

NO: FBT-CR20-0336785-T : SUPERIOR COURT
STATE OF CONNECTICUT : J.D. OF BRIDGEPORT
v. : AT BRIDGEPORT, CONNECTICUT
NICHOLAS HALL : FEBRUARY 19, 2025

TRANSCRIPT OF PROCEEDINGS

** E X C E R P T **

12:39 to 4:40

BEFORE THE HONORABLE PETER MCSHANE, JUDGE

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

Representing the State of Connecticut:

ATTORNEY KELLY DAVIS
ATTORNEY ELENA PALERMO
Office of the Chief State's Attorney
300 Corporate Place
Rocky Hill, Connecticut 06067

Representing the Defendant:

ATTORNEY ROBERT BERKE
Law Office of Robert Berke
640 Clinton Avenue
Bridgeport, Connecticut 06605

Ordering Party:

Mr. Nicholas Hall
Two Chase Road
Wallkill, New York 12589

Recorded and Transcribed by:
Andrena Jack
Court Recording Monitor
Superior Court
1061 Main Street
Bridgeport, Connecticut 06604

1 THE COURT: We are on the record, State of
2 Connecticut vs. Nicholas Hall. I just want to say to
3 the members of the audience, you're stuck in here.
4 Do you understand that? Okay. They all seem to be
5 indicating yes.

6 ATTY. BERKE: Your Honor, before the jury comes
7 in.

8 THE COURT: Yes, I'm sorry. We have a few
9 things.

10 ATTY. BERKE: There are two things I'd like to
11 put on the record.

12 THE COURT: Yes. Please be seated, Mr. Hall.

13 ATTY. BERKE: I'm asking the Court to consider
14 striking two segments of the State's rebuttal. Those
15 two segments, number one, are the explanation of DNA.
16 And the second part is the statement that regarding
17 scratches on the face that the questions were not
18 asked. The defendant has no burden, and I think that
19 second part is improper comment.

20 THE COURT: Okay.

21 ATTY. BERKE: In regards to DNA, I've never
22 encountered this before, but my recollection of what
23 the State says is not an accurate recitation of the
24 science. Now I understand argument there is some
25 latitude, but I don't think that's correct.

26 THE COURT: Okay. Does the State wish to be
27 heard on that?

1 ATTY. PALERMO: Well, yes, your Honor. I think
2 I read from the report that was in evidence. That's
3 what I was reading from. That's in evidence.

4 ATTY. BERKE: Yeah, but that's not - that's not
5 what that - that was not what that report said.

6 ATTY. PALERMO: Well, I think I read that - I
7 think I read that statement.

8 THE COURT: Well, here's what I will note. I
9 will note that the closing arguments in totality
10 meaning the State's side was about 58 minutes. These
11 are two sentences out of 58 minutes. The one with
12 regards to - and the jury will be told if your
13 recollection differs.

14 Now I know what you're saying. You're saying
15 hey, Judge, the DNA's different. The DNA's different
16 because she's making a representation, but she did -
17 that's is my understanding is that's what was in the
18 Court's - not the Court's Exhibit, the State's
19 Exhibit. But again, the jury will hear - and you
20 told him if their recollection differs from that of
21 the - what the lawyers say, what they remember is the
22 evidence.

23 ATTY. BERKE: Your Honor, I would ask the Court
24 to consider playing back that one small segment,
25 because I may be wrong, but my recollection of what
26 the State said was not verbatim from that report.
27 And it is significant, because the way it was

1 described I think is misleading.

2 THE COURT: All right. Can you go to - no, you
3 can't.

4 THE COURT MONITOR: I have no idea what you're
5 talking about, your Honor.

6 THE COURT: Do you have her notes?

7 THE COURT MONITOR: I have the notes from this
8 morning. It's tricky to get to. I can attempt to
9 right now.

10 THE COURT: Yes, if you could. I'm just going
11 to step down and I'll look over your shoulder.

12 THE COURT MONITOR: Okay, great.

13 ATTY. BERKE: It's towards the - I would imagine
14 three quarters of the way past - in the rebuttal is
15 my guess if that means anything.

16 THE COURT MONITOR: I'm having trouble
17 retrieving it. I would have to get my supervisor up
18 here.

19 THE COURT: All right, thank you. We're having
20 problems with the FTR, that is For The Record
21 retrieving that. My recollection, however, is that -
22 you know what, I'm not going to play it back. I'm
23 not going to have the supervisor get up. I'm not
24 saying that because I'm pressed for time, that's not
25 the reason. The reason is I think the curative
26 instruction combined with - with the totality of the
27 case is sufficient.

1 So I'll deny your request, counsel.

2 ATTY. BERKE: Is that to both?

3 THE COURT: Yes, to both.

4 ATTY. PALERMO: And your Honor, just so the
5 State can put on the record, I don't think I said the
6 defense didn't ask any questions about the scratches,
7 I didn't say that. I said there were no questions
8 about - I didn't say - meaning I didn't say the State
9 didn't, I just said there were no questions about
10 whether he had scratches on his face.

11 THE COURT: Well, I -

12 ATTY. PALERMO: So I didn't - I did not say and
13 the defense didn't ask any questions about - I didn't
14 put it to the defense.

15 THE COURT: My problem with highlighting it is
16 just bringing it to the attention. I think you know
17 the jury's heard enough. Prior to the introduction
18 of the case before they were even selected as jurors,
19 they heard that the defense has no - no obligation.
20 They heard it again when they were selected as a
21 juror and they're going to hear it again now. So the
22 only thing I would be able to do is ask for a
23 curative.

24 The jury's not going to ask to hear the playback
25 of the prosecutor, so - as the closing argument.

26 ATTY. BERKE: Right.

27 THE COURT: So I will just note and I'll

1 emphasize in my charge that anything said during
2 there is not evidence and that you have no
3 obligation.

4 ATTY. BERKE: I would just ask the Court to
5 highlight without in detail the arguments regarding
6 DNA, because I think that's a request I have to make
7 including -

8 THE COURT: All right. Well, when they come out
9 I think that's fair I'll just say any - any
10 discussion you heard with regards to DNA you should
11 focus on the testimony and you can ask for that in
12 playback. I'll leave it as generic as that. Thank
13 you.

14 If you could bring out the jury, please.

15 (Whereupon the jury panel entered the
16 courtroom.)

17 THE COURT: Counsel stipulate to the presence of
18 jurors and alternates?

19 ATTY. DAVIS: The State stipulates.

20 ATTY. BERKE: Defense stipulates, sir.

21 THE COURT: All right. Ladies and gentlemen, I
22 made an argument during the course of the closing
23 arguments with regards to DNA. I'll ask that if you
24 just really could focus on what the testimony was.
25 Again, if your recollection differs from that is what
26 is said by the attorneys, it's your recollection that
27 prevails. But specifically with regards to DNA if

1 you want any playback, you're welcome to.

2 I'm going to do something different here. I'm
3 going to come down and give the charge. I'm doing
4 that for two reasons. I know you're looking at me
5 now going God, he looks a lot taller up there. I
6 hear that a lot.

7 But I'm doing that because no one likes being
8 read to and I know it's difficult. And look, this is
9 a long charge. So I'm doing this to give you the
10 focus. Like I said this charge is so important that
11 right now there's a marshal on the other side of that
12 door making sure no one comes in and comes out. So
13 I'm going to give it to you, I apologize. If any of
14 you need a break during it, raise your hand. I'll
15 probably welcome one.

16 As I said during the introduction I don't get to
17 talk this much at home, so when I do my mouth gets
18 dry, but you're going to hear a lot. So and I will
19 say, too, I'm looking at a text and I do so on
20 purpose. First of all, I miss being down here. This
21 is - I used to grace the well of courtrooms all over
22 the State, but it's nice to be back.

23 All right, here we go. Members of the jury you
24 have heard the evidence presented in this case. It
25 is now my duty to instruct you as to the law that you
26 are to apply. The function of the Court and the
27 jury. It is exclusively the function of the Court to

1 state the rules of law that govern the case with
2 instructions as to how you are to apply them. It is
3 your obligation to accept the law as I state it. You
4 must follow all my instructions of law and not single
5 out some and ignore others. They are equally
6 important - they are all equally important.

7 You are the sole judges of the facts. It is
8 your duty to find the facts. You are to recollect
9 and weigh the evidence and form your own conclusion
10 as to what the ultimate facts are. You may not go
11 outside the evidence introduced in court to find the
12 facts. This means you may not resort to guesswork,
13 conjecture or suspicion and you must not be
14 influenced by any personal likes or dislikes,
15 opinions, prejudices or sympathies.

16 You should not be influenced by my actions
17 during the course of the trial, in ruling on motions
18 or objections by counsel, or in comments to counsel
19 or in questions that I may have had to witnesses or
20 in setting forth law in these instructions. You are
21 not to take my actions as any indication of my
22 opinion as to how you should determine the issues of
23 the facts.

24 Again, I'll tell you I'm diverting from the text
25 right now. You'll see everybody turning a page when
26 I turn a page. We all have the instructions, and
27 you'll get the instructions in there with you. Any

1 reference I make to the evidence in these - in these
2 instructions are only for the purpose of
3 clarification of some point of law or a point of
4 illustration or to refresh your recollection as to
5 the general nature of the testimony. I do not intend
6 to emphasize any evidence I mention or limit your
7 consideration to it.

8 If I do not mention certain evidence, you will
9 not use the evidence from - if I do not mention
10 certain evidence, you will use the evidence from your
11 recollection. If my recollection of the evidence
12 does not comport with your recollection, then it is
13 your recollection which must prevail. You are the
14 exclusive trier of the facts. The defendant justly
15 relies upon you to carefully consider his claims, to
16 consider carefully all the evidence and to find him
17 not guilty if the facts and the law requires such a
18 verdict.

19 The defendant rightfully expects fair and just
20 treatment at your hands. At the same time the State
21 of Connecticut and its people look to you to render a
22 verdict of guilty if the facts and law requires such
23 a verdict. The law prohibits the State's Attorney or
24 defense counsel from giving any personal opinions as
25 to whether the defendant is guilty or not guilty. It
26 is not their assessment of the credibility or
27 witnesses that matters, it is only yours.

1 Now I'm going to give you some constitutional
2 principles, the first is the presumption of
3 innocence. In this case as in all criminal
4 proceedings, the prosecutions, the defendant is
5 presumed to be innocent unless and until proven
6 guilty beyond a reasonable doubt. This presumption
7 of innocence was with the defendant when he was first
8 presented for trial in this case. It continues with
9 him throughout this trial unless and until such time
10 that all the evidence produced here in the ordinary
11 conduct of the case considered in light of these
12 instructions of law and deliberated upon you in the
13 jury room are satisfied beyond a reasonable doubt
14 that he is guilty.

