going on. So, I -- I -- they help
18 me know what's going on with the child. Like, if there is -
19 - I'm taking too much time, or whatever that might be.

20 Q Whose choice was it to have a Child Life Specialist
21 in the exam of L.T.?

22 A That was L.T.'s choice.

23 Q Now Counsel asked you about contacting a
24 pediatrician, the child's pediatrician. Would you normally
25 contact a child's pediatrician before you do your medical
26 exams?

27 A Not before the exam. No.

1 Q And you had asked questions about L.T.'s mother,
2 about who -- who the pediatrician was. What is the purpose
3 of that, knowing who the pediatrician is? Is that for -- so
4 -- what is the purpose of that?

5 A So, the purpose of that is -- I mean -- that's the
6 person that's going to see this child on-going. And at --
7 so -- but I need consent to speak to that person. So, the
8 mother needs to sign the release of information. I can't
9 just call them up. If they refer the child to me, I can
10 contact them. But not from the way it worked in this
11 situation. I need that permission to call them.

12 But the purpose is really, if I saw something of concern,
13 I saw a behavior, if I saw -- if I learned the child was
14 sexually active and needed care for that, if -- within our
15 own system, we -- the Victim Advocates help with therapy
16 referrals. But that's another resources -- like when they
17 go in for their check-up, to check-in. Have you started
18 therapy? So, there -- there are just ways to just -- kind
19 of -- help manage and try and make sure our kids get linked
20 to services afterward.

21 Q Was there any concern you had that you had to tell
22 the pediatrician after that exam?

23 A Ideally, I would have liked to have someone to call,
24 and make contact with.

25 Q In terms of -- was there any finding or anything of
26 your exam that caused you concern that you had to
27 immediately talk to a pediatrician about?

1 A Well, within our own system, the therapy -- the
2 therapy referral to have -- sort of -- another place. If
3 the parent trusted their pediatrician, sometimes to hear
4 from them -- yeah, therapy is a good idea. Just to -- kind
5 of -- really encourage that. I mean we didn't have that
6 present in this situation, but that would have been helpful
7 if -- because that is sometimes the hard one for parents.
8 Sometimes they don't understand how useful that can be.

9 ATTY. PALERMO: One moment, your Honor.

10 THE COURT: Take your time.

11 Q And when you spoke to L.T.'s mother, she didn't
12 decline having you speak to a pediatrician. She indicated
13 she might be changing pediatricians.

14 A Right. So, she didn't have a name to offer me.

15 Q You had indicated, earlier, that there was an
16 original scheduled exam with you, with L.T., was changed to
17 a different date. Were you aware this was a case of delayed
18 disclosure? Where they -- the allegations were alleged to
19 have happened -- not immediately?

20 A Yes. I was aware that it was a delayed disclosure in
21 this. Yes.

22 Q Did the fact that the exam was changed, I think, from
23 -- did you say originally June to July, did -- would that
24 have made a difference, in terms of your medical exam?

25 A I don't think so.

26 Q And why is that?

27 A Because there already was a lapse of time from when

1 -- from what I understood. And it was another month out.
2 If there was something more urgent about it, I definitely
3 could have made arrangements, in New Haven, to see her.

4 Q Was there any urgency given the nature of the delayed
5 disclosure?

6 A No.

7 ATTY. PALERMO: May I have a moment, your Honor?

8 THE COURT: Take your time.

9 ATTY. PALERMO: One moment, your Honor. No
10 other questions. Thank you.

11 THE COURT: Thank you. Re-cross.

12 RE-CROSS EXAMINATION BY ATTORNEY BERKE:

13 Q You mentioned that an abnormal finding that you could
14 see would be scarring of the anus?

15 A That's right.

16 Q You didn't see any scarring of the anus?

17 A No, I did not.

18 Q What abnormal findings would you, potentially, see
19 based upon the allegations you were made aware of?

20 A I mean, anal scarring would be the main thing that
21 I'd be looking for. And I didn't see -- see that on her
22 exam. I guess the other things would be -- you know -- I'm
23 looking, are there any lesions or discharge? You know, like
24 symptoms of a sexually transmitted infection. I didn't see
25 that, either.

26 Q So, you disagree with Hobbs' conclusions on what
27 abnormal findings are, but in the context of what you

1 believe are abnormal findings, you didn't find any evidence
2 of your abnormal findings that you would put in a allegation
3 of anal sexual abuse?

4 A That's right.

5 Q Would there be any significance in the timing of the
6 exam, based upon the number of occurrences of sexual abuse,
7 as opposed to a single incident?

8 A No, I think the last incident -- you know -- the time
9 frame from that -- you know if -- it would have been ideal
10 to see kids sooner. But they just don't tell right away.
11 And that's just pretty typical. If we knew sooner, you have
12 to see them closer to the event is always -- is always
13 helpful. Sure.

14 Q The studies that you were relying upon, do any of
15 them, specifically, articulate that there were repeated
16 instances of abuse?

17 A I'm sorry. Can you repeat that?

18 Q I'll try to. Are there any studies that you rely
19 upon that solely have allegations of repeated abuse?

20 A I don't think I've seen a study where that's the only
21 kind of case they've had. It's usual -- I don't know if
22 they always have that information. It's hard for kids to
23 disclose, so we don't always know. Yeah, I don't know if
24 the studies -- kind of -- select out repeated versus just a
25 one-time incident.

26 Q Well, aren't the studies based upon the disclosure in
27 case files?

1 A Yeah, but that's not -- sometimes the studies are
2 just an allegation is raised, and so that there's a mix of
3 histories in those cases.

4 Q If it's just based on an allegation, there's a risk
5 of false positives, as reflected in one of studies that you
6 relied on. Is that fair to say? If it's just based on
7 allegation, there's a -- there's a risk that -- that false
8 allegations could be included within that?

9 A If a study is solely based on just a concern is
10 raised, there could be some in there where nothing happened.
11 Yes.

12 ATTY. BERKE: Thank you.

13 RE-RE-DIRECT EXAMINATION BY ATTORNEY PALERMO:

14 Q Do you still have the article of Hobbs in front of
15 you?

16 A No, I do not.

17 ATTY. PALERMO: I'm approaching, your Honor. Is
18 that alright?

19 THE COURT: Yes.

20 Q The second paragraph, could you just read that?

21 ATTY. BERKE: I would object. This is not a
22 question that she doesn't remember.

23 ATTY. PALERMO: Oh, I'm sorry.

24 ATTY. BERKE: Foundation.

25 Q Okay. I'll ask -- let me ask a question. In the
26 Hobbs article, that you had an opportunity to read earlier,
27 right. Does the article indicate that it's, generally,

1 accepted that disclosure is indicative of -- strongly
2 indicative of abuse, in the Hobbs article?

3 A Can you repeat that, again? I'm sorry. I'm --

4 Q Okay. In the Hobbs article, does Hobbs indicate that
5 while it cannot be certain that all children who allege anal
6 abuse are true cases, it's generally accepted that
7 disclosure is strongly indicative of abuse?

8 A Yes.

9 ATTY. PALERMO: I have no other questions.

10 THE COURT: Thank you. Based on that one
11 question --

12 ATTY. BERKE: Yes.

13 THE COURT: -- re-re-cross?

14 RE-RE-CROSS EXAMINATION BY ATTORNEY BERKE:

15 Q But without any findings, you can't state that your
16 examination is consistent with an allegation of abuse?

17 A That's right.

18 ATTY. PALERMO: No. No other questions, your
19 Honor.

20 THE COURT: Okay. Thank you, so much, Ms.
21 Murphy.

22 THE WITNESS: Yeah.

23 THE COURT: I hope you get to enjoy your
24 retirement.

25 THE WITNESS: Thank you. Oh, do you want this?

26 THE COURT: Do you have exhibits, or just the
27 article?

1 THE WITNESS: I don't know if I have an exhibit.
2 I'll just hand it back.

3 THE COURT: Yeah. Oh yeah, she's got that
4 Court's one. I'll take -- I'll take that top one.
5 Thanks. You can hold onto the article. Thanks.

6 ATTY. DAVIS: Your Honor, given the hour, I told
7 the next witness to be here at two.

8 THE COURT: Okay.

9 ATTY. DAVIS: I sent her to lunch.

10 THE COURT: Ladies and gentlemen, you get an
11 extra seven minutes for lunch.

12 So, it's -- it's -- it's -- I think I told you
13 this, before. It's difficult, scheduling. But,
14 seven minutes is -- is not too bad. I want to give
15 you that instruction I always give you. Please do
16 not make up your mind, or form any opinions about
17 evidence you've heard, so far. You're not to discuss
18 the case with anyone, including fellow jurors.
19 You're not to seek out information outside this
20 courtroom related to the case, or the evidence you've
21 heard so far. Do not do any independent examination
22 or go to the -- the scene of the alleged incident.
23 And remember what court -- evidence comes from two
24 important pieces, Court-sworn testimony, as well as
25 as well as properly introduced exhibits. So,
26 anything outside of the courtroom is not evidence.

27 Why don't you go whatever you need, and we'll --

1 we'll break right afterwards, for lunch. Thank you.
2 Oh, Madame Clerk is going to take your notepads, if
3 you have them.

4 (WHEREUPON THE JURY EXITED THE COURTROOM)

5 THE COURT: Alright, we can break for lunch.
6 We're just waiting for the jury to leave. Thank you,
7 everyone.

8 (WHEREUPON COURT STOOD IN LUNCHEON RECESS)

9 (WHEREUPON COURT RECONVENED)

10 THE COURT: Okay, just so you know -- I'll wait
11 for everybody to come in. Stay seated, everyone.
12 Sit down, please. I'll be right there. Can I have
13 the latest juror note, please?

14 We have a new Court exhibit. It's -- please, be
15 seated, sir. It's Court's Exhibit 17. It's a note
16 from the jurors. Your Honor, we need notes for
17 employers, advising that we are still serving as
18 jurors, and an estimated date, if possible. Thank
19 you, Lesha and Juan. So, they're talking about Ms.
20 Negron and Mr. Maldonado. I've written letters. I
21 have made all the letters Court Exhibits. They're --
22 Counsel can, certainly, review it. These -- just
23 read that -- they're available Thursday, and call me,
24 if they need it.

25 Okay. We ready for the next witness?

26 ATTY. DAVIS: We are.

27 THE COURT: Okay. Bring the jury in, please.

1 (WHEREUPON THE JURY WAS SUMMONED)

2 THE COURT: The Court noticed you mixed it up.
3 Alright, so we -- will Counsel stipulate to the
4 presence of jurors and alternates?

5 ATTY. DAVIS: Yes, your Honor.

6 ATTY. BERKE: Yes, your Honor.

7 THE COURT: Alright. Call your next witness.

8 ATTY. DAVIS: The State calls Monica Vidro-
9 Madigan.

10 THE COURT: Ms. Madigan, good afternoon, please.
11 Just watch your step, and step up, please. Remain
12 standing. If you could raise your right hand, and
13 face Madame Clerk, she's going to put you under oath.

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1 MONICA VIDRO-MADIGAN : having been called as a
2 witness, been duly sworn, testifies in this matter as
3 follows:

4 THE COURT: V-i-d?

5 THE WITNESS: R-o.

6 THE COURT: R-o. Thank you.

7 ATTY. DAVIS: May I proceed?

8 THE COURT: You may proceed, please.

9 DIRECT EXAMINATION BY ATTORNEY DAVIS:

10 Q Good afternoon.

11 A Good afternoon.

12 Q Can you let the ladies and gentlemen, of the jury,
13 know how you're currently employed?

14 A I currently work at the Yale Child Abuse Clinic. I
15 am a Licensed Clinical Social Worker, and I work at the
16 clinic as the Lead Social Worker Forensic Interviewer.

17 Q And let the ladies and gentlemen, of the jury, know
18 what your experience is?

19 A I have a Bachelor's and Master's degree in Social
20 Work. I am a Licensed Clinical Social Worker. So, I am
21 licensed by the State of Connecticut. I am trained as a
22 forensic interviewer. I am trained in two different
23 forensic interview protocols.

24 In terms of my work experience, I've been working at the
25 Child Abuse Clinic since 2001, so a little over 23 years. I
26 began my work at the Clinic as an advocate, working with
27 caregivers. And then in 2005, after earning my Master's

1 degree, I began working as a forensic interviewer, which I
2 do now. I am also the Lead, so I supervise our forensic
3 interviewers, social workers in our clinic. And I also
4 teach the forensic interview protocol in the State of
5 Connecticut.

6 Q The jury -- kind of -- heard of about this, a little
7 bit. But can you, just briefly, tell the jury what a
8 forensic interview is?

9 A Forensic interview is an interview that's conducted
10 by a specially trained professional. The forensic interview
11 is neutral and it's objective. It has multiple purposes.
12 The goal is to speak with a child to have an understanding
13 about something that they've experienced.

14 Q And you teach the forensic interview, and you teach
15 the child-first protocol?

16 A I do.

17 Q Could you just explain what you teach, or what the
18 protocol is?

19 A So, the Child-first interview protocol, that's the
20 name of the protocol. And it has four phases of the
21 interview. And what I teach is I teach how children respond
22 to particular questions, and also teaching the interview
23 protocol and how to interview children who are making
24 allegations of abuse.

25 Q And I might be testing you, a little bit. But have
26 you testified on the subject of delayed disclosure report?

27 A I have.

1 Q I don't -- can you estimate how many times?

2 A I -- I don't keep track of the number. I apologize.

3 Q Safe to say more than five?

4 A Yes, more than five.

5 Q More than ten?

6 A Yes, more than ten.

7 Q Okay.

8 THE COURT: Counsel, can you just move that
9 microphone right in front of you, please?

10 ATTY. DAVIS: I'm sorry. I thought you could
11 hear me in Chino, so -- alright. Is this better?

12 THE MONITOR: You need to be behind.

13 ATTY. DAVIS: Okay.

14 THE MONITOR: Yeah.

15 ATTY. DAVIS: Is this better?

16 THE MONITOR: Yes.

17 ATTY. DAVIS: Alright.

18 Q Do you know what the case here, today about?

19 A I don't have specifics about this case. No.

20 Q Okay. Have you interviewed anyone in relation to
21 this case?

22 A I have not.

23 Q Have you talked to anyone about this case?

24 A I have not.

25 Q The facts of this case?

26 A The facts of this case, I have not.

27 Q Have you any reports, in relation to this case?

1 A No.

2 Q Okay. Are you familiar with the concept of delayed
3 disclosure?

4 A Yes.

5 Q Can you tell the jury what it is?

6 A Delayed disclosure is exactly what sounds. It means
7 that when a child has experienced abuse, that they don't
8 tell right away. That they tell after a period of time,
9 after the abuse has happened.

10 Q And what are some reasons that a child wouldn't
11 disclose?

12 A There are a number of reasons why children wouldn't
13 --

14 ATTY. BERKE: I would object, your Honor.
15 That's speculative.

16 ATTY. DAVIS: I think, based on her training and
17 experience, and the research she's done -- I can
18 formulate a background, if you'd like.

19 THE COURT: If you could get more of a
20 foundation, please.

21 Q Sure. So, have you had any -- had a chance to review
22 any studies about why children don't disclose right away?
23 Or why they delay disclose?

24 A I am familiar with research articles, and as a part
25 of being a Licensed Clinical Social Worker, and working for
26 a child advocacy center, I'm required to attend trainings, a
27 number of times over the years to keep in line with our

1 accreditation. So, I have attended trainings related to
2 delayed disclosure, and track dynamics in child abuse.

3 Q And you've been taught or studied the reasons behind
4 why children delay disclosing?

5 A I've been taught and trained, and learn it, based on
6 my experience.

7 Q Okay, so based on your experience and what you've
8 learned, what are some reasons for those delayed
9 disclosures?

10 ATTY. BERKE: Your Honor, I would object, still.
11 That's speculative.

12 THE COURT: Okay. Overruled.

13 Q You may answer.

14 A So, there are a number of reasons why a child would
15 not disclose right away. For very young children who have
16 experienced abuse, sometimes they don't understand what's
17 happening to them is wrong.

18 Sometimes children have fears related to talking about
19 what happened to them. And those fears could be getting
20 themselves in trouble. What we know is that most children
21 are sexually abused by someone who is known to them and
22 trusted by the family. And sometimes they may have fear of
23 getting that person in trouble.

24 They may have fear about what the impact of them
25 disclosing about what happened to them will have on them, or
26 their family. They may have been threatened not to tell or
27 to keep it a secret. So, there are a number of reasons why

1 a child would not disclose right away.

2 Q I believe you just mentioned one of the reasons that
3 children might not disclose if the offender is known to
4 them. Can you speak more to that?

5 A So, what we -- what we understand is that children
6 who are abused by someone, the closer the relationship to
7 that person, to the child, the less likely the child is
8 going to disclose.

9 Q And how is it different if the abuser is in a
10 caretaking position, of the child, when it comes to
11 disclosing the abuse?

12 A So, again, -- you know -- a caretaker is very close
13 to the child. So, if the person is a caretaker, the child
14 has learned that that person is an authority figure.
15 Children are taught to be obedient.

16 So, if this person told this child not to tell, they
17 would listen. If this person told the child something would
18 happen if they told, the child would believe what that
19 person had said. And also, caretakers are able to isolate
20 children, so -- you know -- the child may not have resources
21 outside of the home to tell about what happened to them.

22 Q And is it unusual for the child to abuse -- who was
23 abused to retain a relationship with the abuser?

24 A Yes, because like I said -- you know -- most times a
25 person is trusted to the family, or to the child. And --
26 you know -- the child may not like the abuse, but they still
27 may have conflicted feelings and love the person who is

1 abusing them.

2 Q And you -- kind of -- spoke to this, but have you
3 seen situations where the child still loves the abuser?

4 A Yes. It's that conflicted feeling the child may
5 have.

6 Q Could the child still want to be around the abuser?

7 A Yes. Many times, the abuser shows the child love and
8 affection outside of the abuse. And sometimes they may tie
9 the abuse to that love and affection. And there may be
10 parts of that that the child may like. And the child might
11 want to retain that relationship.

12 Q And could the child, maybe, even want to -- or find
13 comfort or safety in the abuser, in some instances?

14 ATTY. BERKE: Objection. Leading.

15 THE COURT: I'll -- I'm going to allow it.

16 A I'm sorry. Can you repeat the question.

17 Q I probably can't.

18 A Oh.

19 Q But I'll try. And -- kind of -- along the same vein
20 of the child still sometimes loving the abuser, could a
21 child also look to the abuser for security or safety, in
22 some instances?

23 A Sure. Especially if that abuser is a caretaker or in
24 a caretaking role.

25 Q So, it's safe to say they could have conflicted
26 feelings about their abuser?

27 A Absolutely.

1 Q Is there any way that having younger children in the
2 home, with the abused child, play into the abused person's
3 relationship with the child?

4 A The household could certainly impact the child and
5 how they -- I'm sorry, can you repeat the question? I'm not
6 sure that I understand it.

7 Q Sure. So, could younger children in the home, than
8 the abused child --

9 A Okay.

10 Q -- such as younger siblings --

11 A Mm-hmm.

12 Q -- could that play into any relationship between the
13 abuser and the child?

14 ATTY. BERKE: Objection.

15 THE COURT: Did you understand the question?

16 THE WITNESS: Yes. Yes.

17 THE COURT: I guess, I'll rephrase it. What
18 role, if any, would younger children in the household
19 plea? And before you answer that, there's an
20 objection.

21 ATTY. BERKE: It was an objection to the State's
22 question.

23 THE COURT: Okay. How about mine?

24 ATTY. DAVIS: You can answer the Judge's.

25 THE COURT: Any objection to the way I asked it?

26 ATTY. BERKE: No.

27 THE COURT: Alright. So, what role, if any,

1 would younger children play in disclosure? If any?

2 THE WITNESS: If any. So, there are a couple of
3 things that could happen. A child may not disclose
4 what's happened to them, because they may worry about
5 what's going to happen to my younger siblings, if I
6 tell. You know -- what is the impact? The child --
7 the abuser may have threatened that child. If you
8 tell, your siblings might get taken away.

9 The child may also feel responsible for their
10 younger siblings, and may want to protect them from
11 the abuser.

12 Q And are you familiar with the concept of incremental
13 disclosure?

14 A Yes.

15 Q Can you tell the jury about it?

16 A When children disclose, like I said before, most of
17 the time, they delay. But when children do talk about what
18 happened to them, they -- it's a process. So, we always say
19 disclosure is a process. And many times, children will tell
20 small pieces about what they've experienced. Usually the
21 least embarrassing pieces, because that's easier to talk
22 about. And then, as they feel safe, and if they feel
23 believed, and feel supported, then children, typically, will
24 tell more, if they've experienced more abuse.

25 Q So, hypothetically, could they come to someone they
26 trust -- the child, in this instance -- and slowly tell more
27 things about what's happening with them?

1 A Yes.

2 Q Is that common?

3 A Yes.

4 Q And I want to talk about the -- I guess -- traits or
5 the behavior of a child that's been sexually abused. Okay?

6 Do children who have been sexually abused present with
7 the same characteristics or response every time?

8 A So, the common characteristics in abuse is that
9 children delay in disclosing. They're usually abused by
10 someone that they know. And when they do disclose, the
11 disclosure is a process.

12 What's uncommon is how children present emotionally, or
13 how, behaviorally, they present. Different children respond
14 differently to what they've experienced. And that's based
15 on the child, and it's based on who their family is at home.

16 Q So, could the child present as fearful?

17 A Yes.

18 Q Could the child present as stoic?

19 ATTY. BERKE: Objection, your Honor. These are
20 leading.

21 ATTY. DAVIS: I don't think it --

22 THE COURT: I'm going -- I'm going to allow it.

23 Q So, could the child present as stoic?

24 A Yes.

25 Q Could the child present as flat?

26 A Yes.

27 Q Could the child be angry?

1 A Yes.

2 Q Could the child laugh, if they are nervous?

3 A Yes.

4 Q So, it's safe to say that there's a range of -- they
5 tend to run the gamut. Right? The emotions?

6 A Right.

7 Q And you can't really pinpoint what a child is going
8 to act like?

9 A No.

10 Q Do kids, in your experience, process things
11 differently?

12 A Yes.

13 Q And when talking about the abuse that they've
14 endured, do kids present differently?

15 A Yes.

16 Q What are some ways that they could present when
17 talking about the abuse?

18 A Similar to what you've talked about -- you know --
19 sometimes kids may come in and talk and may be very tearful.
20 Some kids may be flat and just --

21 THE COURT: Did you say tearful or cheerful?

22 THE WITNESS: Tearful. Sorry.

23 THE COURT: That's me.

24 THE WITNESS: Oh.

25 THE COURT: I'm old. I can't hear very well.

26 THE WITNESS: But I was away from the
27 microphone, so -- you know -- some kids may be flat

1 and show no emotion and just be -- and may appear
2 as robotic. Again, different children will respond
3 differently.

4 Q And that doesn't indicate anything to you. Does it?

5 A No.

6 Q In your experience, as a forensic interviewer, and
7 someone who studied this for so long, and when you're doing
8 those forensic interviews, do you ask kids sensory details?

9 A Yes.

10 Q Why?

11 A So, the purpose of the forensic interview is for us
12 to be objective, and also to be fact-finding. And we do ask
13 children who describe something happening to their body
14 about senses. So, what things feel like, or taste like, or
15 smell like, or things that they may have heard. And that,
16 for us, helps us understand is this something that the child
17 experienced.

18 Q And do you have -- give some examples of what kind of
19 sensory details you'd ask for?

20 A Sometimes kids talk to us about penetration. So, we
21 may ask what does that feel like. A young child may
22 describe that as burning or hurting. Children may talk
23 about things happening to their mouth. And then we'll ask
24 about taste. Sometimes children -- we'll ask children did
25 the person say, or make sounds, and children will describe
26 that.

27 And what we know is a child who hasn't experienced sexual

1 contact, or sexual touching of their body, they're not going
2 to be able to answer those questions unless they've
3 experience it themselves.

4 Q And I want to talk about just a child's memory. So,
5 if the abuse is happening over a long period of time, is it
6 common for children to not remember specific dates?

7 A It's common for children to not remember specific
8 dates in anything. I mean, I think even adults, we have a
9 difficult time remembering specific dates. In terms of
10 specific incidences, if a child has experienced long term
11 abuse, and it's happened over a long period of time,
12 sometimes those incidents may blend together.

13 Q And when it comes to a child finally disclosing, is
14 it common to disclose to someone they trust?

15 A Yes.

16 Q And, hypothetically, if a child is told by the abuser
17 to not tell about the abuse, who would they tell?

18 A They would likely tell someone that would keep their
19 secret.

20 Q This is kind of basic, Ms. Madigan, but when we're
21 talking about a delay in disclosure, how long is that delay?
22 Or how long could it be?

23 A It could be months. It could be years. Sometimes
24 adults tell for the first time about abuse they've
25 experienced in childhood.

26 ATTY. DAVIS: Nothing further, at this time.

27 THE COURT: Okay.

1 CROSS-EXAMINATION BY ATTORNEY BERKE:

2 Q So, you had described sensations, burning, taste,
3 sounds. You said the only way someone would know that is if
4 they experienced it.