15 The presumption of innocence applies to the
16 crimes charged and it may be overcome only after the
17 State introduces evidence that establishes the
18 defendant's guilt as to each crime charged beyond a
19 reasonable doubt. If and when the presumption of
20 innocence has been overcome by evidence proving
21 beyond a reasonable doubt that the accused is guilty
22 of the crime charged, then it is your sworn duty of -
23 it is the sworn duty of the jury to enforce the law
24 and to render a guilty verdict.

25 Burden of proof. The State has the burden of
26 proving that the defendant is guilty of the crime in
27 which he is charged or crimes of which he is charged.

1 The defendant does not have to prove his innocence.
2 This means that the State must prove beyond a
3 reasonable doubt each and every element necessary to
4 constitute the crime charged. Whether the burden of
5 proof resting upon the State is sustained depends not
6 on the number of witnesses, nor on the quantity of
7 their testimony, but on the nature and the quality of
8 the testimony.

9 Please bear in mind that one witness' testimony
10 is sufficient to convict if it establishes all the
11 elements of the crime beyond a reasonable doubt. Now
12 I'm going to define reasonable doubt. The meaning of
13 reasonable doubt can be arrived at emphasizing the
14 word reasonable. It is not a surmise or a guess or
15 mere conjecture. It is not a doubt raised by anyone
16 for the sake of raising a doubt.

17 It is such a doubt as in the serious affairs
18 that concern you, you would pay heed. That is, such
19 a doubt that as would cause reasonable men and women
20 to hesitate to act upon in matters of importance. It
21 is not a hesitation springing from any feelings of
22 pity or sympathy for the accused or any other person
23 who might be affected by your decision. It is in
24 other words a real doubt, an honest doubt, a doubt
25 that has its foundation in the evidence or in the
26 lack of evidence.

27 It is a doubt that is honestly entertained and

1 is reasonable in light of the evidence after a fair
2 comparison and careful examination of the entire
3 evidence. Proof beyond a reasonable doubt does not
4 mean beyond all doubt. The law does not require
5 absolute certainty on the part of the jury before it
6 returns a verdict of guilty.

7 The law requires that after hearing all the
8 evidence, if there is something in the evidence or in
9 the lack of evidence that leaves in your minds as
10 reasonable men and women a reasonable doubt as to the
11 guilt of the accused, then the accused must be given
12 the benefit of that doubt and acquitted. Proof
13 beyond a reasonable doubt is proof that precludes
14 every reasonable hypothesis except guilt and is
15 inconsistent with any other rational conclusion.

16 Now I'm going to discuss evidence again, direct
17 and circumstantial evidence. The evidence from which
18 you're about to decide what the facts are consist of
19 sworn testimony of the witnesses both on direct and
20 cross-examination, regardless of who called a
21 witness. The exhibits that have been admitted into
22 evidence and any facts that were judicially noticed
23 in court. As you recall there were some judicially-
24 noticed facts.

25 In reaching your verdict you should consider all
26 the testimony and exhibits admitted into evidence.
27 Certain things are not evidence, and you may not

1 consider them in deciding what the facts are. The
2 things that are not evidence include such things as
3 the argument and statements by counsel. The lawyers
4 are not witnesses. What they've said in their
5 closing argument is intended to help you interpret
6 the evidence, but it is not evidence.

7 If the facts as you remember it differ from what
8 the lawyers have stated, your memory of them shall
9 control. It is not proper for the attorneys to
10 express their opinions on the ultimate issue of the
11 case or to appeal to your emotions. Now there was
12 also testimony that has been stricken or excluded,
13 that is not evidence in this case.

14 Some testimony and exhibits have been admitted
15 for a limited purpose. I don't recall if there were
16 any on this, but if there was limited purpose
17 evidence that - that you must follow that is limited.
18 And the document that's called the Information and
19 which you will have with you when you deliberate.
20 The Information is merely a formal manner of accusing
21 a person of a crime in order to bring that person to
22 trial.

23 You must not consider the Information as any
24 evidence of the guilt of the defendant or draw any
25 inference of guilt because he has been charged with a
26 crime. There were judicially noticed facts. I have
27 decided to accept as proved the facts of the

1 calendars for April, May and June of 2020 as well as
2 Governor Lamont's chief Covid executive orders dated
3 March 19th, 2020 and May 29th, 2020. Even though no
4 evidence has been admitted about it, I believe these
5 facts are such common knowledge or capable of such
6 ready unquestionable demonstration that it would be a
7 waste of time to hear evidence about them.

8 Thus, you may treat these facts as proved even
9 though there was no evidence that was brought out on
10 this point. Of course these facts as with any facts
11 you will have when making that final decision and you
12 are not required necessarily to agree with me. You
13 will note that the counts of the Information contain
14 within it the alleged first dates from December of
15 2018 to May 2020 on or near 96 Lake Avenue in the
16 Town of Trumbull. The State does not have to prove
17 the exact time, date or location of the offense
18 beyond a reasonable doubt. However, the State must
19 prove each element of each offense including
20 identification of the defendant beyond a reasonable
21 doubt.

22 There are generally speaking two types of
23 evidence, direct and circumstantial. Direct evidence
24 is testimony by a witness about what the witness
25 personally saw, heard or did. Circumstantial
26 evidence is indirect evidence from which you could
27 find that another fact exists even though it has not

1 been proved directly. There is no legal distinction
2 between direct and circumstantial evidence as far as
3 probative value goes. The law permits you to give
4 equal weight to both, but it is up for you to decide
5 how much weight to give any particular evidence.

6 Now circumstantial evidence I'm going to vent is
7 the testimony of witnesses to the existence of
8 certain facts or evidence or the happening of other
9 events from which you may logically conclude that the
10 event in question did happen. By way of example, and
11 I gave you this example before, it's a December
12 night, and you're preparing to go to bed. You look
13 out the window, and you see that it's snowing. You
14 wake up in the morning, you come to court, and you
15 testify that the night before in the area of your
16 home it had snowed. That is direct evidence of the
17 fact that it showed because you saw it and you came
18 into court and testified.

19 Now assume a different set of facts. It's a
20 December night, the weather's clear. You're going to
21 retire for the evening. You wake up the next
22 morning, you look out and you see snow on the ground
23 and footprints across your lawn. You come to court,
24 and you testify as to those facts, the evidence that
25 the night before there was no snow on the ground and
26 the next morning there was snow on the ground and
27 footprints across your lawn. That's direct evidence.

1 Now the direct evidence, however, is also
2 circumstantial evidence of the fact that sometime
3 during the night it snowed and sometime thereafter
4 someone walked across your lawn. Now the only
5 practical difference between direct and
6 circumstantial evidence is that when you have direct
7 evidence of some fact the main thing you have to do
8 is determine the believability of the direct
9 testimony given, the credibility of the witness.
10 With circumstantial evidence you must first determine
11 the credibility of the witness or witnesses and
12 decide whether the facts testified to did in fact
13 exist. Then you must decide whether the happenings
14 of these facts or the existence of these facts
15 logically - leads logically to the conclusion that
16 the events occurred or other facts exist. And
17 ultimately whether the crime alleged was committed by
18 the accused.

19 There is no reason to be prejudiced against
20 circumstantial evidence because it is circumstantial.
21 You make decisions on the basis of circumstantial
22 evidence in the affairs of everyday life. There is
23 no reason decisions based on circumstantial evidence
24 should not be made in the courtroom. In fact, proof
25 of circumstantial evidence may be as conclusive as
26 would be the testimony of a witness speaking on the
27 basis of their own observation. Circumstantial

1 evidence therefore is offered to prove a certain fact
2 from which you were asked to infer the existence of
3 another fact or set of facts. Before you decide that
4 a fact has been proved by circumstantial evidence,
5 you must consider all of the evidence in light of
6 reason, experience and common sense.

7 Credibility. Deciding what the facts are you
8 must consider all the evidence. In deciding what the
9 facts are, you are the sole judges of credibility of
10 witnesses. Each witness starts off with equal
11 footing. When they testify you must decide which
12 testimony to believe, which testimony not to believe.
13 You may believe all of what a witness says, part of
14 what a witness says or none of what a witness says.

15 You may take into account a number of factors
16 including (1) Was the witness able to see or hear or
17 know the things of which they testify? (2) How well
18 was the witness able to recall and describe those
19 things? (3) What was the witness' manner while
20 testifying? (4) Did the witness have an interest in
21 the outcome of the case or any bias or prejudice
22 concerning any party or any party or on the matter
23 involved? (5) How reasonable was the witness'
24 testimony considered in light of all the evidence?
25 (6) Was a witness' testimony contradicted by what the
26 witness has said or done at another time or by the
27 testimony of another witness or by other evidence?

1 And (7) Does the witness have a criminal case pending
2 in another court and perhaps looking for favor?

3 If you think that a witness has deliberately
4 testified falsely in some respect, you should
5 consider carefully whether you rely upon - when you
6 rely - let me read that over. If you find that a
7 witness has testified - deliberately testified
8 falsely in some respect, you should carefully
9 consider whether you should rely upon any of that
10 witness' testimony.

11 In deciding whether or not to believe a witness,
12 keep in mind that people sometimes forget things.
13 You need to consider, therefore, whether a
14 contradiction is an innocent lapse of memory or an
15 intentional falsehood and that may depend on whether
16 the contradiction has to do with an important fact or
17 with only a small detail. There are some of the
18 factors you may consider - these are some of the
19 factors you may consider in deciding whether or not
20 to believe testimony. The weight of the evidence
21 presented does not depend on the number of witnesses.
22 It's the quality of the evidence, not the quantity of
23 the evidence that you must consider.

24 Now you've heard the term impeachment,
25 inconsistent statements. Evidence has presented that
26 two of the witness, LT and GT made statements outside
27 of the court that are inconsistent with their trial

1 testimony. You should consider this evidence only as
2 it relates to the credibility of the witness'
3 testimony, not as substantive evidence. In other
4 words, consider such evidence as you would any other
5 evidence of inconsistent conduct in determining the
6 weight to be given to the testimony of the witness in
7 court. The law treats an omission in a prior
8 statement as an inconsistent statement.

9 Now there were some statements made by the
10 alleged complainant to a medical or mental health
11 professional pursuant to seeking treatment. This
12 means that - let me start again. Statements made by
13 a complainant to a medical or mental health
14 professional in receiving or seeking treatment have
15 been admitted and they're admitted as substantive
16 evidence. This means your consideration of these
17 statements is not limited to the credibility or
18 corroboration like prior inconsistent statements.
19 These statements may be considered for their content.