5 A Yes.

6 Q What if someone told them? What if someone
7 influenced them, that they look up to, and told them?

8 A I mean, I would wonder how old the child would be and
9 their ability to retain those types of details. But I would
10 probably would want to understand exactly how the questions
11 were asked, and all that, before I would comment on that.

12 Q Well, your statement was that they would only know
13 that if they experienced it.

14 A Yes.

15 Q That's not entirely true.

16 A Well -- I mean -- I think, even as adults, if
17 somebody were to ask us what something -- you know -- when
18 we ate, what it tasted like, even if we heard someone talk
19 about it, we wouldn't be able to describe it unless we
20 experienced it. So, I would --

21 Q I wasn't talking about --

22 A -- imagine it's the same for children.

23 Q I'm sorry. I wasn't talking about an adult. I was
24 talking about a child.

25 A And I would say that that would be the same for a
26 child.

27 Q I mean, what about the other sensory perceptions that

1 are provided? Would the only way that someone would know
2 would not only be based upon their experience, it would be
3 based on what someone told them?

4 A It would be difficult for a child to retain the
5 senses unless it's something that they've experienced.

6 Q So, if someone provides a timely disclosure, would
7 that be suspect to you?

8 A No.

9 Q And if they provided a disclosure shortly after an
10 event, would that be suspect to you?

11 A No. I -- no. I mean, again, it would depend on who
12 was the person that abused the child. Who was the person
13 that they told. Like, all of that would impact the child's
14 disclosure. What I'm saying is that it's very common for
15 children in delay in telling.

16 Q So, if it was timely, it would not be suspect to you?

17 A Well, I think there would be other factors that we
18 would consider.

19 Q If it was shortly after the event, but not timely --
20 so, something -- not immediately after the event, but a
21 short period later, that would not be suspect?

22 A Well, a short time -- if it's not right after it
23 happened, that would still be considered a delay.

24 Q But you said delayed could be years -- months and
25 years.

26 A And days.

27 Q It could be days, weeks, months, years?

1 A Yes.

2 Q And you had described a number of different emotions
3 in a disclosure. Stoic, flat, angry, tearful. A variety of
4 different emotions.

5 A Yes, I said that children could present in a variety
6 of ways. And I believe Attorney Kelly provided those
7 different types of examples. But, yes.

8 Q I know, but you're testifying.

9 A Yes.

10 Q I'm asking you.

11 A Yes. So, children present very differently based on
12 -- you know -- emotionally. Not only children present the
13 same, emotionally.

14 Q Do you know the expression the exception swallows the
15 -- swallow the rule?

16 A I do not. No.

17 Q It comes to a point where there are so many
18 exceptions to a particular rule, the rule really has very
19 little value.

20 ATTY. DAVIS: Is that a question?

21 ATTY. BERKE: Yes.

22 ATTY. DAVIS: I would object.

23 ATTY. BERKE: It is a question.

24 THE COURT: Are you familiar with that?

25 THE WITNESS: I am not.

26 ATTY. DAVIS: She said she wasn't.

27 THE COURT: Okay. And then he explained it, and

1 she's still not familiar.

2 THE WITNESS: No.

3 THE COURT: So --

4 Q You had indicated there were a number of studies that
5 you relied upon in regarding the conclusions that you
6 reached today, based on these hypotheticals?

7 A I am familiar with studies. I wouldn't say that I
8 rely on them. I rely on training, studies and my
9 experience.

10 Q So, in regards to the variety of different
11 presentations, stoic, flat, angry, tearful, which study did
12 you rely upon when you were responding to that question?

13 A That's based on my experience as a forensic
14 interviewer.

15 Q So, it's not based upon any study that's peer-
16 reviewed?

17 A Not that I'm aware of, no.

18 Q And you are familiar with the process of peer-review
19 of a study?

20 A Of what study?

21 Q Peer review -- of any study. A scientific study,
22 peer review, isn't it correct that it's based upon when
23 other people review that study?

24 A I'm familiar with studies, and that, yes, studies are
25 reviewed by -- you know -- in order to publish them, yes. I
26 am aware of that.

27 Q But you're unfamiliar with studies with regards to

1 the way in which people disclose and present, emotionally?

2 A That's correct. Yes.

3 Q And in regards to the -- the timeliness and the
4 variety of different ways someone can disclose -- timely,
5 shortly, after years, months, days, months, years -- which
6 study would you rely upon when you indicated that?

7 A So, in terms of disclosure being a process, in delay
8 in disclosure, I have those articles with me. I don't know
9 if -- I know they're not in evidence, so I probably can't
10 refer to them. I know that it's Letterman and Olfson talks
11 about it. And I know Summit. I don't have -- I don't
12 remember them, but I have them with me. I can bring them
13 out.

14 Q So, are you aware of which studies; in order to
15 validate the allegation, how do they base that validation in
16 those studies?

17 A I would have to refer to them, those studies. How
18 they talk -- how they know that the children were abused
19 based on their --

20 Q Yes --

21 A -- I would have to refer to those research articles.

22 Q And do you know if any of those studies are based
23 upon longitudinal studies, or are they just based on a
24 single report?

25 A I would have to refer to them to give you those
26 details.

27 Q Is it fair to say that there's a fair amount of

1 speculation in how someone would react to a particular claim
2 of sexual abuse?

3 A When you say react, what do you mean, exactly?

4 Q Well, a variety of things. Whether it's the fact
5 that someone disclosed is timely or not timely, it's
6 speculating how someone would react to that?

7 A Well, I think disclosure, it's not speculative.
8 That's something that research articles said -- it's
9 something that I see, even when I'm talking with parents who
10 talk about not telling right away, so I would say that that
11 piece is not speculative. And again, just based on my
12 experience, children present very differently.

13 Q My point is that how someone reacts is a wide, wide
14 range?

15 A Oh, yes.

16 Q And you couldn't pinpoint a particular reaction to
17 substantiate the claim of an abuse.

18 A No.

19 ATTY. BERKE: Thank you.

20 THE COURT: Before you ask, I just have a couple
21 of questions.

22 ATTY. DAVIS: Sure.

23 THE COURT: I'm going to show you what's been
24 marked as -- it's a court exhibit.

25 THE WITNESS: Okay.

26 THE COURT: It's one. And I'm just going to
27 ask you, do you recognize any of those names?

1 THE WITNESS: No.

2 THE COURT: Okay. Thank you.

3 THE WITNESS: You're welcome.

4 THE COURT: I said a couple. It's just one.

5 ATTY. DAVIS. Thank you.

6 THE COURT: That's the only question that I
7 have. Thanks.

8 ATTY. DAVIS: If I could just have a moment.

9 THE COURT: Take your time.

10 RE-DIRECT EXAMINATION BY ATTORNEY DAVIS:

11 Q Alright, I'm going to test you again.

12 A Okay.

13 Q How long have you been a forensic interviewer?

14 A Since 2005.

15 Q How many forensic interviews have you done?

16 A Over 2000.

17 Q And when you do those interviews, do you observe the
18 children?

19 A Yes.

20 Q And do deserve -- do you observe how they react?

21 A Yes.

22 Q And in those 2000 plus interviews, do kids all act
23 the same?

24 A No.

25 Q And is what you're testifying about, based on your
26 personal experience in this field?

27 A Yes.

1 ATTY. DAVIS: Nothing further.

2 THE COURT: Thank you. Any re-cross?

3 ATTY. BERKE: Yes.

4 RE-CROSS EXAMINATION BY ATTORNEY BERKE:

5 Q As an expert in this field, is it fair to say that
6 you, and other experts, rely upon studies that are
7 conducted?

8 A Studies and our experience and training. Yes.

9 Q And studies that are reviewed by other peers in the
10 field?

11 A Yes.

12 Q Yet, you weren't familiar with any of those studies
13 in detail?

14 A Related to the emotions, no.

15 ATTY. BERKE: Thank you.

16 ATTY. DAVIS: Nothing further.

17 THE COURT: Thank you, so much, for coming in.

18 THE WITNESS: Thank you.

19 THE COURT: Thank you for your patience.

20 THE WITNESS: No worries. Thank you.

21 THE COURT: Thank you. Oops. We get one a week
22 that does that. Marshal, aren't you supposed to?
23 I think he's filming it for YouTube.

24 Alright. Anything?

25 ATTY. DAVIS: The State rests.

26 THE COURT: Alright, ladies and gentlemen, the
27 State has rested. It doesn't mean that they go in

1 the back and take a nap. What it does mean, however,
2 is that the presentation of evidence -- their case in
3 chief, as we call it -- is complete. I'm going to
4 have you go in the back. I'm going to discuss a few
5 things with the attorneys. And we'll be right back
6 with you. Okay.

7 (WHEREUPON THE JURY WAS EXCUSED)

8 THE COURT: I do want to explain, to them, that
9 although the State has rested that -- that the
10 Defense has called two witnesses, previously. I have
11 two. I have -- I have Scott Murray and -- excuse me
12 -- Detective Murray and Detective Wheeler?

13 ATTY. DAVIS: Yes.

14 ATTY. BERKE: Yes, that's right.

15 THE COURT: Alright. Do you have any motions,
16 at this time?

17 ATTY. BERKE: Yes, your Honor. I make an oral
18 motion for judgment of acquittal based upon
19 insufficiency of evidence. And I would also make a
20 motion -- and I realize that this second part to my
21 motion has already been decided by the higher courts.
22 And I, certainly, would not expect the Court to act
23 on it, but I think it's important to raise this
24 issue.

25 As I mentioned, previously, in my objection to
26 the State's notice of alibi, I'm troubled regarding
27 the due process implications of not being required to

1 pinpoint a range, even, of a date and time. The
2 range of an allegation is -- under the law, as a
3 current state, is vague. It does not require the
4 State to prove any date and time. And it's like
5 going to a shooting range, blindfolded. It's
6 impossible to hit that target. It is absolutely
7 impossible to challenge from a due process
8 perspective, with any degree of -- of accuracy.
9 Vague allegations that the State's not required to
10 present.

11 THE COURT: Okay. Thank you. I'm going to do
12 things in a reverse order. Do you want to comment
13 on the -- on the second prong -- the second motion?

14 ATTY. DAVIS: We did -- we did talk about this
15 before, in chambers. And I note the Court, actually,
16 didn't grant the State's alibi motion based on those
17 grounds.

18 So, just I want to note, in this particular
19 case, the State did give the Defense a range. I
20 understand the Defense's argument and I know it goes
21 more to a due process and overall argument for these
22 type of cases. But I just want to note, in this
23 case, there was a range.

24 THE COURT: Okay. And there was a range. And I
25 will note, too, that -- you know -- the way the
26 current state of the law is, the State is acting
27 well within its reason to do so. And I understand.

1 I'm no trailblazer. I'm not one that's going to
2 change the law. But I'll note your objection and
3 exception, not that we do that anymore, but for the
4 record.

5 And with regards to the first issue, the
6 judgment of acquittal. Would you like to be heard?

7 ATTY. DAVIS: Sure. In the light most favorable
8 to the State, which is the standard in this motion,
9 the State believes that there has been, before the
10 jury, evidence to sufficiently get the elements of
11 each crime that has been alleged. That could be
12 solely done through the testimony of L.T., but the
13 State has provided multiple constancy witnesses and
14 other witnesses, to bolster her claim.

15 THE COURT: Okay. Thank you. I'll note that
16 in ruling upon this motion for judgment of acquittal,
17 the Court has separated out, so to speak, the
18 testimony of Detective Scott Murray, and Detective
19 Wheeler, but I will say this. That both sides are
20 well aware of the -- what the Court's obligation is,
21 and motion for judgment of acquittal is a motion
22 that is based upon the evidence up until that point.
23 And I'm talking about State versus Pieger, P-i-e-g-e-
24 r, 42 Connecticut Appellate 460. It's a 1996 case.

25 In ruling upon a motion for judgment of
26 acquittal, the trial court must determine whether a
27 rational trier of fact could guilt proven beyond

1 a reasonable doubt.

2 I always state -- I always cite State versus
3 Nival, 42 Connecticut Appellate 307, a 1996 case,
4 because it was mine. But there are more recent cases
5 than that, of course. But Nival and everything
6 that's come afterwards, basically, says the same
7 thing. And that is that the standard a trial judge
8 must apply in evaluating the evidence on a motion is
9 the evidence that would -- in a light most favorable
10 to the State's case. The evidence -- the question is
11 whether or not the evidence would not reasonably
12 permit a finding of guilty.

13 The State has called upon -- I have 13 witnesses
14 in this particular case -- that have testified with
15 regards to this. Now, it's not as we tell -- as I
16 tell jurors, all the time, it's not the amount of
17 witnesses, but it's the -- it's not the quantitative
18 number of witnesses, but it's the quality of
19 witnesses. I understand the Court's -- the Defense's
20 objection, but I would say that I have had an
21 opportunity to observe the witnesses testifying,
22 particularly the alleged victim in this case, L.T.,
23 and I will note that I find her credible.

24 I also find that based on the -- the other
25 witnesses involved in the case, there is some
26 corroboration. Perhaps not the amount of
27 corroboration that the State wanted. We don't have a

1 smoking gun, so to speak. But, there was
2 corroboration in what L.T. had to say with others
3 that were presented.

4 Perhaps most compelling, for the trial court,
5 for me, anyway, was the testimony of Ms. Jayda
6 Garrell, who indicated the disclosure.

7 I find, based on the totality of the
8 circumstances, based on the light that I have -- that
9 the State has put forth enough case to go the -- to
10 the jury.

11 Practice Book section 42-40 provides that upon
12 motion, it is important, in the ordinary course of
13 ordinary criminal trials, the power to order
14 acquittal is an important safeguard against
15 irrational, unsupported jury verdicts. In this case,
16 I think there is, certainly, enough evidence put
17 forth, by the State, to prevent such a -- to have
18 such a safeguard in place. The evidence could
19 reasonably permit a finding of guilty.

20 Anything further, at this point?

21 ATTY. BERKE: Yes, your Honor. I know it's
22 somewhat after the fact, but -- and redundant. Is it
23 fair to say that the Court's ruling was not based
24 upon the fact that there was any waiver? It was
25 done out of order. We called our witnesses.

26 THE COURT: No.

27 ATTY. BERKE: I just want to it, in the context

1 of this motion, the extent that no one is going to
2 search through the transcript to find something. I
3 think it's important to raise this.

4 THE COURT: No. No. Thank you for bringing
5 that up. That's -- that's important. You, Attorney
6 Berke, have certainly preserved the rights of your
7 client by making this motion, at this point, even
8 though you've already called your case.

9 But as I said, my -- my decision was taking out
10 of the equation, so to speak, the evidence put forth
11 in yours that I've just reviewed, what the witnesses
12 have testified during the State's case in chief.
13 Thank you.

14 ATTY. BERKE: Your Honor, at this time, I'd ask
15 the Court to consider canvassing my client.

16 THE COURT: Yes.

17 ATTY. BERKE: Regarding his election.

18 THE COURT: You can stay seated, sir.

19 ATTY. DAVIS: I'm sorry. Can I just correct --
20 Attorney Palermo pointed something out to me, about
21 the record. I think the Court said --

22 THE COURT: Thirteen witnesses. Did I get that
23 wrong?

24 ATTY. DAVIS: No. I think the Court,
25 rightfully, said that the Defense did call Detective
26 Wheeler. But I just want the record to be clear,
27 obviously, that the State called him first. I

1 believe he was just calling him to finish his
2 questioning, or to recall him. I just want the
3 record to be clear about that.

4 THE COURT: I'm -- I'm sorry. I thought you
5 called upon him as a witness in the case.

6 ATTY. BERKE: I thought I did, too.

7 ATTY. DAVIS: Okay.

8 ATTY. BERKE: I mean, I subpoenaed him with
9 that --

10 THE CLERK: They both did, State and Defense.

11 THE COURT: Yeah. Okay.

12 ATTY. DAVIS: So, we both did. I just want the
13 record to be clear about that.

14 THE COURT: Oh, sure. Sure. No, no, I
15 understand. Detective Murray was solely him.

16 ATTY. DAVIS: Yes. Thank you.

17 THE COURT: But no, it was a recalling, so to
18 speak, of witnesses.

19 ATTY. DAVIS: Thank you.

20 THE COURT: Alright. Mr. Hall, I've got a
21 series of questions to ask you. If at any time you
22 need time to talk to your lawyer about it, you need
23 time -- or sometimes I speak fast, if you don't
24 understand, just say time out, and I'll give you,
25 certainly, the time you need.

26 You have a big decision to make, here. Do you
27 understand that?

1 MR. HALL: Yes, sir.

2 THE COURT: And that decision is whether or not
3 to testify. Do you understand?

4 MR. HALL: I do.

5 THE COURT: Have you discussed it, with your
6 lawyer, that you have a right to testify, as well as
7 a right not to testify?

8 MR. HALL: I have.

9 THE COURT: Alright. If you testify, you'll be
10 subject to cross-examination. That is the State,
11 the prosecutors, will have an opportunity to ask
12 direct questions of you. Do you understand that?

13 MR. HALL: I do.

14 THE COURT: And you'll have to answer those
15 questions. Do you understand?

16 MR. HALL: I do.

17 THE COURT: If you do not testify, the jury will
18 be told they cannot hold it against you. Do you
19 understand that?

20 MR. HALL: I do.

21 THE COURT: Alright. I need to know -- I don't
22 need to know the contents of your communication with
23 your lawyer, in other words, I don't want to go into
24 lawyer-client privilege, but I want to ask you this.
25 Have you and Attorney Berke discussed testifying or
26 not testifying?

27 MR. HALL: We have.

1 THE COURT: And based on that discussions, have
2 you -- do you understand the decision is only yours?
3 You're the only one that can make that decision?

4 MR. HALL: I do understand it's my decision.

5 THE COURT: Berke -- Attorney Berke can tell
6 you I want you to testify, or I don't want you to
7 testify. It doesn't matter what he says, so to
8 speak. But what matters is is what you say. And
9 I'm trying to ask these questions to find out if it
10 is, in fact, your decision and your decision, alone?

11 MR. HALL: Yes, sir. I understand it is my
12 decision.

13 THE COURT: Tell me a little bit about yourself.
14 How far did you go in school? What kind of work have
15 you done?

16 MR. HALL: I'm 31. I've completed high school.
17 I graduated. I also went through college for cyber-
18 security. I wasn't able to finish. I, basically,
19 pursued jobs after that, as well, at my family's
20 shop. You know, just really trying to grow as a
21 man, and learn more of the field, and -- you know --
22 just build a foundation for myself to grow.

23 THE COURT: Okay. And you seem very articulate.
24 But, I guess my questions are, throughout your life,
25 throughout your 31 years, you've had to make
26 decisions. And sometimes making decisions involves
27 in the weighing of the pros and the cons. Do you

1 understand that?

2 MR. HALL: Yes, I do.

3 THE COURT: And in here, there are certain pros,
4 that there are certain advantages to testifying. And
5 one advantage is you get to tell your side of what
6 happened. You understand that that is an advantage.
7 Correct?

8 MR. HALL: Yes sir, I do.

9 THE COURT: But one of the disadvantages is they
10 -- one of them -- and I'm pointing over to the
11 prosecution table, and I shouldn't point. It's not
12 polite. But one of the prosecutors would get to
13 cross-examine you. Do you understand that?

14 MR. HALL: I do understand that.

15 THE COURT: Have you weighed the pros and cons,
16 the advantages and disadvantages, of testifying?

17 MR. HALL: I have.

18 THE COURT: Alright. And have you taken that
19 into consideration in reaching your decision?

20 MR. HALL: I have.

21 THE COURT: If you wanted more time to think
22 about it, I would certainly give you more time. Do
23 you understand that?

24 MR. HALL: Yes, I do understand.

25 THE COURT: Alright. And have you had enough
26 time to think about this?

27 MR. HALL: Could I have 30 seconds?

1 THE COURT: You know what? What we'll do, we'll
2 take a break, right now. We'll just take a couple
3 minute break and we'll give you time to -- either
4 you have it by yourself, or you could talk to
5 Attorney Berke about it. Okay?

6 MR. HALL: Thank you.

7 THE COURT: Alright. So, we'll just take a
8 five minute break. Just knock when you're ready,
9 please. Thanks.

10 (WHEREUPON COURT STOOD IN RECESS)

11 (WHEREUPON COURT RECONVENED)

12 THE COURT: Okay. We're back on the record?

13 THE MONITOR: Just one second. It's a little
14 slow.

15 THE COURT: That's alright.

16 THE MONITOR: Alright.

17 THE COURT: Whenever you're ready.

18 THE MONITOR: It's on.

19 THE COURT: Alright. We're back on the record,
20 State versus Hall. Please have a seat, Mr. Hall.

21 Alright, so I've given you time to talk to your
22 lawyer. And are you all set now?

23 MR. HALL: I am all set.

24 THE COURT: Alright. I'm going to ask, a couple
25 of questions to you, Attorney Berke. Have -- have
26 you discussed, with your client, the -- whether or
27 not to testify?

1 ATTY. BERKE: Several times.

2 THE COURT: And -- you know -- have you -- have
3 you -- and I don't mean to get into the attorney --
4 break into the attorney-client privilege. But have
5 you discussed the pros and the cons, the advantages
6 and disadvantages of testifying and not testifying?

7 ATTY. BERKE: Certainly have.

8 THE COURT: And did you make it clear to him
9 that it's his decision, and his decision alone?

10 ATTY. BERKE: Absolutely.

11 THE COURT: Okay. Are you satisfied with the --
12 with the amount of time and your conversations with
13 him?

14 ATTY. BERKE: I am convinced it's a knowingly,
15 intelligent and voluntary decision.

16 THE COURT: That's just what I was going to ask
17 next. Alright, thank you. And -- and -- and that's
18 what it boils down to, here, Mr. Hall. I have to
19 make a decision, whether you knowingly, willingly,
20 and voluntarily have waived your right to testify.
21 It certainly seems, so far, that you've knowingly
22 done so. And that it is -- is this on your own
23 accord? Is this -- is this -- are you doing this on
24 your own?

25 MR. HALL: Yes, I am doing this on my own.

26 THE COURT: And is anyone forcing you to not
27 testify?

1 MR. HALL: No, sir.

2 THE COURT: Alright. And despite how many times
3 you've talked to your lawyer, and I've told you this
4 before, the decision is yours and it's your decision
5 right now, not -- not to testify?

6 MR. HALL: It's my decision not to testify.

7 THE COURT: There's going to come a time when
8 your lawyer's going to rest the case -- that is --
9 and -- and -- just as the State did. Did you have --
10 and -- and -- and -- this decision is going to be
11 binding. I mean, you're making it right now. But --
12 you know -- you can't wake up, tomorrow, or a week
13 from now, or two weeks from now, and say, you know
14 what? I want to testify in the case. It's going to
15 be final. You understand that.

16 MR. HALL: Yes, I do understand.

17 THE COURT: Alright. Anything else I should
18 ask your client, Attorney Berke?

19 ATTY. BERKE: The only thing -- it's more of a
20 comment, is that I would suspect that that decision
21 -- I don't want anyone to think that it may be done
22 tomorrow, it's going to be done very soon. Because
23 my proposal of evidence is going to be rather short.
24 So, that opportunity will disappear in thin --

25 THE COURT: Evaporate, so to speak.

26 ATTY. BERKE: Yeah, I'm sorry. Yes.

27 THE COURT: Yes. Once he rests, that's it.

1 It's done. Do you understand that?

2 MR. HALL: I do.

3 THE COURT: Alright. Does the State have
4 anything they want to add?

5 ATTY. DAVIS: Not about this.

6 THE COURT: Okay. Alright, the Court will make
7 a finding the Defendant has knowingly, voluntarily
8 and willingly waived his right to testify, in this
9 case, after full discussions with the lawyer. And
10 look, this isn't something that was a surprise. This
11 is something I'm sure that's been on his mind, on his
12 lawyer mind -- on his lawyer's mind for quite some
13 time. Evidence in this case started, I want to say,
14 February fourth. Today is the 18th. So, it's a
15 decision he's lived with for a while. And I'm quite
16 confident, based on my discussions with him, who --
17 I'll note that he calmly, coolly, collectedly answered
18 my questions, without hesitation. That he's aware of
19 what's going on. That he knowingly, willingly and
20 voluntarily waived that right.

21 Alright. So, do you have any evidence that you
22 have any evidence you're going to put on at this
23 time?

24 ATTY. BERKE: Your Honor, I'd ask the Court to
25 -- if we could address two of the issues. I
26 initially had filed a notice of intent to request
27 judicial notice of the calendars of April, May, June

1 and July, of 2020. I put them on one sheet of paper.
2 That's one document.

3 And the other -- they are together -- it's the
4 executive orders of Governor Lamont, 7-G and 7-TT.
5 I ask the Court to find judicial notice and I would
6 offer that in front of the jury.

7 THE COURT: State wish to be heard?

8 ATTY. DAVIS: We don't object.

9 THE COURT: Okay. I just haven't seen the two
10 together. It's all on one piece of paper? So, the
11 calendars and the --

12 ATTY. DAVIS: Mm-hmm.

13 THE COURT: -- and the executive order?

14 ATTY. BERKE: If I could approach.

15 ATTY. DAVIS: And he -- he gave us a copy of it.

16 THE COURT: Okay. Thanks. Alright, so I see
17 the calendars. On the flip side is the other one?

18 ATTY. BERKE: No.

19 THE COURT: Oh, where is your executive order?

20 ATTY. BERKE: It's on it.

21 THE COURT: Because that was several pages long.

22 ATTY. BERKE: Mm-hmm.

23 ATTY. BERKE: There were two executive orders.

24 THE COURT: Okay. So, you could have those --
25 how do you want to do this, Attorney Berke? You want
26 these marked as your exhibits.