20 Now you've heard the term adequacy of police
21 investigation. There has been some testimony of
22 witnesses and arguments of counsel that the State did
23 not search for DNA or other evidence in the laundry
24 room, GT's bedroom, living room or WTH's bedroom.
25 This is a factor you may consider in deciding whether
26 the State has met its burden of proof in this case
27 because the defendant may rely on relevant deficiency

1 or lapses in the police investigation to raise
2 reasonable doubt.

3 Specifically, you may consider whether the
4 police not looking for DNA in those locations would
5 normally be taken under the circumstances, whether if
6 these actions were taken they could reasonably have
7 expected to lead to significant evidence of the
8 defendant's guilt or evidence creating a reasonable
9 doubt of his guilt, and whether there are reasonable
10 explanations for the omissions of those actions.

11 If you find that any omissions in the
12 investigation were significant and not reasonably
13 explained, you may consider whether the omissions
14 tend to affect the quality, reliability or
15 credibility of the evidence presented by the State to
16 prove beyond a reasonable doubt that the defendant is
17 guilty of the counts for which he is charged in the
18 Information. The ultimate issue for you to decide,
19 however, is whether the State in light of all the
20 evidence presented before you has proven beyond a
21 reasonable doubt that the defendant is guilty of the
22 counts for which he is charged.

23 Now you've also heard the term constancy of
24 accusation. In this case you've heard testimony that
25 sometime after the alleged sexual offense, LT made
26 out-of-court statements to a Jada Garell about what
27 the claimed had taken place with the defendant. The

1 reason why the evidence - the only reason that the
2 evidence about LT's statements to her friend are
3 permitted is to negate any inference that LT failed
4 to confide in anyone about the sexual offense. In
5 other words, the narrow purpose of the constancy
6 evidence is to negate any inference that LT failed to
7 tell anyone about the sexual offense and therefore
8 that LT's later assertion should not be believed.

9 The testimony of Jada Garell about what LT told
10 her about the defendant and what he did to LT is not
11 evidence that the sexual offense actually occurred or
12 that LT is believable merely because she told someone
13 else what she claimed happened to her. What LT told
14 her about the defendant cannot be used as you have
15 proof that the defendant committed any of the crimes
16 charged. The testimony merely serves to negate any
17 inference that because of LT's silence, the offenses
18 did not occur. Such testimony offered by Jada
19 Garrell for the limited purpose does not prove the
20 underlying truth of the sexual offense.

21 As I've indicated earlier, this testimony was
22 permitted for a limited purpose. The making of a
23 complaint is not an element of the offense. Proof
24 that a complaint was made is neither proof that the
25 sexual offense occurred nor proof that LT was
26 truthful. It merely dispels any negative inference
27 that might arise from LT's assumed silence.

1 Now the law recognizes that stereotypes about
2 sexual assault complaints may lead some to question
3 LT's credibility based merely on the fact that she
4 did not complain about the alleged abuse sooner. You
5 may or may not conclude that LT's testimony is
6 untruthful based only on her silence or delayed
7 disclosure. You may consider the silence or delayed
8 disclosure along with all of the other evidence LT's
9 explanation as to her silence or delay when you
10 decide how much weight to give LT's testimony.

11 In determining whether a complaint was in fact
12 made, you may consider all the relevant factors.
13 These factors include such thing as LT's age, her
14 demeanor on the stand, background and relationship
15 with both the defendant and the person to whom the
16 complaint was made. You may only consider the
17 timeliness of LT's complaint, the context in which
18 the complaint was made and any circumstances that
19 would explain the delay in making the complaint and
20 whether the complaint was volunteered or the result
21 of interrogation. It is up to you to determine what
22 the facts are with regard to the circumstances of the
23 complaint and what weight to give these facts in
24 determining whether a complaint was made.

25 You've heard testimony from expert witnesses.
26 Expert witnesses are persons qualified to testify as
27 an expert if he or she has special knowledge, skill,

1 experience, training or education sufficient to
2 qualify him or her as an expert. An expert is
3 permitted not only to testify to the facts that he or
4 she personally observed, but also to state an opinion
5 about certain circumstances. This is allowed because
6 an expert from experiences, research and study
7 generally has a particular knowledge of the subject
8 of the inquiry that is more capable than a layperson
9 of drawing conclusions from that fact and basing
10 their opinion upon them.

11 As many times as I've looked at this, I see
12 comments that I have to take out. So that's page 17.
13 Could you just keep a running tab, please, 17. I
14 thought I got that.

15 An expert cannot give an opinion about a
16 particular witness being truthful or not truthful
17 because only you the jury will determine whether or
18 not a witness is believable. If you think you've
19 heard such testimony about a comment on a witness
20 being believable, you should disregard it and not
21 consider it in reaching your verdict. Another -
22 allowing someone to give an expert opinion is in no
23 way an endorsement by the Court of that testimony or
24 the credentials of the witness. Such witness is
25 presented to you to assist in your deliberations. No
26 such testimony is binding upon the Court. You may
27 consider the testimony either in whole or in part.

1 It is up for you to consider the testimony with
2 the other circumstances in the case using your best
3 judgment to determine whether you give any weight to
4 it and if so what weight you will give to it. The
5 testimony is entitled to such weight as you find the
6 expert's qualifications in his or her field to
7 receive, and it must be considered by you, but it is
8 not controlling upon your judgment.

9 The State's experts, Monica Vidro-Madigan, Janet
10 Murphy, Jenifer Green, Michael Morganti, Francesco
11 Scarano, Angela Prezch provided testimony about
12 observations and general observations about children
13 and about DNA. But you've heard about testimony
14 about children who've disclosed being sexually
15 assaulted as well as lab work submitted to the
16 State's laboratory. As you heard Monica Vidro-
17 Madigan had no involvement with this case, nor has
18 she had any dealings with LT. Regardless of that
19 weight you give to Monica Madigan's testimony if any
20 you may not consider her testimony as proof that the
21 charged crimes in fact occurred.

22 You may not consider Monica Madigan's testimony
23 as in any way proving that the defendant committed or
24 did commit any of the charged crimes in the
25 Information. Only you will determine whether or not
26 the State has proven that beyond a reasonable doubt
27 that the defendant committed these crimes charged and

1 any expert witness - and not any expert witness.

2 Now during the course of her testimony, the
3 State asked Ms. Madigan hypothetical questions. A
4 hypothetical question is one that an expert witness
5 is asked to assume certain facts as true and been
6 mentioned in the question. The expert then provides
7 an opinion based on those assumed facts. The value
8 of any such opinion based on those assumed facts
9 depends on the relevance, validity and the
10 completeness of the assumed facts provided in the
11 hypothetical question.

12 The weight you will give any such opinion
13 depends on whether you find the assumed facts were in
14 fact proved and whether the assumed facts were
15 complete and to what extent if any material facts
16 were omitted or not even considered. You are to
17 consider an expert's general believability in
18 accordance with the instructions that I previously
19 provided on credibility of witnesses.

20 Now with regards to the topic of witnesses,
21 we've heard testimony from law enforcement officials.
22 Law enforcement officials have testified in this
23 case. When I say law enforcement, I'm referring to
24 Officer Fortunato, Detective Wheeler, Detective Scott
25 Murray and Detective Sergeant Pires. You must
26 determine their credibility in the same way and the
27 same standards that you would evaluate the testimony

1 of any other witness.

2 The testimony of law enforcement is not entitled
3 to any special weight or exclusive weight merely
4 because it comes from a police officer. You should
5 recall their demeanor on the stand and manner of
6 testifying and weigh and balance it just as carefully
7 as you would the testimony of any other witness. You
8 should neither believe nor disbelieve the testimony
9 of a police officer or a law enforcement officer just
10 because he or she is a police officer.

11 Now the defendant did not testify in this case.
12 The defendant - an accused person has the option to
13 testify or not testify at the trial. He has no
14 obligation - please mark page 20 the comments - he
15 has a constitutional right not to testify. You must
16 draw no unfavorable inference from the defendant's
17 choice not to testify in this case.

18 Now there are special types of evidence I'd like
19 to talk about. One is identification. The State has
20 the burden of proving beyond a reasonable doubt the
21 defendant was the perpetrator of the crime.
22 Identification is a question of fact for you to
23 decide, taking into consideration all of the evidence
24 that you have seen and heard during the trial. If
25 the State fails to prove beyond a reasonable doubt
26 that the defendant was the person who committed the
27 charged crime, you must find him not guilty of the

1 charge. One witness' identification of the defendant
2 is sufficient to find the defendant guilty, provided
3 of course that you are satisfied beyond a reasonable
4 doubt.

5 And now I'm going to discuss the charges, but
6 before I do I want to talk about elements of the
7 crimes charged. The elements of the crimes charged.
8 The defendant is charged with six counts in the
9 State's Information. The defendant is entitled to
10 and must be given to you a separate and independent
11 determination of whether he is guilty or not guilty
12 as to each of the counts. Each of the counts charged
13 is a separate crime.

14 The State is required to prove each element in
15 each count beyond a reasonable doubt. Each count
16 must be deliberated upon separately. The total
17 number of counts charged does not add to the strength
18 of the State's case. You may find that some evidence
19 applies to more than one count in the Information.
20 The evidence, however, must be considered separately
21 as to each element in each count. Each count is a
22 separate entity.

23 You must consider each count separately and
24 return separate verdicts to each count. This means
25 that you may reach opposite verdicts on different
26 counts. A decision on one count does not bind your
27 decision on another count.

1 Now intent, you're going to be hearing about
2 intent. Intent relates to the condition of mind of
3 the person who commits the acts; his purpose in doing
4 it. Intent therefore is intent to achieve specific
5 results. In other words, a person's conscious
6 objective was to cause that specific result. As
7 defined by law, a person acts intentionally with
8 respect to a result when his conscious objective is
9 to cause such a result.

10 Intent is a mindful process. Intent does not
11 require premeditation or malice or aforethought.
12 There is no requirement concerning the amount of time
13 necessary for a person to formulate the intent
14 required for a particular crime. Intent may be
15 formed in seconds, actually in a brief instance
16 before the crime. However, is it necessary for the
17 intent to be formed prior to or during the act
18 resulting in the commission of the crime.

19 What a person's purpose or intention has been is
20 a matter to be largely determined by inference. No
21 witness can be expected to come and testify that he
22 looked into the mind of another and saw therein a
23 certain intention. Because indirect evidence of the
24 defendant's state of mind is rarely available -
25 because - I'm sorry, because direct evidence of a
26 defendant's state of mind is rarely available, intent
27 is generally proven by circumstantial evidence.