27 ATTY. BERKE: I want them marked as my exhibits.

1 I'm going to stand up and offer them as exhibits.

2 THE COURT: Very good.

3 ATTY. BERKE: And as far as --

4 THE COURT: And what I would -- I'm sorry -- I'm
5 sorry --

6 ATTY. BERKE: Sure.

7 THE COURT: -- to cut you off. What I was going
8 to do, at that time, was I have a section in the
9 charge, with regards to judicial notice, I was going
10 to read that, verbatim, right now, at this point, to
11 the jury. And -- and -- and it just reads that what
12 a judicial notice is.

13 ATTY. BERKE: When I'm offering it, I'm going to
14 ask the Court to find judicial notice. That's all
15 I'm going to say.

16 THE COURT: Yup. Okay.

17 ATTY. BERKE: The other issue that we had talked
18 about, was whether we could reach an agreement
19 regarding testimony in that limited issue. As an
20 alternative, the Court had considered -- or
21 recommended, perhaps, just offering the document.
22 And I guess that's what we have to discuss.

23 ATTY. DAVIS: So, the State's objecting. I
24 could put my reasons. Just for the record --

25 THE COURT: So, there's no agreement.

26 ATTY. DAVIS: There's no agreement.

27 THE COURT: Thank you. So, you're requesting

1 to?

2 ATTY. BERKE: Well, I was going to -- I was
3 going to offer that document. It's -- it's a public
4 filing. The Court could take notice of filings. I
5 could ask the Court if I could call G.T., just to put
6 her on for this limited issue. But I could also just
7 offer the document. It's --

8 THE COURT: That's an argument I didn't think
9 of. You know -- and I really didn't. I'll tell you,
10 the State and the Defense have given me a lot to
11 think about, last night, with regards to calling
12 G.T. back on the stand. And I've done all the -- all
13 the case work. I'm ready. But I didn't think about
14 that one. Which is a filing, in court, in a civil
15 case, and a date, why can't I take judicial notice
16 of that? Did you think of that? I mean -- because
17 --

18 ATTY. DAVIS: I -- so, no, I did not think of
19 that. But I did consider whether the Court was just
20 going to put this in, because that's what you were
21 supposed to consider this morning.

22 THE COURT: Right.

23 ATTY. DAVIS: The State thinks it's a collateral
24 issue. I think -- I can go into my reasoning, if you
25 want. But I --

26 THE COURT: No. Yeah -- no, no. Now is the
27 time.

1 ATTY. DAVIS: Alright. So, it's not -- the
2 State believes that if this to come in, it's not
3 relevant. And it's confusing. There's no witness to
4 be able to testify about what this is. It's actually
5 a standard motion that's filed in these cases. I was
6 told that by family attorneys that do this kind of
7 work. I looked into it over lunch.

8 THE COURT: Can I -- can we have that marked,
9 please, as an ID exhibit?

10 ATTY. DAVIS: Sure.

11 THE COURT: It would be Court's -- I mean a
12 Defense exhibit, ID.

13 ATTY. BERKE: I have one that's redacted.

14 THE COURT: Oh. You know what? Why don't we
15 take his --

16 ATTY. DAVIS: Sure.

17 THE COURT: -- so we don't have to do that.
18 Thank you.

19 ATTY. BERKE: Should we have one as A and the
20 other one?

21 THE COURT: Well, let's just leave this is a --
22 this is redacted?

23 ATTY. BERKE: Yes.

24 THE CLERK: This is Defense D.

25 THE COURT: Defense D.

26 ATTY. DAVIS: So, just to continue. It's the
27 State's position that this is just an attempt -- an

1 inference -- about G.T.'s motive in this case. And
2 the State does not think that it should come in for
3 that. There is no evidence to support that. This is
4 just a standard motion that was filed in March.

5 And the Defense, your Honor, I went through the
6 transcripts of G.T.'s testimony. The Defense had an
7 opportunity to talk to G.T. about this. I could read
8 the highlighted parts I have. But I have her full
9 testimony. I think the caselaw I provided is pretty
10 on point about that. And I just think that this is
11 just an issue to confuse the jury. I think that
12 there is no need to call G.T. just to further -- I
13 don't want to say harass -- but to further get into
14 this with her when it's not -- this is a side issue,
15 it's ancillary issue. And if -- if the Court
16 was to put this in, she's going to have to -- we're
17 going to want to talk to her about what this is, and
18 what this is. And it's going to create a trial
19 within a trial. So, I don't think it's relevant. To
20 any point it is relevant, it's more confusing to the
21 jury. And she did already testify about this.

22 If you look at the documents, it's about the
23 custody agreement of the child. And she's asking for
24 -- I know Counsel is saying she is asking for sole
25 custody. She explored that. I'll point at her
26 transcript.

27 THE COURT: Thank you. Thank you.

1 ATTY. DAVIS: So, it's actually based on
2 questioning from Attorney Berke.

3 THE COURT: Alright. While you're looking for
4 that, I just want to say that Defense D, for I.D.,
5 at this time, is a three page complaint filed by --
6 I take it it was the lawyers of G.T., that request,
7 among other things, sole legal custody, primary
8 physical custody awarded to the Plaintiff, meaning
9 G.T. And an appropriate parenting plan for the
10 minor children, as provided by Connecticut General
11 Statutes 46b-56. That's -- that I think is the focus
12 of -- of Counsel's argument. So, go ahead.

13 ATTY. DAVIS: So, he was asked, on the 11th, by
14 Attorney Berke: Do you recall indicating, after you
15 filed divorce, that if he doesn't sign the parenting
16 plan, he'll never see his daughter again. Answer:
17 No.

18 And then on re-direct, this is from me.
19 Question: Do you remember you just talked a little
20 bit about your divorce from the Defendant. Did you
21 end up getting divorced from the Defendant?

22 Answer: Yes.

23 Question: When you filed for divorce from the
24 Defendant, did you intend on restricting his access
25 to W.T.? No.

26 Question: Why not?

27 Answer: Because I thought he was a good dad.

1 Question: And what was your parenting plan with the
2 Defendant going forward, if this hadn't happened?

3 Answer: We didn't really have one. Kind of similar
4 to my previous situation, with my previous ex-
5 husband, my middle daughter is S.T. -- she talks
6 about S.T. and their agreement, a little bit.

7 What -- Question: What did you plan on having with
8 the Defendant?

9 A -- Answer: Same thing.

10 Question: At the time you filed for divorce,
11 and you were contemplating a parenting agreement with
12 the Defendant, were you getting along with the
13 Defendant?

14 Answer: Yes.

15 Question: Were you fighting with the Defendant?
16 No.

17 Question: Did you ever say to the Defendant I'm
18 going to keep you away from your kid if you don't
19 sign this.

20 Answer: No.

21 Question: So, did you tell your (sic) Defendant
22 you're not going to see your kid?

23 Answer: No.

24 Question: Was that your intention, to ever keep
25 him from seeing his kid?

26 No. If I'm being honest, my intention was,
27 hopefully, I would have a little bit of a break.

1 Just being honest.

2 So, this issue was completely explored already.
3 I don't know why we're going to re-get into this,
4 especially because it's not -- it doesn't go to
5 guilt or innocence. And I don't -- I think if we
6 just put in this document, it's trying to get out
7 that there is an inference that she had motive to do
8 this. And I think that's a flawed motive. I think
9 that's flawed that way. Because she's already
10 answered to this.

11 THE COURT: You can't have it both ways. You
12 didn't object the first time it was -- it came in.
13 You're saying it came in, previously. But you can't
14 say now, well, it's prejudicial now. Is that what
15 you're saying?

16 ATTY. DAVIS: No. I'm saying -- no. Sorry,
17 maybe I misspoke. I'm saying --

18 THE COURT: No -- no.

19 ATTY. DAVIS: I'm saying this was explored
20 before, and putting this piece of document in, with
21 no context, that's what I'm objecting to. I'm saying
22 we already talked about this.

23 THE COURT: Okay.

24 ATTY. DAVIS: I allowed there to be talk about
25 this. And now we're just putting in this arbitrary
26 document, with no context.

27 THE COURT: It's not really arbitrary. It's

1 something filed on behalf of -- of G.T. Isn't it?

2 ATTY. DAVIS: Yes. And the State -- G.T.'s
3 family attorney filed this in March, because she
4 wasn't asked about this then. There has already been
5 an opportunity to ask about this.

6 THE COURT: Okay. Counsel, you want to be
7 heard? You had -- I -- what -- what the State is
8 saying is, in accordance to -- I'll start with the
9 cites of Wegman, Oliphant, Vasquez, and Colimore --
10 you know, you certainly have a right to recall a
11 witness. This is a way of recalling a witness
12 without recalling a witness.

13 ATTY. BERKE: What's -- what's interesting about
14 it is that the caselaw -- you can recall a witness
15 when the Supreme Court says you can recall a witness.
16 And when I say that, I don't mean to be sarcastic --
17 I guess it is sarcastic, when the State recalled a
18 witness, I'm drawing a blank on the name of the case,
19 the Court said that it was permissible. There is
20 caselaw, and I'm not denying it doesn't exist, that
21 when the Defense recalled a witness, they said it was
22 not an abuse of -- it was denied -- it was not an
23 abuse of discretion. All of the cases say, it's
24 subject to abuse of discretion. It's discretionary
25 up to the trial court. It -- the evidence that I
26 present doesn't have to go to guilt or innocence.

27 THE COURT: No, I recognize that.

1 ATTY. BERKE: And that's -- and that's an
2 argument that I can't get over. I mean that's not --
3 that's not limitation.

4 THE COURT: No, then take that argument out. It
5 -- it has to be relevant and -- and -- and that's it.
6 It doesn't have to -- not one piece of evidence goes
7 to guilt or innocence.

8 ATTY. BERKE: So, when you talk relevance,
9 prejudicial -- what's potential relevancy? What's
10 the potential relevancy of the evidence that the
11 Defendant is going to present? And for the most
12 part, it's subject to impeachment, whether it's a
13 prior inconsistent statement.

14 Or other -- now, I guess the one option is to
15 call -- is to ask the Court permission to call her
16 for this limited issue, if the State's concerned
17 about the fact that's it being presented in a vacuum,
18 then she can be examined on it.

19 If it's -- the other alternative is to ask the
20 Court to find judicial notice of a document that's
21 within the court judicial system records. It's in
22 a document admission. Documents filed by a lawyer
23 are assumed to be adopted by the client. I don't
24 think it's a collateral issue. I think it's -- it's
25 certainly a relevant issue. The timing is relevant.
26 It's a couple of months before this disclosure was
27 made.

1 So, those are the different options we have.
2 Number one, asking the Court to find judicial notice
3 and admit it without -- without a witness.

4 Option number two, is to permit me to call her
5 for that limited issue. Option number three is to
6 allow me to present it as judicial notice, and the
7 State can present any testimony in rebuttal, in
8 response to it.

9 THE COURT: Well, you're -- you're three
10 options, two of them sound very much the same.
11 Judicial notice and judicial judicial. But you're
12 second option of judicial notice was judicial notice,
13 allowing them to call rebuttal.

14 ATTY. BERKE: I'm just presenting the different
15 options that are available, globally, in this
16 situation.

17 THE COURT: Okay. Now, you stood up.

18 ATTY. DAVIS: Yeah, just -- if you wanted to
19 hear more from me.

20 THE COURT: Sure.

21 ATTY. DAVIS: The State's just objecting to all
22 three of those situations. I -- it's the State's
23 opinion that this is non-material evidence. And I
24 just want to emphasize the Defendant already had an
25 opportunity to cross G.T. on this issue. We -- we
26 went over this already. So, that's the State's
27 position.

1 THE COURT: Okay. You know -- whether or not
2 that -- that is -- that is something with regards to
3 whether or not the I -- the Court could take judicial
4 notice of it, like I said, I -- I -- I didn't see
5 that coming. But I don't say that in a tricky way,
6 like -- oh, Counsel, you blindsided me. Because
7 that's -- that's not it. It's -- but I'm more
8 concerned about -- that this is actually recalling
9 G.T. without actually calling G.T. And in that --
10 that -- that the Court -- the Defense, rather, I
11 should say, was not restricted in any way on -- on
12 his ability to cross-examine G.T.