1 Please refer to my circumstantial evidence that I
2 indicated previously.

3 A jury can determine what a person's intention
4 was at any time by determining what a person's
5 conduct was and what the circumstances were
6 surrounding that conduct and any statements made by
7 that person and from that infer what the intention
8 was. In essence, you are to consider the evidence
9 presented by the State and the defense in your
10 determination of whether the State has established
11 the requisite intent beyond a reasonable doubt. It
12 is therefore - in this case, therefore, it will be
13 part of your duty to draw all reasonable and logical
14 inferences from the conduct and you may think that
15 the defendant engaged in, in light of all the
16 surrounding circumstances, and from this determine
17 whether the State has proven the elements of intent
18 beyond a reasonable doubt.

19 This inference is not a necessary one. That is,
20 you are not required to infer intent from the
21 defendant's conduct, but it is an inference that you
22 may draw if you find it reasonable, logical and in
23 accordance with the instructions on circumstantial
24 evidence I gave previously. I remind you that the
25 burden of proving intent beyond a reasonable doubt is
26 upon the State.

27 As I've indicated previously, there are two

1 types of - I probably didn't indicate previously,
2 sorry. There are two types of intent, general and
3 specific. Intent relates to the condition of the
4 mind of the person who commits the act or the purpose
5 for doing it. The law recognizes there are two types
6 of intent; general intent and specific intent. The
7 concept of specific intent applies to counts 1, 2 and
8 3. That is two counts of Sexual Assault in the First
9 Degree and then one count of Sexual Assault in the
10 Fourth Degree. That's specific intent crimes.

11 General intent crimes include Risk of Injury,
12 which are counts 4, 5 and 6. General intent is the
13 intent to engage in conduct. Thus, in the applicable
14 counts, which would be 4, 5 and 6, it is not
15 necessary that the State had to prove that the
16 defendant intended the precise harm or the precise
17 result which had eventuated. Rather, the State is
18 required to prove that the defendant intentionally
19 and not inadvertently or accidentally engaged in
20 those actions. In other words, the State must prove
21 that the defendant's actions were intentional,
22 voluntary and knowing rather than unintentional,
23 involuntary and unknowing.

24 Now specific intent is the intent to achieve a
25 specific result. A person acts intentionally with
26 respect to a result when his conscious objective is
27 to cause such result. What the defendant intended is

1 a question of fact for you to determine. Once again,
2 the concept of specific intent applies to counts 1, 2
3 and 3. That is Sexual Assault in the First Degree
4 and Sexual Assault in the Fourth Degree. The concept
5 of general intent applies to counts 4, 5 and 6, that
6 is the three Risk of Injury counts.

7 Now, now I'm going to define Sexual Assault in
8 the First Degree, which is our general statutes 43a-
9 70(a)(2). The defendant is charged in counts 1 and 2
10 with Sexual Assault in the First Degree. The statute
11 defining the offense reads in pertinent part as
12 follows. A person is guilty of Sexual Assault in the
13 First Degree when such person engages in sexual
14 intercourse with another person and such other person
15 is under 13 years of age and the actor is more than
16 two years older than such person.

17 For you to find the defendant guilty of this
18 charge, the State must prove the following elements
19 beyond a reasonable doubt. There are three elements,
20 ladies and gentlemen. The first is that the
21 defendant engaged in sexual intercourse with the
22 complainant. Sexual intercourse means vaginal
23 intercourse, anal intercourse, fellatio or
24 cunnilingus between persons regardless of their sex.

25 Penetration, however slight, is sufficient to
26 complete vaginal intercourse and anal intercourse or
27 fellatio and does not require the emission of semen.

1 There is no need for the State to prove force or
2 compulsion by the defendant, and it is not a defense
3 that the complainant consented to sexual intercourse.
4 Whether the other person consented to the sexual
5 intercourse is irrelevant to your consideration of
6 this count.

7 The second element is that the other person was
8 under the age of 13. The second element is the
9 complainant was under 13 years of age at the time of
10 the sexual intercourse. You must find that LT was
11 under 13 years of age at the time of the sexual
12 intercourse. The third element is that the defendant
13 is more than two years older than the complainant.
14 That is, that in order for the State to have proven
15 this element, you must find the defendant is more
16 than two years older than LT.

17 Now there's something called - and I'm going to
18 apologize up front, the term is unanimity. I mess it
19 up every time, it's like aluminum. I have problems
20 saying that, too, so I'm sorry. But unanimity as to
21 the elements of Sexual Assault in the First Degree.
22 Count 1, the State alleged in count 1 the defendant
23 has committed the offense of Sexual Assault in the
24 First Degree by anal or penile intercourse. You may
25 find the defendant guilty of the offense only if you
26 all unanimously agree that the defendant committed
27 such act. This means you may not find the defendant

1 guilty unless you all agree that the State has proved
2 beyond a reasonable doubt that the defendant had
3 anal-penile intercourse.

4 Count 2, the State has alleged in count 2 that
5 the defendant has committed the offense of Sexual
6 Assault in the First Degree by fellatio. You may
7 find the defendant committed - I'm sorry - you may
8 find the defendant guilty of the offense only if you
9 all unanimously say that the defendant committed such
10 act. This means that you may not find the defendant
11 guilty unless you all agree that the State has proven
12 beyond a reasonable doubt the defendant has engaged
13 in fellatio. Just as you need unanimity with regards
14 to the conduct, you also - the elements, you also
15 need unanimity when it comes to the - to the
16 instances of conduct.

17 What do I mean by this? The State has alleged
18 that the defendant had committed the offense of
19 Sexual Assault in the First Degree in counts 1 and 2
20 on more than one occasion on diverse dates between
21 December of 2018 and May of 2020. You may find the
22 defendant guilty of the offense only if you all
23 unanimously agree on at least one instance alleged
24 that the defendant committed the offense. This means
25 you may not find the defendant guilty unless you all
26 agree the State has proven beyond a reasonable doubt
27 the defendant committed the offense of the Sexual

1 Assault in the First Degree on a particular instance
2 that you all agree.

3 For example, your verdict would be not unanimous
4 if three of you believe that the sexual assault took
5 place on one particular instance, but the other three
6 of you believed a sexual assault took place on
7 another occasion. To be unanimous each of you must
8 agree upon the instances in which it occurred and
9 that all of the other elements of the crime have been
10 proven beyond a reasonable doubt. Again, this
11 applies to counts 1 and 2.

12 In conclusion, the State must prove beyond a
13 reasonable doubt (1) Sexual intercourse took place
14 between the defendant and the complainant; (2) That
15 at the time of the intercourse the complainant had
16 not yet reached the age of 13; and (3) That the
17 defendant was more than two years older than the
18 complainant. If you unanimously find the State has
19 proven beyond a reasonable doubt each of the elements
20 of the Sexual Assault in the First Degree, then you
21 shall find the defendant guilty. On the other hand,
22 if you unanimously find that the State has failed to
23 prove beyond a reasonable doubt any of the elements,
24 you shall find the defendant not guilty.

25 Sexual Assault in the Fourth Degree - excuse me,
26 that's the third count. The statute defines the
27 offense as follows. A person is guilty of Sexual

1 Assault in the Fourth Degree - did I put a statute
2 number in there? Yes, it's 53a-70(1)(a). So a
3 person is guilty of the offense, the statute reads as
4 follows. A person is guilty of Sexual Assault in the
5 Fourth Degree when such other person subjects another
6 person to sexual contact and such other person is
7 under 13 years of age and the defendant is more than
8 two years older.

9 Specifically, the State alleges that the sexual
10 contact that the defendant had with LT in this case
11 was it touched his penis with her hand. For you to
12 find the defendant guilty of this charge, the State
13 must prove beyond a reasonable doubt the following
14 elements. The first element is that the defendant
15 subjected the complainant to sexual contact. Sexual
16 contact means any contact by the defendant with the
17 intimate parts of the complainant or contact with the
18 intimate parts of the defendant and the complainant.

19 Intimate parts means the genital area or any
20 substance emitted therefrom - groin, anus or any
21 substance emitted therefrom, inner thighs, buttocks
22 or breasts. To constitute sexual contact there must
23 be actual touching. Again, I'll repeat that. To
24 constitute sexual contact there must be actual
25 touching. There need not be, however, direct contact
26 with the unclothed body of the other person. It is
27 enough that the touching of the genital area, groin,

1 anus, inner thigh, buttocks or breast was through the
2 other person's clothing or the defendant's clothing.

3 The second element is intent. And that is that
4 the second element is the defendant had specific
5 intent to obtain sexual gratification or degrade or
6 humiliate the complainant. The third element is -
7 and the additional factor is that at the time of the
8 offense the complainant was under 13 years of age.
9 So that LT was under the age of 13 and the defendant
10 Nicholas Hall was more than two years older.

11 Now unanimity is required for this as well and
12 it goes just to the instance of conduct. The State
13 has alleged that the defendant has committed the
14 offense of Sexual Assault in the 4th Degree on more
15 than one occasion on diverse dates between December
16 of 2018 and May of 2020. You may find the defendant
17 guilty of the offense only if you all unanimously
18 agree on at least one instance alleged that the
19 defendant committed the offense.

20 This means you may not find the defendant guilty
21 unless you all agree that the State has proved beyond
22 a reasonable doubt that the defendant committed the
23 offense of Sexual Assault in the Fourth Degree on a
24 particular instance that you all agree. Although the
25 State is not required to prove instance certain, you
26 ladies and gentlemen must agree on the same occasion
27 in order to find the defendant guilty.

1 For example, your verdict would be not unanimous
2 if three of you believe that the sexual assault took
3 place on one instance, but the other three thought
4 that it took place on another instance. To be
5 unanimous each of you must agree on the date that it
6 occurred or the instance that it occurred. In
7 summary the State must prove beyond a reasonable
8 doubt (1) The defendant subjected LT to sexual
9 contact; (2) That he specifically intended to obtain
10 sexual gratification or degrade or humiliate the
11 complainant; and (3) That LT was under 13 years of
12 age and the defendant was more than two years older.

13 If you unanimously find the State has proved
14 beyond a reasonable doubt each of the elements of the
15 crime of Sexual Assault in the Fourth Degree, then
16 you shall find the defendant guilty. On the other
17 hand if you unanimously find that the State has
18 failed to prove beyond a reasonable doubt any
19 elements, you shall find the defendant not guilty.