13 This is a matter that was explored, I think,
14 quite effectively by Attorney Berke, in her cross-
15 exam -- in his cross-examination of G.T. I should
16 give some cites because I just spat out a name of
17 cases. State versus Wegman is 70 Connecticut
18 Appellate, 171. That's a 2002 case. But more
19 recently there are -- there are cases including
20 State versus Oliphant, that's O--l-i-p-h-a-n-t, 115
21 Connecticut Appellate 542, cert was denied by our
22 State Supreme Court in 2009. State versus
23 Caracoglia, which is one -- and I'll spell that -- C-
24 a-r-a-c-o-g-l-i-o, 134 Connecticut 70 -- 175. That's
25 a 2012 case.

26 But really, my focus is that on State versus
27 Wegman -- or State versus Vasquez, 66 Connecticut

1 Appellate 118, cert was denied in that in 2001. The
2 test is whether the opportunity for cross-examination
3 existed, not whether full use of such opportunity was
4 made.

5 The Court will deny Counsel's request for
6 presenting it as judicial notice. The exhibit, which
7 is D, will remain as an I.D. exhibit. The Court,
8 also, denies your request to recall G.T. on that
9 grounds. I think it is a matter that was explored,
10 perhaps not as fully as you wanted to but, like I
11 said, I think it was quite effective in establishing
12 that, perhaps -- I mean -- I -- I - I know the State
13 has read some excerpts from it. But I distinctly
14 remember you saying -- you know -- you made this
15 allegation -- you made that request for sole custody
16 before the allegation came to light. Is that
17 correct? And -- and you made it quite clear on --
18 on G.T.'s cross-examination that her -- her request
19 for sole custody ratcheted up, so to speak, as a
20 result of -- of the -- and then there was a complaint
21 made.

22 So, the -- the -- the Court will deny your
23 request under all three grounds. Like I said, three
24 is -- kind of -- similar to -- to your first, that is
25 the Court will deny judicial notice and the Court
26 also denies your ability to recall G.T. as a witness.
27 Anything further?

1 ATTY. BERKE: Your Honor, when the jury comes
2 out, is the Court going to advise them about the
3 witnesses that were already called?

4 THE COURT: Yes.

5 ATTY. BERKE: First?

6 THE COURT: Yes.

7 ATTY. BERKE: Okay. And then I'll finish.

8 THE COURT: Yes, I'm going to say that it's --
9 kind of -- unique, in a sense, that right now would
10 be the presentation of Defense witnesses, but the
11 Defense has already presented two witnesses.

12 You know -- I want you to look -- I'm asking the
13 State to -- to look at your notes. I'm sorry. But I
14 really have that he called Detective Wheeler as -- as
15 a witness. Detective Wheeler had ended, and -- and
16 -- and Clerk -- the Clerk is agreeing with me that --
17 but I'm going to say two witnesses.

18 ATTY. PALERMO: I --

19 THE COURT: Take your time. Take your time.
20 You can discuss it.

21 ATTY. PALERMO: -- I -- I would agree, Judge. I
22 just didn't want the record to reflect that the State
23 did not call Detective Wheeler.

24 THE COURT: Oh, okay.

25 ATTY. PALERMO: That was the only issue --

26 THE COURT: Okay. No -- no --

27 ATTY. PALERMO: -- we were talking about.

1 THE COURT: I fully recognize, and I don't think
2 I need to tell them that.

3 ATTY. PALERMO: No.

4 THE COURT: But I -- but I -- but I -- I suppose
5 I will. I'll -- I'll think of something, which is
6 always scary. Alright. Okay.

7 So, that's what I'll do. First thing I'm going
8 to tell the -- well, first thing, I think what you
9 need to do is introduce those exhibits. And then I
10 will tell them what judicial notice means. And then,
11 you -- you should probably ask the Court to recognize
12 that Detective Scott Murray and Detective Wheeler
13 came in your case-in-chief. I will do so. And then
14 you can rest, and I'll explain -- I'll further
15 explain. Okay? Alright. If we could have the jury
16 out, please.

17 (WHEREUPON THE JURY WAS SUMMONED)

18 THE COURT: Counsel stipulate to the presence of
19 the jurors and alternates?

20 ATTY. DAVIS: State stipulates.

21 ATTY. BERKE: Defense stipulates, sir.

22 THE COURT: Alright. Attorney Berke?

23 ATTY. BERKE: Your Honor, I'd ask the Court, at
24 this time, to take judicial notice of Defendant's
25 Exhibit E, which is calendar of April, May, June and
26 July of 2020.

27 THE COURT: What exhibit number is that?

1 THE CLERK: E.

2 THE COURT: E?

3 THE CLERK: Yes.

4 THE COURT: Okay. Yes.

5 ATTY. BERKE: I would also ask the Court to take
6 judicial notice of Defendant's Exhibit G, which is
7 Governor Lamont's executive order 7-TT.

8 THE COURT: Okay. Thank you.

9 ATTY. BERKE: And finally, I'd ask the Court to
10 take judicial notice of Defendant's Exhibit F, which
11 is Governor Lamont's executive order 7-G.

12 THE COURT: Just for purposes of the record,
13 the Court's -- I mean Defense Exhibit E is a one page
14 document that has a calendar, April, May, June, and
15 July, in four quadrants, best way I could explain it.
16 And it's one page in length.

17 Court's Exhibit G (sic) is a State of Conn --
18 entitled State of Connecticut, by his Excellency,
19 Ned Lamont, Executive Order number 7-TT, dated the
20 29th of May, 2020, and it's three pages in length.

21 Whereas the State of Connecticut -- the Defense
22 Exhibit F is a State of Connecticut, by his
23 Excellency, Ned Lamont, Executive Order number 7-G.
24 That is seven pages in length, and it's dated March
25 20th -- March 19th, excuse me, 2020.

26 What I want you to know, ladies and gentlemen,
27 I will take judicial notice of these. And that's a

1 term you haven't heard yet. And I'm going to explain
2 it to you now, and I'll explain it to you, again,
3 during the -- during my charge to the jury.

4 I've decided to accept these as proved, the fact
5 that the calendars for May and June of 2020, and the
6 covid executive orders, by Governor Lamont, even
7 though no evidence has been introduced about it, I
8 believe the fact is that these pieces of evidence are
9 of such common knowledge, or capable of such ready
10 and unquestionable demonstration, that it would be a
11 waste of time to hear evidence on it.

12 Thus, you may treat it as proved, even though
13 no evidence was brought out on the point, except for
14 the exhibits. Of course, with this fact, as with any
15 fact, you will have to make the final decision, and
16 you are not to -- required to agree with me.

17 That, you'll hear during my final charge. When
18 I was in law school -- you know -- the example they
19 gave was -- yeah, you know, will you take judicial
20 notice of the fact that today is Tuesday, the 18th of
21 February. You know, it's something -- we don't need
22 to bring in -- I don't even know who you'd bring in
23 for that -- you know -- but -- you know -- God? I
24 don't know. Who would you bring in to say that today
25 is, in fact, the 18th? The Aztecs, who made the
26 calendar? I don't know. But we don't need a
27 weatherman to say that -- you know -- today is cold

1 outside. That's -- that's something you could all --
2 I'll give -- take judicial notice of. So, that's
3 what judicial notice is, ladies and gentlemen. Thank
4 you.

5 ATTY. BERKE: Your Honor, finally, I'd ask the
6 Court to acknowledge the two witnesses that I called.

7 THE COURT: Yes. And I will say this -- you
8 know -- we did it in a -- in a different order. But
9 -- you know -- I told you the State rested its case-
10 in-chief. The Defense, in its case-in-chief, not
11 only has those -- those exhibits which I've taken
12 judicial notice of, but also called two witnesses,
13 Detective Scott Murray and Detective Wheeler, in its
14 case-in-chief.

15 So, although they were out of order, that's part
16 of his case. So, now you can take it into full
17 effect. Thank you.

18 ATTY. BERKE: Defense rests, your Honor.

19 THE COURT: Okay. Will there be any rebuttal?

20 ATTY. DAVIS: There will not be.

21 THE COURT: Okay. Ladies and gentlemen, that
22 concludes the evidentiary portion of this trial.
23 Which means all the evidence is done. What we're
24 going to hear next is closing argument. Not right
25 now. But we're going to hear it tomorrow morning.
26 So, you get out early, today. But tomorrow -- you
27 know -- here's how it'll work.

1 Tomorrow, the State will have an opportunity to
2 speak. And then, after they're done, the Defense
3 will have an opportunity to speak. The State, then,
4 gets an opportunity after that. I think I spoke
5 about -- I know I spoke about this before. And you
6 may say -- and Defense doesn't get -- they only get
7 one chance, not two. Why? Because the burden is on
8 -- on the State of Connecticut. And you're all
9 nodding in the affirmative, so you heard this before.

10 They're limited to an hour. Don't -- don't
11 worry, they don't have to take the full hour. They
12 -- they could go less than that. And then we'll take
13 a brief recess, because then I'll come out with the
14 charge. Mrs. McShane is sick of hearing me -- you
15 know -- recite the charge at home. And it's long.
16 I'll -- I'll tell you that. It's about an hour and
17 thirty minutes of just hearing me speak, which I'm
18 sorry. But that'll give you all the law.

19 Then, you'll get to have it with you, in there.
20 So, you're saying, geez, Judge, you don't even have
21 to read it. The -- the Court -- the higher courts
22 have indicated I do have to read it. I wish I could
23 just give it to you and say good luck. But -- but I
24 have to read it.

25 So, that's -- that's what we have on tomorrow.
26 So -- so, the evidence is closed. Tomorrow, we'll
27 start at ten o'clock. I fully expect the jury to get

1 the case by 12, 12:30, at the -- at the latest.
2 Look, I've been long -- every part of this case.
3 I'll admit that. But I'm pretty confident about
4 that. So, that's the way we're going to do it.

5 We've got some things to go over now, and we
6 don't want it to get in -- in the way of you folks,
7 and I'm not going to keep you back there, and then
8 bring you out to say that's it for the day. But
9 there are no further witnesses that -- that will be
10 called upon. That's that.

11 So, but before you go, I have to give this to
12 you -- and -- and I told you, by the end of the
13 trial, you're going to be sick of hearing me say it.
14 And -- and you're thinking, McShane, what's the
15 matter with you? Every time you've got to reach for
16 that book and read right from it. I do it so I don't
17 mess up.

18 Please do not make up your minds or form any
19 opinions about the evidence you've heard so far.
20 You're not to discuss it with anyone, including
21 fellow jurors, about this case. Please, you are not
22 to seek out information outside this courtroom
23 related to the case, or the evidence you've heard
24 thus far. You are not to do any independent
25 examination or go to the scene of the alleged
26 incident. Remember, testimony -- excuse me --
27 evidence comes from two important pieces. It comes

1 from the sworn testimony of witnesses, as well as
2 properly introduced exhibits. So, anything outside
3 of this is -- is not evidence.

4 Look, you're probably saying, hey Judge, enough
5 of that. You've said it enough. But now, it's just
6 as important as ever. Because now, you -- sort of --
7 have all the evidence. And you're saying -- oh boy,
8 now -- why can't we discuss it now? You can't.
9 That's -- that's the rules. And it makes sense,
10 because I think to have a fruitful conversation
11 about this with your jurors -- with fellow jurors --
12 you have to wait until you hear the arguments of the
13 Counsel as well as my charge, or instructions, to
14 you.

15 Now it's -- it's funny, in a sense, that --
16 you know -- what the lawyers say, in their closing
17 argument, that's not evidence. But it's important
18 for you to hear that, anyway. It's your
19 recollection, which will serve as the evidence in
20 this case. The lawyers have a way of pointing out
21 things for -- to you. And they're entitled to do
22 that. So, I ask, please, keep an open mind on this
23 case until after you've heard the closing arguments,
24 as well as the instructions to you.

25 With that, I'll - I'll say good-bye. If you
26 could just leave your -- Madame Clerk is going to
27 take your notebooks. Thank you.

1 (WHEREUPON THE JURY WAS EXCUSED)

2 THE COURT: Alright, how do you -- you want to
3 just go right through, right now, because we have --
4 we have to put on the record, with regards to our
5 charging conference. I want to say this, before I
6 forget.

7 Every day, and I always say this as a tip of
8 the hat to Madame Clerk, every day we get a list of
9 the exhibits. It's accurate. It's up to date. And
10 I want to say thank you. She's also -- will make
11 herself available, tomorrow at 9:30. Look, I -- I
12 know closing arguments, sometimes you may want to
13 refer to exhibits. This way, they'll all be laid
14 out, and available to you, so you can do that
15 beforehand. Because that -- I remember what it's
16 like -- that -- that five minutes before closing
17 argument, and you just can't seem to find anything
18 you want. So, she'll be here from 9:30 on. Feel
19 free to get things lined up.