20 Just to give you an idea, we're more than
21 halfway through. So the next thing we deal with is
22 the three charges, charges 4, 5 and 6, Risk of
23 Injury. Risk of Injury is actually divided up into
24 two sections. The defendant is charged in counts 4,
25 5 and 6 with Risk of Injury to a Minor. The statute
26 defining this imposes penalties on any person who has
27 contact with the intimate parts of a child under the

1 age of 16 years of age or subjects a child under 16
2 years of age to contact with the intimate parts of
3 such person in a sexual and indecent manner likely to
4 impair the health or morals of such child.

5 For you to find the defendant guilty of this
6 charge, the State must prove the following elements.

7 (1) Contact with intimate parts. The first element
8 is that the defendant had contact with the intimate
9 parts of the minor or subjected the minor to contact
10 with the defendant's intimate parts. Intimate parts
11 includes as I said before genital area, groin, anus,
12 inner thigh, buttocks or breasts.

13 Contact is defined or means the touching of
14 intimate parts. The State must prove that the
15 defendant had contact with the child's intimate parts
16 or that the defendant subjected the child to contact
17 with the defendant's intimate parts. There need not
18 be touching of all the intimate parts. It is
19 sufficient if any one of the intimate parts is
20 touched.

21 The second element is that contact with the
22 intimate parts took place in a sexual and indecent
23 manner as opposed to an innocent touching or an
24 accidental, inadvertent or reflexive touching.
25 Sexual means having to do with sex and indecent means
26 offensive to good taste or to public morals. The
27 third element is that likely to impair the health or

1 morals. And the third element is that the contact,
2 which was sexual and indecent, if you find sexual and
3 indecent nature was likely to injure or weaken the
4 morals of LT. Health of the child refers to the
5 child's well-being. Or as used here morals means
6 living, acting and thinking in accordance with those
7 principles and standards which are commonly accepted
8 among us as right and decent.

9 I want to stress that the State does not have to
10 prove the defendant actually did impair the health or
11 morals of a child. Rather, the State must show that
12 the defendant's behavior was likely to have done so.
13 Likely means with all probability. Thus, the State
14 must show that it was probable that the sexual and
15 indecent behavior of the defendant would injure or
16 weaken the child's health or morals.

17 There is no requirement that the State prove
18 actual harm to the child's health or morals. The
19 State need not have had the specific intent - I'm
20 sorry, let me strike that. The defendant need not
21 have the specific intent to impair the health or
22 morals of the child, only the general intent to
23 perform the sexual and indecent act.

24 The fourth element is that at the time of the
25 alleged - of the incident, the minor was under the
26 age of 16. That means that LT had not yet had her
27 sixteenth birthday when the alleged contact took

1 place. Now there is unanimity as with this as well.
2 The State has alleged that this happens in two ways;
3 (1) In a manner likely to impair the health of LT;
4 and (2) In a manner to impair the morals of LT. You
5 may find the defendant guilty of the offense only if
6 you all unanimously agree on which of the two ways.

7 This means you may not find the defendant guilty
8 unless you all agree that the State has proved beyond
9 a reasonable doubt the defendant impaired her health
10 or impaired her morals. Thus, in order for you to
11 find the defendant guilty of Risk of Injury of Sexual
12 Conduct - Contact you must be unanimous as to which
13 of the alternative ways it is alleged to have been
14 committed if you can or it - let me start that over.
15 Thus, in order for you to find the defendant guilty
16 of Risk of Injury by way of Sexual Conduct - Contact,
17 you must be unanimous as to which of the alternative
18 ways the defendant is alleged to have committed it or
19 you can be unanimous as to both ways.

20 For example, your verdict would be unanimous -
21 not unanimous if you believed that the act - if three
22 of you believe that the act impaired her health, but
23 the other three said that it impaired her morals. To
24 be unanimous, you must all agree that the act
25 impaired her health or you must all agree that it was
26 likely to impair her morals. In summary, the State
27 has to prove beyond a reasonable doubt (1) The

1 defendant had contact with the intimate parts of LT
2 or subjected the child to contact with the
3 defendant's intimate parts; (2) That the contact with
4 the intimate parts took place in a sexual and
5 indecent manner; (3) That contact was likely to
6 impair the health or morals of LT; and (4) That LT
7 was under the age of 16 years at the time.

8 If you unanimously find the State has proven
9 beyond a reasonable doubt each of the elements of the
10 crime of Risk of Injury to a Minor, then you should
11 find the defendant guilty. On the other hand, if you
12 unanimously find that the State has failed to prove
13 beyond a reasonable doubt any of the elements, you
14 must find the defendant not guilty.

15 Now we have in this case what we call
16 interrogatories. In connection with your
17 deliberations on the crime of Sexual Assault in the
18 First Degree, that's counts 1 and 2, if but only if
19 you return a verdict of guilty you must answer the
20 question we have in the interrogatory. And you're
21 going to have that interrogatory with you. It's a
22 piece of paper. It's - should you reach the
23 interrogatory your decision must be unanimous. Your
24 foreperson should check the appropriate answer and
25 sign and date the form.

26 In connection with deliberations on Sexual
27 Assault in the Fourth Degree, that's count 3, if but

1 only if you return a verdict of guilty, you must
2 answer the question in the interrogatory that I will
3 send in with you. I am in no way suggesting what
4 your verdict on this charge should be - what it
5 should be. If it's guilty answer the interrogatory.
6 If it's not guilty ignore it. Should you reach the
7 interrogatory, your decision must be unanimous. Your
8 foreperson should check the appropriate answer and
9 sign and date the form.

10 In connection with your deliberations on the
11 crime of Risk of Injury to a Minor, Sexual Contact,
12 counts 4, 5 and 6 if but only if you return a verdict
13 of guilty you must answer the question which we call
14 an interrogatory that I'll send in for you. I am in
15 no way suggesting your verdict on this charge that it
16 should be. If it's guilty answer the interrogatory.
17 If it's not guilty, ignore it. Your foreperson
18 should check the appropriate answer and sign the form
19 and date the form.

20 Now my concluding remarks - yes, we're
21 concluding soon - is as follows. Note-taking. If
22 you took notes during the evidence, you may use them
23 during your deliberations and you may discuss your
24 notes with your fellow jurors. Remember, that your
25 notes are merely aids to your memory and should not
26 be given precedence over your independent
27 recollection of the evidence. If there is a conflict

1 between your recollection and your notes - if there's
2 a conflict between your recollection and your notes
3 or the notes of any other juror, it is your
4 recollection of the evidence that must prevail.

5 Your notes or the notes of any other juror are
6 not evidence. You will recall my earlier definition
7 of what constitutes evidence. Your verdict must be
8 based exclusively on the evidence presented in court
9 and the principles of law that I provide to you in
10 the final instructions. A juror who has not taken
11 any notes should not be influenced by the fact that
12 other jurors have taken notes. Notes are only a tool
13 and are not always accurate. Do not assume that a
14 voluminous notetaker has taken notes that are
15 necessarily more accurate than your memory.

16 You may discuss your notes with fellow jurors -
17 excuse me - you may discuss your notes with fellow
18 jurors during the deliberation phase. The decision
19 to do so is yours and yours alone. After the trial
20 is concluded all the notes will be collected by the
21 Court staff and they will be destroyed. I remind you
22 that you have a right to request portions of the
23 testimony that they be read back to you if you deem
24 it essential during your deliberations. You will
25 have all of the exhibits with you during your
26 deliberations.

27 Sympathy. In deciding whether or not the

1 defendant is guilty or not guilty, you should not
2 concern yourself with the punishment or potential
3 consequence in the event of a conviction. This is
4 exclusively within the Court's function under the
5 limitations and restrictions imposed by our
6 Connecticut General Statutes. You are to find the
7 defendant guilty or not guilty uninfluenced by any
8 possible punishment or connection that may follow -
9 or consequence that may follow a conviction, excuse
10 me. You should not be influenced by any sympathy for
11 the defendant, the defendant's family, the
12 complainant, the complainant's family or any of other
13 persons who might be affected by your decision.

14 Bias and prejudice or conscious or unconscious
15 as I indicated to you, your verdict must be based on
16 the evidence introduced in court and on my
17 instructions of the law. Our system of justice
18 depends on judges like me and jurors like you in
19 making fair, unbiased and careful decisions. Now
20 during our interactions with others it is not unusual
21 for us to group or categorize people. Sometimes
22 these categorizations involve negative or positive
23 biases or prejudices which may be conscious or
24 unconscious.

25 Such preferences or biases whether they are
26 conscious or unconscious have no place in our
27 courtroom or in your deliberation where our goal is

1 to treat all parties equally and to arrive at a just,
2 fair and unbiased verdict. All persons deserve
3 treatment - fair treatment in our system of justice,
4 regardless of their race, their national original,
5 their religion, their age, the disability, their
6 gender, their gender identity, their sexual
7 orientation, their education, income level - their
8 education level, their income level or any other
9 personal characteristics.

10 Now there are techniques that jurors could use
11 to make sure that unconscious bias is not influencing
12 your decision-making process. That includes such
13 things as slowing down and examining your thought
14 process thoroughly to identify where you may be
15 relying on reflexive gut reactions and to consider
16 whether you are making assumptions that have no basis
17 on the evidence at all. Ask yourselves whether you
18 would view the evidence differently if the parties,
19 witnesses or attorneys had different personal
20 characteristics.

21 In sum, your task is to render a verdict based
22 on the facts drawn only on the evidence introduced in
23 the courtroom and from the law as stated in my
24 instructions to you. And not based on any prejudice
25 or bias against a party or any persons involved. In
26 conclusion - and this is your deliberations - in
27 conclusion I impress upon you that you are dutybound

1 as jurors to determine the facts on the basis of the
2 evidence that has been presented and to apply the law
3 as I have outlined it. And to render a verdict of
4 guilty or not guilty as to each count. When you
5 reach a verdict, it must be unanimous, that is all
6 six of you must agree. As a check of your verdict -
7 a check to see if your verdict is in fact unanimous,
8 the clerk may ask that each of you individually
9 announce your verdict in open court.

10 It is the duty of each juror to discuss and
11 consider the opinions of other jurors. Each of you
12 takes - each of you takes into the jury room your
13 individual experience and wisdom. Your task it to
14 pool that experience and wisdom. You do that by
15 giving your views and listening to the views of
16 others.

17 There must necessarily be discussion and give
18 and take within the scope of your oath. This is the
19 way unanimous verdict is reached. Despite that, in
20 the last analysis it is your individual duty to make
21 up your own mind and decide this case upon the basis
22 of your own individual judgment and conscience.