20 Do the parties want a podium in here, for
21 closing arguments? I know sometimes --

22 ATTY. BERKE: I would.

23 ATTY. DAVIS: I would.

24 THE COURT: Okay. Then -- then -- so ordered.

25 THE MARSHAL: There's one in the back.

26 THE COURT: Oh, there's one in the back? Oh,
27 we've got a good one. Alright, good. I was going to

1 say -- because I think we're the only one, actually,
2 in the evidence portion, so we can get whatever one.
3 But since we have one back there, that'll be front
4 and center, with a microphone on it. So, feel free
5 to use that.

6 Next, we have to go over our -- our charging
7 conference. I want to say this, first and foremost.
8 Today is Tuesday, the 18th. Yesterday was
9 President's Day, a holiday. And Counsel, both sides,
10 asked the Court to set aside time in a remote
11 hearing, a Teams meeting, with regards to request to
12 charge. I want to thank the parties for that.
13 Because it was about an hour -- it was over an hour
14 long. At least my -- my remembrance of it, it was
15 over a long. I didn't sit there and time it. But
16 we went over, page by page, of my -- my instructions.
17 And I found it quite fruitful. And I want to say
18 thank you.

19 Second of all, this is something that the
20 attorneys have been living with -- you know -- I'm a
21 draft-king, so to speak. I just keeping making
22 drafts after draft after draft. And right after the
23 -- the -- the case started, on February fourth, I
24 believe, is when you got your first draft of the
25 instructions. Look, I didn't expect you to go home
26 and -- and read it word for word, at that time.
27 You've got a lot on your -- your plate. But this is

1 something that's been continuing. I have submitted
2 other drafts. This is what we went through, line by
3 line. Yesterday was its final draft. But like I
4 said, although we met remotely, and there's no
5 record of it, I could say that during that time
6 period, we went over -- and I'll note the State's
7 objections, as well as Defense Counsel's objections.
8 And -- and what I've -- what I've done, as a result
9 of it.

10 Does anyone want to be heard with regards to our
11 charging conference?

12 ATTY. DAVIS: No, your Honor.

13 THE COURT: Attorney Berke?

14 ATTY. BERKE: Are you asking for any of the
15 things that came up?

16 THE COURT: What's that?

17 ATTY. BERKE: Are you asking for any of the
18 things that came up, or what happened yesterday/

19 THE COURT: No -- no, just regard -- with
20 regards to yesterday.

21 ATTY. BERKE: No.

22 THE COURT: And what I was going to do, is I
23 was going to go down the stuff I -- the items that I
24 wrote down. And if I miss anything, please jump in.

25 I had a separate section, on page 13, of -- I
26 want to say my third draft -- of -- of the
27 credibility of G.T. I say credibility -- it should

1 reflect pending charges of G.T. The State objected.
2 I'll tell you, I'm unique, in a sense that I have,
3 in the past, put that forward. The State objected.
4 So -- and -- and -- and I think the State is right.
5 I have merged it with the credibility section. I
6 have it as, then page seven -- it may not be
7 tomorrow's pay seven, because I've -- I've added and
8 deleted since then. So, I've -- I've put it as
9 number seven on -- I say to the jury, ladies and
10 gentlemen, there are certain factors you could use
11 in determining ones credibility, including the
12 interest and the outcome of the case. But it aligns
13 at paragraph seven, or point number seven, would be
14 whether or not the individual has cases pending,
15 which that of G.T.

16 Constancy of accusation is a second point that
17 both parties had issue with. Hey look, there's --
18 there's not a lot of guidance on this, so to speak.
19 Last week, on Monday, Adam P., State Supreme Court
20 case, and I don't have the citation, it's Adam and
21 then the letter P., I don't have it with me, right
22 now, was decided. And that -- basically, what the
23 Supreme Court said was -- you know that instruction
24 that we said was a good one? Don't use it anymore.
25 So, they did suggest that -- that trial courts look
26 towards New Jersey and what they've given in their
27 model instructions. And I have taken that into

1 account. And I put it in there.

2 My original concern was I don't want to sound
3 like the State of New Jersey Supreme Court. I want
4 to sound like me. But I also want to do what's
5 right. And right now, that's the way we're being
6 told to do it. So, that's the way I've done it.
7 I've incorporated that language. Counsel may not
8 like what I -- what I've cobbled together, but I'm --
9 I'm doing the best I can, given the fact that just
10 last week we -- we got an edict, sort of, from the
11 Supreme Court, indicating what not to do. What was
12 suggested to do was incorporate Supreme Court.

13 Next up was -- and -- and I just have it as a
14 notation, it was a question whether or not the
15 Defendant was going to testify. He's elected not
16 to. So, that section -- it was then page 20 and 21,
17 has been included.

18 Page 26, unanimity, and that's probably the best
19 I'll say it between now and the end of tomorrow,
20 because I'll be saying numerous times, is -- what was
21 addressed, I -- sort of -- mirrored what was in the
22 -- the charging book. Counsel may have an issue with
23 that. Just let me know.

24 The fifth point was page 30, then page 30.
25 Instances -- the unanimity with regards to instance
26 of conduct. I think I've corrected it, in what the
27 State had asked for. And I'm not saying I did -- I

1 just did what the State asked for. But the State,
2 certainly, brings up a good point. I don't think it
3 -- I went far enough. So, I'm working on that today.
4 I -- I tried to do it at lunchtime. I just, quite
5 frankly, didn't get it -- get it done. But it's
6 instance of conduct with regards to sex one, anal/
7 penile penetration, and fellatio. So, I've got to
8 straighten that out. And you'll get it tonight.

9 The State had objected to unanimity of conduct
10 in the risk of injury charge. I did review the case
11 that the State indicated in its objection,
12 specifically, Joseph V. V is just a Letter, V as in
13 victor, 345 Connecticut 516, and State versus Douglas
14 C., C as in cowboy, just -- just a letter. And
15 that's 345 Connecticut 421.

16 These are two cases that came out within a short
17 time period of each other, but basically those cases
18 stand for the proposition that there is a continuing
19 course of conduct and the Court should not be giving
20 a unanimity with regards to conduct in the risk of
21 injury. I agree with the State and I've changed it.

22 The seventh items is the -- the Defense had
23 asked for, in anticipation of judicial notice of
24 Governor Lamont's orders. I have to change it to
25 executive orders. I only had it as one. I
26 apologize. And the calendars for May through July --
27 I think I say June, but I have to change it to July.

1 Right? Is it July?

2 ATTY. BERKE: It is.

3 THE COURT: July of 2024.

4 ATTY. DAVIS: July of 2020.

5 THE COURT: So, I have done that and I will fix
6 it. I'm not sure what page that is. I just printed
7 out.

8 ATTY. BERKE: Your Honor, I think it's April,
9 May, June and July.

10 THE COURT: Oh, thank you. May, June, July.
11 Thank you. I will fix that. Of 2020. So, that the
12 Court has indicated that it will give that as well.

13 Okay. I think I've summarized, but I'm sure I
14 missed something. So, please let me know. We'll
15 start first with the State.

16 ATTY. PALERMO: I -- I would agree that your
17 summary is correct, your Honor. And I know said
18 you're going to make a few more changes, regarding --
19 looking right --

20 THE COURT: I'll just say this, it's -- it's
21 difficult. And you know, every time I think I get it
22 right, I say it out loud. And I don't like it. It's
23 -- it's a difficult charge. And then, you know, my
24 best juror, Mrs. McShane, I run it by her, and she
25 looks more confused then our lab -- when I read it to
26 her. So, I -- I -- I keep trying. I'm close. I
27 know that.

1 ATTY. PALERMO: So, I -- I -- would the Court
2 mind if I put on the record -- just to kind of
3 highlight --

4 THE COURT: No. Go right ahead.

5 ATTY. PALERMO: -- some stuff.

6 THE COURT: And I think Attorney Davis, you
7 submitted a suggestion this morning, which I will
8 certainly take into account.

9 ATTY. DAVIS: I did, for the unanimity for the
10 sexual assault in the first degree.

11 THE COURT: Correct.

12 ATTY. PALERMO: So, on -- on page eight --

13 THE COURT: Can -- can you give me a second?

14 ATTY. PALERMO: Sure, your Honor.

15 THE COURT: I'm just going to grab my computer.
16 Hold on please. You just have to give me a second.
17 It turned off. And I'm going to apologize, in
18 advance. You say page F -- you've just got to give
19 me a second, because I've added and deleted some
20 stuff.

21 ATTY. PALERMO: Okay.

22 THE COURT: So --

23 ATTY. PALERMO: Got it. I could direct you to
24 the section.

25 THE COURT: Unless you printed out what I --
26 what I sent you this morning?

27 ATTY. PALERMO: I did.

1 THE COURT: Oh, good.

2 ATTY. PALERMO: Right?

3 THE COURT: Then, we should be on the same page,
4 so to speak.

5 ATTY. PALERMO: Well, let's hope we're on the
6 same page.

7 THE COURT: Well, maybe not. But just give me a
8 second.

9 ATTY. PALERMO: Okay.

10 THE COURT: I'm sorry. It's just taking a
11 little bit to turn on. I don't think I need this.
12 And by this, I'm referring to an internet cable.
13 Oh boy. Alright. I'm sorry. There we go. Very
14 good. Go ahead, please.

15 ATTY. PALERMO: Thank you, your Honor. So, on
16 page eight, and hopefully we're on the same one.
17 The para -- it's the first full paragraph. You will
18 note that the constant information contained within
19 in it, the alleged time, date and location of the
20 offense. Does the Court see that?

21 THE COURT: Yeah, because it's not page eight
22 anymore. I apologize. Because now page eight is
23 judicially noticed facts.

24 ATTY. PALERMO: It's under the section of
25 evidence. It's after judicial notice.

26 THE COURT: Oh, it's after judicial notice.

27 ATTY. PALERMO: After -- yeah, where you put

1 judicial notice.

2 THE COURT: You will note that the counts in the
3 information.

4 ATTY. PALERMO: Yes.

5 THE COURT: Very good. Thank you.

6 ATTY. PALERMO: The State is asking -- because
7 -- where you put with the -- that contained within
8 it, that the alleged time, date and location. The
9 State would be asking that the Court indicate -- you
10 will note that the counts in the information contain
11 allegations -- or something to the effect that the --
12 the incidents occurred on diverse -- parrot what's in
13 the longform. On diverse dates from December, 2018
14 through May 2020, at or near, 96 Lake Avenue in the
15 town of Trumbull.

16 THE COURT: Give me -- give me the dates, again,
17 I'm sorry.

18 ATTY. PALERMO: Well, it indicates, on -- on
19 diverse dates --

20 THE COURT: I said within it, the alleged
21 diverse dates from --

22 ATTY. PALERMO: December, 2018 through May,
23 2020, at or near 96 Lake Avenue in the town of
24 Trumbull.

25 THE COURT: Done.

26 ATTY. PALERMO: So, and the next -- I'm going to
27 go through these, your Honor.

1 THE COURT: I -- I apologize. I just have to
2 delete the other stuff that's in there. Go ahead.

3 ATTY. PALERMO: The next one is just -- kind of
4 -- a typo. It's under --

5 THE COURT: No, I appreciate typos. Because,
6 like I said, they're going to get this.

7 ATTY. PALERMO: It's -- was --

8 THE COURT: They, meaning the jury.

9 ATTY. PALERMO: It was page 17, under expert
10 witnesses, just the spelling of some of the names.
11 It's Francesco Sarcano, so it's F-r-a-n --

12 THE COURT: Slow down. Slow down. Slow down.
13 I'm sorry. Sarcano is S-a-r?

14 ATTY. PALERMO: F-r-a-n-c-e-s-c-o, Francesco.
15 And scar -- Scarano is spelled correctly. And then
16 Jennifer Grenn has two N's. Just --

17 THE COURT: Jennifer Green has two N's.

18 ATTY. PALERMO: Yes, Jennifer.

19 THE COURT: So, G-r-e-n-n?

20 ATTY. PALERMO: Yes, your Honor.

21 THE COURT: And then, I know Monica Madigan has
22 another name, a hyphenated name.

23 ATTY. DAVIS: Yeah. It's Vidro, your Honor,
24 V-i-

25 ATTY. PALEMRO: D-r-o.

26 ATTY. DAVIS: D-r-o.

27 THE COURT: Very good. Okay. Got it.

1 ATTY. PALERMO: Page, so, now we're on page 25
2 -- I'm sorry, 25, where it's unanimity as to element,
3 sexual assault in the first degree. And I know your
4 Honor is changing some of this. But I just -- kind
5 of -- want to -- just so the Court addresses, at
6 least, a couple of these issues, if you think it's
7 appropriate.

8 THE COURT: Go ahead.

9 ATTY. PALERMO: So, you indicate --

10 THE COURT: And the only reason I'm switching
11 over here, is because I haven't got to the final
12 product, yet. So --

13 ATTY. PALERMO: Right. So, you put here -- it's
14 the second sentence. You may find the Defendant
15 guilty of the offense, only if you all unanimously
16 agree on which of the two ways the Defendant
17 committed the offense. That's coming out, because
18 you have to look at each count separately.

19 THE COURT: Yup.

20 ATTY. PALERMO: On page 20 -- and then it goes
21 on, that means you may not find him guilty unless you
22 all agree he has -- the State has proven, beyond a
23 reasonable doubt, that the Defendant had anal/penile
24 intercourse, or you all agree that the State had
25 proven that he engaged in fellation. It's not or.
26 They have to look at each, separately. So, I would
27 ask that that language be changed. Because each

1 count has to be looked at separately.

2 So, they can find anal/penile, and they can find
3 fellation.

4 THE COURT: This is what I'm thinking of doing,
5 I'm thinking of saying, with regards to count one --

6 ATTY. DAVIS: Mm-hmm.

7 THE COURT: -- and then read that same thing,
8 but just -- but -- but -- with that. And with
9 regards to count two -- and read the same unanimity.
10 Would that help cure it?

11 ATTY. PALERMO: No, because you're saying they
12 have to decide either or. And they don't. They have
13 to -- they have to look at each, separately, and
14 decide each on its own.

15 ATTY. DAVIS: I think he could -- I think if
16 want to do it that way, your Honor, you could say,
17 so you were out -- the State alleged in count one --

18 We could do it this way, the State has alleged
19 in count one, that the Defendant committed the
20 offense of sexual assault in the first degree, by
21 anal/penile intercourse. Stop there. And then you
22 could go on about how they have to agree on an
23 instance of anal/penile intercourse. And then, the
24 next one, you could move on to fellatio.

25 THE COURT: Yup. That's how I was thinking --

26 ATTY. DAVIS: Does that make sense? Alright.

27 THE COURT: That's how I was thinking of doing

1 it.

2 ATTY. PALERMO: So, I think all of that -- that
3 count, the way it's worded comes out.

4 THE COURT: So, stay tuned.

5 ATTY. DAVIS: Okay.

6 THE COURT: Okay?

7 ATTY. PALERMO: Yes, your Honor. And then --

8 THE COURT: I -- I -- I promise you, you're
9 going to get it earlier than you did last night. And
10 I apologize for its tardiness.

11 ATTY. DAVIS: It's -- it's fine. We've all been
12 sending late night emails. It's fine.

13 ATTY. PALERMO: And your Honor, then on the
14 next page, unanimity as to the instances.

15 THE COURT: I think I cleaned that up.

16 ATTY. PALERMO: I -- I -- I think -- then you
17 have -- the State has alleged that he's committed the
18 offenses of sexual assault in the first degree in
19 counts one and two on more than one occasion, on
20 diverse dates between December and May. You may find
21 the Defendant guilty of the offense only if you all
22 agree --

23 I -- I think I'm going to ask -- the State asks
24 that you put on it -- you -- only if you all agree --
25 unanimously agree on at least one occasion. Because
26 they don't have to agree on all of them. They --
27 they -- all they have to do is agree on one instance

1 between that time frame, on each of those counts, for
2 them to come back with a guilty verdict.

3 So, it needs to be clear, they don't have to
4 agree on two. They just have to agree on one. But
5 they have to look at each count separately.

6 THE COURT: Okay.

7 ATTY. PALERMO: Then on page 27, at the very --
8 before conclusion, you put, again this applies to
9 counts one. And I think it's -- you have three.
10 It should be count two. Counts one and two. That's
11 on page 27.

12 THE COURT: Alright. Alright. So, in summary,
13 the conclusion?

14 ATTY. PALERMO: Right before it.

15 THE COURT: Oh, one and three. Right before
16 that.

17 ATTY. PALERMO: Yeah. And then go to --

18 THE COURT: One and two. Yeah.

19 ATTY. PALERMO: -- page 29. And I think it's
20 kind of the same instance, same issues, your Honor.
21 Now, you're in the sexual assault fourth section.
22 You know -- on an undermined date. The State is
23 asking the Court -- the Defendant has committed has
24 committed the offense of sexual assault in the fourth
25 degree on more than one -- on more than one occasion,
26 on diverse -- it should be -- I'd ask that it be on
27 diverse dates between December 2018 through May 2020.

1 You may find the Defendant guilty of the offense only
2 if you all unanimously agree on at least one instance
3 alleged, that the Defendant committed the offense.
4 Kind of parroting what I just said on sex one and
5 two.

6 And then if you go down to the end of that one
7 paragraph that I'm still on --

8 THE COURT: Particular date?

9 ATTY. PALERMO: Yeah.

10 THE COURT: Alright. So, you're saying -- for
11 example, your verdict would not be unanimous if three
12 of you believe a sexual took -- a sexual assault took
13 place on one instance --

14 ATTY. DAVIS: Mm-hmm.

15 THE COURT: -- but the other three thought it
16 was on another instance.

17 ATTY. DAVIS: Yes.

18 ATTY. PALERMO: Right. And the same for the
19 sentence above that, Judge. You also have date --
20 date. I'd ask that it be changed to instance. And
21 then --

22 THE COURT: Alright. I'll take that into
23 consideration.

24 ATTY. PALERMO: And then, on page 33, where --
25 where, in the risk of injury.

26 THE COURT: Alright. Hold on, please. Risk of
27 injury. Got it.

1 ATTY. PALERMO: In the -- at the top of the
2 page -- let's see -- you indicate the State has
3 charged it two ways. This means that you may not
4 find him guilty unless you all agree that the State
5 has proved beyond a reasonable doubt -- he had
6 impaired her health or her -- or her -- or he
7 impaired her morals. He, not her. Thus, in order
8 for you to --

9 THE COURT: Alright. So, I'm just looking.
10 You're at unanimity or you're at?

11 ATTY. PALERMO: No, I'm right in the -- it's
12 under, yeah -- unanimity as to elements, risk of
13 injury. So, the sentence begins: This means you may
14 not find the Defendant guilty.

15 THE COURT: I -- I -- yeah, okay. I must have
16 fixed it already. It says, had impaired her health
17 or morals.

18 ATTY. PALERMO: Oh.

19 THE COURT: Or her -- or --

20 ATTY. PALERMO: Or he impaired her morals.

21 THE COURT: Her impaired -- oh. Thank you.
22 Yeah.

23 ATTY. PALERMO: And then, the next sentence,
24 your Honor. Thus, in order for you to find the
25 Defendant guilty of risk of injury by way of sexual
26 contact, you must be unanimous as to which of the
27 alternative ways the Defendant is alleged to have

1 committed it. Or they can find he committed it both
2 ways, your Honor. So, they can find he committed it
3 one way, both ways, or none.

4 THE COURT: Did you want to be heard on that,
5 Attorney Berke?

6 ATTY. BERKE: No.

7 THE COURT: I agree.

8 ATTY. PALERMO: And that's all I have to say,
9 your Honor.

10 THE COURT: That's enough. It's easy. Alright,
11 Attorney Berke?

12 ATTY. BERKE: Your Honor, with regards to the
13 adequacy of police investigation.

14 THE COURT: Yeah.

15 ATTY. BERKE: I'd ask the Court to consider
16 adding the search of the other areas of the house.
17 I -- I looked at the transcript from Detective
18 Wheeler. And --

19 THE COURT: I'm just getting to it right now.
20 So, I'm sorry.

21 ATTY. BERKE: Oh, sure. Of course.

22 THE COURT: Adequacy. Do you have a page, or
23 roughly, a page?

24 ATTY. BERKE: I don't.

25 THE COURT: Alright. Let me -- I can go -- got
26 it. Page 13. My 13. So, go ahead.

27 ATTY. BERKE: So, Detective --

1 THE COURT: You have heard testimony of the
2 witnesses and arguments by Counsel that the State
3 did not search for DNA or other evidence in the
4 laundry room or G.T.'s bedroom. You -- you don't
5 want that specific?

6 ATTY. BERKE: No. I'd ask the Court to add the
7 other areas. Because Detective Wheeler testified
8 that he was armed with information that incidents
9 occurred in L.T.'s bed, living room couch, laundry
10 room, W.T.H.'s room.

11 ATTY. PALERMO: But I don't --

12 ATTY. BERKE: And master bedroom.

13 ATTY. PALERMO: -- I don't --

14 THE COURT: I know State had the objection with
15 regard to W.T.H.'s room.

16 ATTY. PALERMO: Yeah, because I do not believe
17 L.T. indicated any -- there was no testimony from L.
18 T. regarding that.

19 ATTY. BERKE: This was the question: And there
20 was also information provided to you that incidents
21 were alleged to have occurred in W.T.H.'s room.
22 Correct? Yes.

23 THE COURT: Is that your recollection?

24 ATTY. PALERMO: I think that question was --
25 yeah -- I think that question was asked of Detective
26 Wheeler, but not of -- of the complainant.

27 THE COURT: No. Then -- then -- then -- if he

1 was under that -- so, I've added -- so what I've
2 done is, it now reads this way: You have heard some
3 testimony and arguments -- I agree with you, Counsel.
4 Attorney Berke -- testimony of witnesses or arguments
5 by Counsel that the State did not search for DNA, or
6 other evidence in the laundry room, G.T.'s bedroom,
7 living room or -- what was the other? That's it.

8 ATTY. BERKE: W.T.H.'s room.

9 THE COURT: W.T.H. or W.T.H. Ah, W.T.H.'s
10 bedroom. Very good. Okay. Anything else?

11 ATTY. BERKE: No. I filed a supplemental
12 request. And if the Court would address it, to some
13 extent.

14 THE COURT: No, no, you -- you -- you did. And
15 listen, I -- listen, I'm patting lawyers on the back
16 all along the way. I said, in the beginning, look,
17 I'm not that type of Judge. I know the Supreme
18 Court says you've got to get this in writing. But I
19 also recognize how -- how difficult trials are and
20 how stressful they are. And I said, just give me
21 topics, and I'll certainly include it.

22 Well, what does both sides do? They go above
23 that, and they give me something in writing. So,
24 thank you, so much, for doing that, Counsel.
25 Attorney Berke provided something, and so did the
26 State. So, but -- but so, I say thank you. Alright.
27 Anything else?

1 ATTY. PALERMO: No, your Honor.

2 ATTY. DAVIS: Not from us.

3 ATTY. BERKE: No.

4 THE COURT: Alright. So, we're going to --
5 we're going to adjourn for the day. I will note
6 that -- keep the look out. I hope to have it to
7 you -- you know -- it's quarter to four, right now.
8 So, I think I may have that done before you -- before
9 you leave the building. It will be done before I
10 leave the building.

11 THE CLERK: Do you want to?

12 THE COURT: Oh, we do have to put some things
13 in -- in -- on the record. Thank you, Madame Clerk.

14 Alright, so Court's -- I mean Defendant's
15 Exhibit C was an unredacted, that had a name in it.
16 It's been redacted, so the jury will get C-1. And
17 27, the State's Exhibit was also something that was
18 not redacted. The jury will get redacted 27-1.

19 And the reason -- and those -- those items will
20 be sealed is. The reason is is because it's got the
21 name of the alleged victims in both of them.
22 Something we've been -- we've all been very careful,
23 we're trying to stay away from. It's slipped a
24 couple of times. But we -- I think we got them all.
25 Anything else?

26 ATTY. DAVIS: Nothing from the State, your
27 Honor.

1 ATTY. PALERMO: No, your Honor.

2 ATTY. BERKE: No.

3 THE COURT: Okay. And like I said, 9:30,
4 tomorrow, if you want to -- if you want to start
5 getting your evidence ready. You have an hour. Like
6 I said, you don't -- you don't have to use it.
7 Adjourn, please.

8 (WHEREUPON COURT STOOD ADJOURNED)

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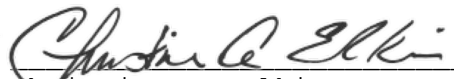
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FBT-CR20-0336785-T : SUPERIOR COURT
STATE OF CONNECTICUT : JUDICIAL DISTRICT OF BRIDGEPORT
v. : AT BRIDGEPORT, CONNECTICUT
NICHOLAS ROBERT HALL : FEBRUARY 18, 2025

E L E C T R O N I C
C E R T I F I C A T I O N

I hereby certify the electronic version is a true and correct transcription of the audio recording of the above-referenced case, heard in Superior Court, Judicial District of Bridgeport, Bridgeport, Connecticut, before the Honorable Peter McShane, Judge, on the 18th day of February, 2025.

Dated this 3rd day of March, 2025 in Meriden, Connecticut.


Christine A. Elkins
Court Recording Monitor II