23 Now today we're going to start deliberations. I
24 have stuff in here that we go - we take lunch from
25 1 to 2. I already told you we're on your time now.
26 You tell us what you want, so I'm going to ignore
27 that paragraph. I just - I can't pay anyone

1 overtime. Your deliberations cannot continue past
2 5 p.m. No one will hurry you with a verdict if you
3 do not reach a verdict by 5 on any given day. You'll
4 simply be brought back the next day to resume
5 deliberations.

6 There is no time constraint as to reach a
7 decision. You may take as much time as you feel is
8 necessary to render your decision in a careful and
9 just manner. When you are deliberating you must turn
10 off all cellphone and you must not communicate with
11 anyone other than the marshal or the clerk. You may
12 not conduct any research, investigation of this case
13 by any means including internet or any other
14 electronic means.

15 You are not allowed to access the internet while
16 deliberating. Once you retire to the jury room, you
17 must first elect one of your members to be a
18 foreperson. You may not begin deliberations until
19 you've selected the foreperson and then you will
20 receive the information and exhibits. You may only
21 deliberate when all six of you are present in the
22 jury room.

23 If you have a question during your deliberation,
24 the foreperson should write the question down on a
25 piece of paper, sign and date it and knock on the
26 door. The marshal will then bring it to my
27 attention. I should note there we have a new

1 envelope system. So you write it down on a piece of
2 paper, put it in an envelope; sign and date it and
3 knock on the door.

4 The marshal will bring it to me, and I will
5 answer it in open court. It may take a few minutes.
6 We have to assemble the cast; the court reporter, the
7 clerk, the marshals, the parties. Please try to make
8 any questions precise. We cannot engage in any
9 formal dialogue. I will only respond to your
10 questions that are written.

11 If you need any testimony or any part of my
12 instructions read back, we follow the same procedure.
13 Just write it on a sheet of paper what it is you want
14 to hear precisely as you can. For example - and this
15 goes with testimony as well. If you want to hear
16 only the direct examination or only the cross-
17 examination or one particular part, just let us know.
18 We'll have it cued up.

19 When you reach your verdict, knock on the door
20 and inform the marshal or clerk. Please do not tell
21 the court personnel what your verdict is. Do not
22 write on a note - you could write on a note, but put
23 it inside the envelope. Do not provide the
24 interrogatories to the court personnel, hold onto
25 them. Just indicate in the note that you have a
26 verdict.

27 You will be brought into open court and deliver

1 your verdict. It may take time to assemble everyone
2 necessary. You'll be asked by - you may be asked by
3 the clerk - you will be asked by the clerk whether
4 you find the defendant guilty or not guilty of the
5 crimes charged. The foreperson shall announce the
6 verdict in open court.

7 You should not expect me to make any comment on
8 your verdict. It has been my task to rule upon the
9 evidence and to instruct you as to the law. It is
10 your task to decide the case. And I will leave that
11 strictly up to you and make no comment on what you
12 decide. It is of course merely the division of
13 duties and not lack of appreciation in your efforts
14 that keep me from commenting on your decision.

15 At this point I'm going to ask you to return to
16 the jury room so I can discuss with the attorneys the
17 reading of this charge. If I missed anything or need
18 to clarify something they'll let me know. Once that
19 is done, I will bring you back in the courtroom to go
20 over anything that needs to be explained to you. You
21 are to continue to follow my directions about not
22 discussing the case yet or forming any opinions until
23 you begin your deliberations. You can begin your
24 deliberations once you've elected a foreperson and
25 then you'll get all your evidence.

26 So what we're going to do is we're going to send
27 you back there, we're going to send you all back

1 there right now. And then also not a foreperson,
2 just somebody come up with what you want for a
3 schedule. I have to - it's going to take us a while
4 to do two things. (1) We have to make sure you get
5 all the evidence; (2) There is something that we need
6 to redact. Again, names were included on a report.
7 We thought we got it all, we didn't.

8 Also I - I have changes to make on page 20, page
9 30 and page 40 on here. And I think there may be one
10 other page that I missed early on, yes. So it's
11 going to take us just a little bit to get to you.
12 What we're going to do is, you're going to go back
13 there. Let me know what you want your schedule to
14 be, write it down. You're going to come back out
15 here and then I'm going to dismiss the alternates.

16 I'm not going to really dismiss the alternates,
17 I'm going to just have them - then could leave, but
18 they're on standby just in case one of you cannot
19 proceed in the deliberations. But that doesn't mean
20 you go to a separate room and just sit there. You
21 could go home you just can't discuss it with anyone.
22 But I'll get into that in a minute.

23 So at this time I'm going to ask if you can go
24 in the jury room and we'll be right with you.

25 (Whereupon the jury panel exited the courtroom.)

26 THE COURT: Okay. Any exceptions?

27 ATTY. DAVIS: Not from the State.

1 ATTY. BERKE: Yes, your Honor. I made a couple
2 of notes.

3 THE COURT: Yes, please.

4 ATTY. BERKE: There was some notes where the
5 Court omitted words that were in your document. I
6 don't know if you want me to highlight those. If you
7 give it to the jury, I'm not sure -

8 THE COURT: The jury is going to get my entire
9 instruction. In fact, I've got to make changes to
10 certain pages like the envelope system. It's brand
11 new in this building so I have to put that in there,
12 but whatever you want. It's your trial, counsel. If
13 you want to put on things that I omitted if it's
14 glaring, I'll certainly bring them back out. Not
15 glaring, if -

16 ATTY. BERKE: Well, I'll bring it to your
17 attention and then I guess you can decide.

18 THE COURT: Yes, please.

19 ATTY. BERKE: I started to say, what's
20 frustrating is no matter how many times you look at
21 something -

22 THE COURT: I know.

23 ATTY. BERKE: - until you hear it, someone speak
24 it and you're reading it, you don't see it. So page
25 10, the last line of the first paragraph, the first
26 full paragraph.

27 THE COURT: Go ahead.

1 ATTY. BERKE: I believe after was committed by
2 the accused should also say - and proven beyond a
3 reasonable doubt.

4 THE COURT: Does the State wish to be heard?
5 I'm going to do one by one. How many do you have?

6 ATTY. BERKE: Some of them were the things that
7 you have on the side of the comments.

8 THE COURT: Okay.

9 ATTY. BERKE: So I'm not sure - one, two, three,
10 four, five, six -

11 THE COURT: So does the State wish to be heard
12 on that? And that is on page 10 the first full
13 paragraph - independent paragraph I should say at the
14 end the last sentence - and proven beyond a
15 reasonable doubt. Any objection?

16 ATTY. DAVIS: We're okay.

17 THE COURT: Good, it's in. Next. It would be
18 in anyway whether you objected or not.

19 Next page.

20 ATTY. BERKE: Page 14.

21 THE COURT: Yes.

22 ATTY. BERKE: End of the third line credibility
23 of the evidence. And I'm suggesting that you add -
24 or testimony of the police officers. Because it's in
25 the context of - it's not just evidence, it's -

26 THE COURT: All right. So - and I'm sorry,
27 Attorney Berke -

1 ATTY. BERKE: Sure.

2 THE COURT: - if you find any omissions in the
3 investigation were significant - is it in the first
4 paragraph?

5 ATTY. BERKE: First paragraph. You may consider
6 where the omissions tend to affect the quality,
7 reliability or credibility of the witnesses or
8 testimony of the police officers. Oh, no, wait,
9 actually that doesn't make sense because I called
10 witnesses that were police officers. Never mind,
11 that doesn't make sense to -

12 THE COURT: Never mind. Okay, next. Page 17 I
13 see that that -

14 ATTY. BERKE: Yes.

15 THE COURT: - that comes out. And I - I did
16 note also that in the second paragraph. The
17 testimony is entitled to such weight as you find the
18 - this is the last sentence of that second paragraph
19 - find the expert's qualifications in his or her
20 field. I just put her field, but we do have - we did
21 have a few male experts.

22 ATTY. BERKE: I'll wait till you're finished.

23 THE COURT: The next page?

24 ATTY. BERKE: Page 18 the first full paragraph,
25 the second line. When the Court read it, the Court
26 omitted or did not commit when you - when you read it
27 to them.

1 THE COURT: Only you will determine whether or
2 not the State has proved beyond a reasonable doubt
3 that -

4 ATTY. BERKE: No, no. You may not consider -
5 that paragraph, Monica. This is page 18.

6 THE COURT: I didn't say that?

7 ATTY. BERKE: You omitted did not. You just
8 read through it.

9 THE COURT: All right.

10 ATTY. BERKE: I'd ask you just reread that
11 paragraph. It's not - it wouldn't really be taken
12 out of context by just rereading that section because
13 it's only relating to her.

14 THE COURT: Okay, I'll do that.

15 ATTY. BERKE: Page 20 - the end of the third
16 full paragraph.

17 THE COURT: Yes.

18 ATTY. BERKE: You omitted of the defendant's
19 identification. You just said beyond a reasonable
20 doubt.

21 THE COURT: Oh boy, okay.

22 ATTY. BERKE: And obviously there's a comment on
23 the right by Judge Gonzalez.

24 THE COURT: Yeah.

25 ATTY. BERKE: 23 I'm just highlighting it. As I
26 have just described. I don't know if you want to
27 take that out because if you're going to hand it to

1 them, you didn't say that.

2 THE COURT: Okay. I'm just going to hand it to
3 them, but the other two I will include.

4 ATTY. BERKE: Page 24 -

5 THE COURT: Got it.

6 ATTY. BERKE: - First Degree. The way you read
7 it once again the concepts of specific intent applies
8 to counts 1, 2 and 3. Sexual in the First and Sexual
9 in the Fourth Degree. You read it to them, but it's
10 not included in your document. I'm just doing
11 everything that's a deviation from this.

12 THE COURT: Okay.

13 ATTY. DAVIS: I think you talk about it in the
14 fourth jury section, don't you?

15 THE COURT: Yes, I do.

16 ATTY. BERKE: You -

17 THE COURT: All right. I'm not going to bring
18 that back to their attention.

19 ATTY. BERKE: Okay.

20 THE COURT: Thank you, though.

21 ATTY. BERKE: 29, this is not significant. Once
22 again, this is just on diverse date, it should be
23 dates.

24 THE COURT: Okay.

25 ATTY. BERKE: This is unanimity the third line
26 of unanimity.

27 THE COURT: Okay. I'm not going to bring them

1 back in for that.

2 ATTY. BERKE: A couple of lines further down it
3 begins with although the State is not required to
4 prove instance certain -

5 THE COURT: Yeah.

6 ATTY. BERKE: - that was just awkwardly - I just
7 have a question mark because it just sounded awkward
8 when the Court read it.

9 THE COURT: I have a way of doing that with the
10 English language.

11 ATTY. BERKE: I'm just not sure how to - I
12 wasn't confident how to fix it.

13 THE COURT: No, no.

14 ATTY. BERKE: To prove an instance certain, an
15 instance.

16 THE COURT: Yes, I think an instance is the
17 correct way.

18 ATTY. BERKE: An instance.

19 THE COURT: I'm going to add it, all right, and
20 I'll say it. Read and add an.

21 And then on page 30 I read date, I meant to put
22 an instance.

23 ATTY. BERKE: Yes.

24 THE COURT: So I'm just going to reread that.

25 ATTY. BERKE: Once again, this is something that
26 I can't believe I missed. Page 30 the second line of
27 Risk of Injury, the statute defining the offense

1 imposes penalties. I don't remember another charge
2 having penalties in the - in the elements of it.

3 THE COURT: That's - that's straight from the
4 charge book.

5 ATTY. DAVIS: Yeah, I would keep it.

6 ATTY. BERKE: Which is - which is unusual.
7 Because why would penalties be in the elements
8 section?

9 THE COURT: Do you have any suggestions what I
10 should do?

11 ATTY. BERKE: Yeah. There's no - let me see
12 what the other statutes define the charge. The
13 statute defines this offense reads in pertinent part
14 - so on the top of 28 just replace with that
15 language. The statute defining this offense reads as
16 follows. Any person who has contact . . .

17 THE COURT: Okay. That's reasonable. I'm not
18 asking the State - I'm not, I'm just going to do it.
19 The statute reads as follows. Any person who has
20 contact with the intimate parts. I'm not going to
21 bring them back in and say I took out penalty.

22 ATTY. BERKE: Right.

23 THE COURT: So that will not be reread.

24 ATTY. PALERMO: Can I just comment?

25 THE COURT: Yes, sure.

26 ATTY. PALERMO: That doesn't make sense. You
27 have to add something to the end of it, though.

1 THE COURT: The statute reads as follows. Any
2 person who has contact with the intimate parts of a
3 child under the age of 16 years of age - reads as
4 follows. A person is guilty of Risk of Injury if any
5 person who has contact.

6 ATTY. BERKE: Would it be clearer if you take
7 out the who? Any person who has -

8 THE COURT: Yeah, we will say the statute -

9 ATTY. BERKE: Any person who has contact.

10 THE COURT: Yeah, the statute reads as follows.
11 Any - a person is guilty of Risk of Injury if any
12 person who has contact. Okay, next.

13 ATTY. BERKE: 32, element 4, the first line.
14 The fourth element is that at the time of the alleged
15 incident - is my request.

16 THE COURT: Okay, that's denied. Next.

17 ATTY. BERKE: I'm almost done.

18 THE COURT: Take your time. I'm not - I didn't
19 want you to think that my sua sponte denial without
20 turning to the State and then to rush things up.
21 It's just I think read in its whole, it's fine.

22 ATTY. BERKE: The bottom of the paragraph, the
23 first paragraph on page 33.

24 THE COURT: Go ahead, I'm sorry. You're where,
25 33?

26 ATTY. BERKE: 33, the bottom - the last line on
27 the bottom of the first paragraph.

1 THE COURT: Contact was likely to impair the
2 health or morals.

3 ATTY. BERKE: Thus, in order for you. To the
4 last line on the bottom of the first paragraph.

5 THE COURT: Okay, okay, yeah. Thus, in order
6 for you to find the defendant guilty of Risk of
7 Injury -

8 ATTY. BERKE: I read this three times, and it
9 sounds incorrect. Maybe I'm just tired.

10 THE COURT: Anybody can get up and leave in the
11 back there. They're welcome to if they need to. And
12 just for the record it looked like the members of the
13 audience want to leave. I told them they couldn't
14 leave during my reading of the charge, but they can
15 certainly leave now.

16 Anything else?

17 ATTY. BERKE: Yes. On page 38 the paragraph
18 that says in sum, second paragraph.

19 THE COURT: In sum, your task is to render a
20 verdict based -

21 ATTY. BERKE: Right. So the Court read that
22 paragraph except omitted or bias for.

23 THE COURT: Okay, I'll reread 38 that paragraph
24 only.

25 ATTY. BERKE: And that's it.

26 THE COURT: Okay. Anything from the State?

27 ATTY. DAVIS: No, your Honor.

1 THE COURT: All right. And Madam Clerk did
2 indicate there was a Scribner's error with regards to
3 the Information. I know that's the last thing you
4 want to hear.

5 THE COURT CLERK: It wasn't - it was your -

6 THE COURT: It was mine?

7 THE COURT CLERK: - but you just forgot the
8 little a from 73.

9 THE COURT: Sexual Assault in the Fourth.

10 THE COURT CLERK: Yeah.

11 THE COURT: I've got -

12 THE COURT CLERK: So it should be -

13 THE COURT: What page is that?

14 THE COURT CLERK: 27. 53a-73, the little a,
15 parens little a then 1. It's easy to forget. It's
16 like the little a right after 73 -

17 THE COURT: All right. On page 27 the correct
18 statute the State has to read in conformance with the
19 Information is count 3 Sexual Assault in the Fourth
20 Degree, 53a little a, paren (a)(1)(A). I did not
21 have the small a in there. So thank you, madam
22 clerk, I'll add that.

23 I'm going to come back in, I'm going to read
24 these things to the jury. I'm going to dismiss the
25 alternates and I'm going to tell the others it's
26 going to take a while. We have all the information
27 here. I want you to look at it and okay it before it

1 goes in, all the interrogatories and the evidence.
2 I'm just going to tell them it's going to be 10
3 minutes for me to type this up. I just have to
4 figure out how to get rid of Judge Gonzalez's
5 comments.

6 ATTY. DAVIS: If you right click it, you can
7 just hit ignore or accept or something like that.

8 THE COURT: Right click ignore Gonzalez, I wish
9 I knew that earlier. Okay. And just by my way of
10 practice, I have the alternates going to my chambers
11 and I - I talk with them. And then the marshals will
12 escort them out. So but they're going to let us know
13 what they're going to do.

14 So if you can bring in the jury, please.

15 (Whereupon the jury panel entered the
16 courtroom.)

17 THE COURT: Does anybody have a note? Okay,
18 please be seated.

19 Counsel stipulate to the presence of the jurors
20 and alternates?

21 ATTY. DAVIS: The State stipulates.

22 ATTY. BERKE: The defense stipulates, sir.

23 THE COURT: Okay. Today we would like to take a
24 30-minute break assuming everything is ready for
25 deliberation. Yes, 30 minutes will be perfect.
26 That's fantastic. Otherwise, we would like to take
27 an hour lunch. No, we'll give you 30 minutes, you'll

1 have 30 minutes. We'll stay till 4:45 today.

2 Thursday we'd like to come in a 9 a.m.

3 Is that 9 a.m.?

4 THE FOREPERSON: Yes.

5 THE COURT: 9 a.m. Take 30 minutes in the
6 afternoon to go and pick up lunch and come back to
7 continue deliberations. Perfect, you're the bosses.

8 So can I have that marked as a Court Exhibit,
9 please?

10 There's a couple of things I just need to reread
11 to you, and I want to make sure I have it all.

12 THE FOREPERSON: I'm sorry, your Honor. We
13 would like to take the 30 minutes, go get our food
14 and come back if we are to start today.

15 THE COURT: Absolutely.

16 THE FOREPERSON: Okay.

17 THE COURT: Okay. And here's what happened.
18 There's some typos in here. And I've told you, as
19 many times as you read it, I still miss it. So I
20 have to go back and just fix those. So we also have
21 the exhibits. You'll get them all. There's one
22 exhibit that needs to be redacted because it has a
23 name, so that's going to take time. So 30 minutes is
24 actually perfect.

25 I have to reread 18. Is there something on 18
26 I'm supposed to reread?

27 ATTY. BERKE: It starts at 10.

1 THE COURT: 10? Oh, that's right. Oh, I'm
2 reading the wrong stuff, never mind. Earlier I read
3 to you the only practical difference between direct
4 and circumstantial evidence is that direct evidence
5 the main thing that the State would have to determine
6 - you have to determine is the believability of
7 direct testimony given. The credibility of the
8 witness.

9 With circumstantial evidence you must determine
10 the credibility of the witnesses or witnesses and
11 decide whether the facts did exist - testified to did
12 exist. Then you must decide whether the happening of
13 those events or the existence of those facts
14 logically - leads logically to the conclusion that
15 other events occurred or other facts exist. And
16 ultimately whether the crime alleged was committed by
17 the accused and proved beyond a reasonable doubt.

18 The next up is page 29 - at least in my notes I
19 have. This is with regards to the unanimity on
20 Sexual Assault in the Fourth Degree. The State has
21 alleged that the defendant committed the offense of
22 Sex in the Fourth on more than one occasion on
23 diverse dates between December of 2018 and May of
24 2020. You may find the defendant guilty of the
25 offense only if you all unanimously agree on at least
26 one instance alleged the defendant committed the
27 offense.

1 This means you may not find the defendant guilty
2 unless you all agree that the State has proved beyond
3 a reasonable doubt the defendant committed the
4 offense of Sexual Assault in the Fourth Degree on a
5 particular instance that you all agree. Although the
6 State is not required to prove an instance certain,
7 you ladies and gentlemen must agree on the same - the
8 same occasion to find the defendant guilty.

9 For example, your verdict must be unanimous if -
10 will be un-unanimous if three of you believe that the
11 sexual assault took place on one instance, but the
12 other three of you believe it happened on another
13 instance. To be unanimous each of you must agree
14 upon any instance that it had occurred.

15 And I think that's it for my readback. Is that
16 correct?

17 ATTY. DAVIS: Yes.

18 ATTY. BERKE: No.

19 THE COURT: No. What did you have?

20 ATTY. BERKE: Page 30 risk.

21 THE COURT: The defendant is charged in counts
22 4, 5 and 6 with Risk of Injury to a Minor. The
23 statute reads as follows. A person is guilty of Risk
24 of Injury to a Minor when any person who has contact
25 with the intimate parts of a child under the age of
26 16 years of age subjects a child under 16 years of
27 age to contact with the intimate parts of such person

1 in a sexual and indecent manner likely to impair the
2 health and morals of such child.

3 And finally, when I talked about bias, that is
4 prejudice or conscious or unconscious bias, I say in
5 sum, in conclusion or in sum, your task it to render
6 a verdict based only upon the facts from the evidence
7 introduced in the courtroom and the law as stated in
8 my instructions to you. It should not be based on
9 any bias or prejudice against any party or person
10 involved in the trial.

11 All right. What we're going to do now is I'm
12 going to thank the alternates. You could go back -
13 and here's what we're going to do. I'm going to
14 thank the alternates and I'm going to have the
15 alternates come in my chambers. I just have to speak
16 to you briefly, but we will have the - and then the
17 rest of you could go out and grab lunch. The
18 marshals will be available.

19 Are you going to have them up on the seventh?

20 THE MARSHAL: Whatever you want to do.

21 THE COURT: Yeah, up on the seventh. You can
22 still go up to the seventh floor, someone will escort
23 you down. And I'm sorry I turned my head, I don't
24 know if you got that.

25 THE COURT MONITOR: I did.

26 THE COURT: All right. I just want to say to
27 the alternates thank you for your attendance. You

1 have served an extremely important function. I'm
2 going to ask you to adhere to the instructions that I
3 previously gave to you. Although it is unusual, it
4 is a procedure by which you could be brought back to
5 deliberate in this case in the event that a regular
6 juror cannot continue with deliberations for some
7 reasons.

8 So for that reason it is important that you
9 adhere to my prior instructions and not discuss this
10 case with anyone or allow anyone to talk to you about
11 it. Do not discuss the case or communicate anything
12 about the case and keep an open mind. Do not
13 speculate - please, do not speculate with regards to
14 the deliberations. Please continue to avoid all
15 media coverage. I don't think there was any. That
16 includes social media.

17 I will personally contact you after the verdict
18 to thank you again for your service and to formally
19 release you at that time. But you know here's what
20 we're going to do. It's not like TV you know we put
21 you up at a Holiday Inn, and it's not like that at
22 all. You go home, you go on with your regular life.
23 When there's a verdict Madam Clerk could tell you the
24 first thing I do is get your phone numbers and I call
25 you up and I - and I let you know what the verdict
26 was and then formally discharge you.

27 Okay. So with that - if the jurors - if all of

1 you could go back in, the alternates get your stuff
2 and they could come in my -

3 THE COURT CLERK: I'm just going to get
4 notebooks.

5 THE COURT: Oh, we're going to get notebooks
6 now, they're going to be in your room. When you come
7 back after lunch or when you come back to have your
8 lunch, you're going to have in there my charge, the
9 interrogatories, the Information and the evidence.
10 You'll have that all in there, all right. Thank you,
11 ladies and gentlemen.

12 (Whereupon the jury panel exited the courtroom.)

13 THE COURT: All right. We're going to go off
14 the record right now. I want to thank the staff, the
15 marshals, the clerk, the court reporter.

16 (Whereupon the court stood in recess.)

17 THE COURT: We're on the record. State of
18 Connecticut vs. Nicholas Hall, please be seated. The
19 parties are present, Mr. Hall is here. We have a
20 note. It's Court Exhibit 30, that's 3-0. Your
21 Honor, can we review the divorce transcript? And
22 it's signed by the foreperson. The parties have had
23 a chance to review it. Yes, they're all nodding in
24 the affirmative.

25 I'm just going to tell them no, it's not
26 evidence. And the evidentiary portion of the trial
27 is closed. And they're not to - actually I'm just

1 going to leave it at that. So does anybody have any
2 objection to what I will tell them?

3 ATTY. DAVIS: No, your Honor.

4 ATTY. PALERMO: No, your Honor.

5 ATTY. BERKE: No, sir.

6 THE COURT: Okay. If we can bring in the jury,
7 please.

8 (Whereupon the jury panel entered the
9 courtroom.)

10 THE COURT: Counsel stipulate to the presence of
11 all jurors?

12 ATTY. DAVIS: The State stipulates.

13 ATTY. BERKE: The defense stipulates, sir.

14 THE COURT: Thank you.

15 Ladies and gentlemen, thank you so much for the
16 notes and thank you for following directions. You
17 did it perfectly. You put it in an envelope, you
18 sent it in. And it's now marked as Court's Exhibit
19 30. All our communications are done in this manner.
20 I can't write a note back and send it to you, so I
21 have to bring you out here.

22 The question - your Honor, can we review the
23 divorce transcript? The answer is no. And here's
24 why. It's not in evidence. The evidentiary portion
25 of the trial is over, so we can't - if it's not in
26 evidence, it's not to be considered. Okay? Sorry, I
27 had to bring you out for that, but that's the way we

1 communication.

2 But listen, any time you want to just write a
3 note. It just takes us a second to get everyone
4 assembled. The marshals are all over the building,
5 we have to get everyone here. We have to get the
6 clerk, the court monitor and everyone here. So thank
7 you.

8 THE JURY: Thank you.

9 THE COURT: And I know you want to leave at
10 4:45. So at 4:30 the lawyers will all come here and
11 then we'll get you out of here, we'll finish at 4:30.
12 Okay, thank you.

13 (Whereupon the jury panel exited the courtroom.)

14 THE COURT: Yes, we have a new system with
15 regards to the envelope system.

16 ATTY. DAVIS: What is, they just have to put it
17 in an envelope? I never heard of that.

18 THE COURT: Yeah, they have to put it in the
19 envelope and then seal it somehow or clasp it. So -

20 ATTY. DAVIS: Okay.

21 THE COURT: - because we reuse the same envelope
22 over and over again. It's very effective. All
23 right, we'll recess. Just stand by, stand by. Thank
24 you, everyone.

25 (Whereupon the court stood in recess.)

26 THE COURT: We're on the record in State vs.
27 Hall. The parties are present, Mr. Hall is here.

1 Good afternoon, everyone. Please be seated.

2 The jury had requested to be out of here by
3 4:45. I told them when they were down, everyone come
4 together at 4:30. It's 4:30. So if we bring them
5 out and they say we want another 10 minutes, that's
6 fine, I'll give it to them. But right now we're
7 going to let them go. Thank you.

8 (Whereupon the jury panel entered the
9 courtroom.)

10 THE COURT: Counsel stipulate to the presence of
11 all the jurors?

12 ATTY. DAVIS: The State stipulates.

13 ATTY. BERKE: Yes, sir.

14 THE COURT: Okay, thank you. Good afternoon,
15 ladies and gentlemen. So we're going to start
16 tomorrow. And your notes are at 9:00 tomorrow. I'm
17 going to ask if you go again to the seventh floor.
18 I'm going to ask the parties do not have to be
19 present. We're going to bring you down, just like we
20 did after lunch today and have you start
21 deliberating.

22 But in the meantime, I have to tell you this. I
23 know you're in the process of deliberating, but
24 please don't make up your mind. And remember, you
25 cannot deliberate about the case until all six of you
26 are present and you are in the room. Please do not
27 seek out any information outside of this courtroom

1 related to the case or the evidence you've heard so
2 far. Do not do any independent examination or go to
3 the alleged crime scene.

4 You are not to discuss the case with anyone,
5 including fellow jurors unless all fellow jurors are
6 in that room and deliberating. And there's rules for
7 that for a reason. And also anything that happens
8 outside this courtroom is not evidence. So I will
9 remind you that the evidence comes from court-sworn
10 testimony as well as properly introduced exhibits.

11 So we're going to send you home for the day.
12 Just leave your notepads in there, we'll gather it,
13 we'll put it all together. And tomorrow you'll get a
14 box, right. We'll have the evidence in it as well as
15 your notepads.

16 Anything else?

17 THE COURT CLERK: Just leave all the exhibits,
18 too. Yeah, if you could leave all the exhibits
19 there, that's important. Thank you.

20 And I just ask that the parties remain. I just
21 have to put something on the record with regards to
22 some evidence.

23 (Whereupon the jury panel exited the courtroom.)

24 THE COURT: All right. So the last juror has
25 left. Just a couple of things I need to put on the
26 record, I apologize. Please be seated.

27 And that's this. There were redactions done to

1 two exhibits, 27 for the State and then C for the
2 defense. So 27-1 is now sealed, that has the full
3 name. C-1 is now sealed. And full exhibits are 27-2
4 and C-2. So they're exhibits.

5 The State had an opportunity - I know Attorney
6 Berke, you had to go to a sentencing up on the other
7 hill, but the State had an opportunity to check all
8 the evidence when they went in. And you're okay with
9 what went in?

10 ATTY. DAVIS: Yes. And just for the record,
11 Attorney Berke and Attorney Palermo and I told the
12 clerk what we wanted - she assisted us in getting
13 done what we wanted, and she did it exactly as
14 Attorney Berke wanted as well.

15 THE COURT: Okay, great.

16 ATTY. BERKE: Your Honor, I looked at the
17 evidence before I left. It was only the one document
18 with redaction that I wasn't part of. I didn't know
19 if that was clear from the record that that's what
20 happened.

21 THE COURT: Okay. And the transcript - I mean,
22 not transcript, the charge with the changes have been
23 sent in there with them, too. Now with regards to
24 the morning, look, I know you're all busy lawyers.
25 But at 9:00 I was going to have them - they're going
26 to come and they're going to assemble. I was going
27 to bring them down. You don't have to be here. If

1 you're okay - and then we just have to put on the
2 record at a later time that all the evidence went in,
3 so we could do that. Are you folks okay with that?

4 ATTY. BERKE: Yes.

5 ATTY. DAVIS: Yes, your Honor.

6 ATTY. PALERMO: Yes.

7 THE COURT: I know you have an office in this
8 building.

9 Attorney Berke, you do not. So just you know -
10 and I know you know just be within 10, 15 minutes.

11 ATTY. BERKE: I will. I'll be down the street
12 for a moment.

13 THE COURT: Okay.

14 So anything else I need to put on? Excuse me.

15 Okay. So there is a - and it's more of a house
16 rule that the evidence gets reviewed with the
17 attorneys before it goes in. I'm going to waive that
18 house rule, if the parties are okay with waiving it?

19 ATTY. BERKE: Yes.

20 ATTY. DAVIS: Yes.

21 THE COURT: Okay. And then I'll put on the
22 record - I'll tell you this, I go over it. In fact I
23 don't leave the building until all the evidence is
24 accounted for tonight. So I'll make sure and I'll
25 put that on the record.

26 ATTY. DAVIS: Thank you.

27 THE COURT: We don't need you here, okay.

1 ATTY. BERKE: Thank you.

2 THE COURT: Thank you, everyone. Adjourned.

3 (Whereupon court was adjourned.)

4

5 * * * * *

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

NO: FBT-CR20-0336785-T : SUPERIOR COURT
STATE OF CONNECTICUT : J.D. OF BRIDGEPORT
v. : AT BRIDGEPORT, CONNECTICUT
NICHOLAS HALL : FEBRUARY 19, 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 19th day of February 2025.

Dated this 6th day of March 2025 in Bridgeport, Connecticut.

Andrena Jack

Andrena Jack
Court Recording Monitor