

No. 17-6095

IN THE
Supreme Court of the United States

KEVIN MICHAEL SHEA,
Petitioner,

v.

LORIE DAVIS, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,
Respondent.

**On Petition for Writ of Certiorari
To the United States Court of Appeals for the Fifth Circuit**

APPENDIX TO BRIEF IN OPPOSITION

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APPENDIX 1

THE STATE OF TEXAS § IN THE 66TH JUDICIAL
v. § DISTRICT COURT OF
KEVIN MICHAEL SHEA, § HILL COUNTY, TEXAS
DEFENDANT

SID: TX02545115

JUDGMENT OF CONVICTION BY JURY;
SENTENCE BY JURY TO Institutional Division, TDCJ

DATE OF JUDGMENT: June 20, 2002
JUDGE PRESIDING: Robert G. Dohoney
Saralyn Rollins and Janie Treadwell, Court
Reporters
ATTORNEY FOR THE STATE: William W. Johnston
ATTORNEY FOR THE DEFENDANT: William G. Mason
OFFENSE: Indecency with A Child
STATUTE FOR OFFENSE: Article 21.11, Section (a)(1), Penal Code
DEGREE OF OFFENSE: Second Degree Felony
APPLICABLE PUNISHMENT RANGE
(including enhancements, if any): First Degree 5-99 yrs or life/max \$10,000 fine-
enhanced
DATE OF OFFENSE: June 10, 1998
CHARGING INSTRUMENT: Indictment
PLEA TO OFFENSE: Not Guilty
PLEA TO ENHANCEMENT Not True entered by Court
PARAGRAPH(S):
VERDICT FOR OFFENSE: Guilty
FINDING ON ENHANCEMENT: True
AFFIRMATIVE FINDING ON Not Applicable
DEADLY WEAPON:
OTHER AFFIRMATIVE Not Applicable
SPECIAL FINDINGS:
DATE SENTENCE IMPOSED: May 23, 2003
PUNISHMENT AND PLACE OF 99 years in the Institutional Division-TDCJ
CONFINEMENT:
TIME CREDITED TO SENTENCE: 274 Days (am)
COURT COSTS: \$209.25
TOTAL AMOUNT OF RESTITUTION: \$
NAME AND ADDRESS FOR
RESTITUTION:

FILED
CHARLOTTE BARR, DISTRICT
CLERK, HILL COUNTY, TX
2003 MAY 23 9 1:49

The Sex Offender Registration Requirements under Chapter 62, CCP, apply to the Defendant. The age of the victim at the time of the offense was a child younger than 17 years.

On the date stated above, the above numbered and entitled cause was regularly reached and called for trial, and the State appeared by the attorney stated above, and the Defendant and the Defendant's attorney, as stated above, were also present. Thereupon both sides announced ready for trial, and the Defendant pleaded **not guilty, being admonished of the consequences,**

DS4: Judgment of Conviction by Court; Sentence By Jury, Cause No. 31,368; Page 1 of 3 Pages

and a jury, with: Kathleen M. Reddell, and eleven others, was duly selected, impaneled and sworn. Having heard the evidence submitted and having been duly charged by the Court, the jury retired to consider their verdict. Afterward, being brought into open court by the proper officer, the Defendant's attorney, and the State's attorney being present, and being asked if the jury had agreed upon a verdict, the jury answered it had and returned to the Court a verdict, which was read aloud, received by the Court, and is now entered upon the Minutes of the Court as follows:

VERDICT OF THE JURY

We, the Jury, find the Defendant, KEVIN MICHAEL SHEA,
Guilty of the offense of a Indecency with a Child, as alleged in the
Indictment.

Kathleen M. Reddell,
PRESIDING JUROR

Thereupon, the Defendant having previously elected to have the punishment assessed by the jury, pleaded to the enhancement paragraphs, if any, as stated above, and the jury was called back into the box and heard evidence related to the question of punishment. Thereafter, the jury retired to consider such question and, after having deliberated, the jury was brought back into open court by the proper officer, the Defendant's attorney, and the State's attorney being present, and being asked if the jury had agreed upon a verdict, the jury answered it had and returned to the Court a verdict, which was read aloud, received by the Court, and is now entered upon the Minutes of the Court as follows:

Verdict of the Jury

We, the jury having found the Defendant KEVIN MICHAEL
SHEA, guilty of the felony offense of INDECENCY WITH A
CHILD, do further find that the said Defendant is a habitual
offender, and we assess the Defendant's punishment at
imprisonment in the institutional division of Texas Department of
Criminal Justice for 99 (25-99) years.

Kathleen M. Reddell,
PRESIDING JUROR

A presentence investigation report was done according to Article 42.12, sec. 9, CCP.

And thereupon the Court asked the Defendant whether the Defendant had anything to say why said sentence should not be pronounced upon said Defendant, and the Defendant answered nothing in bar thereof. Whereupon the Court proceeded to pronounce sentence upon said Defendant as stated above.

It is therefore ORDERED, ADJUDGED and DECREED by the Court that the defendant is guilty of the offense stated above, the punishment is fixed as stated above, and the State of Texas do have and recover of said defendant all court costs in this prosecution expended, for which execution will issue.

It is ORDERED by the Court that the Defendant be taken by the authorized agent of the State of Texas or by the Sheriff of this county and be safely conveyed and delivered to the **Director, Institutional Division-TDCJ**, there to be confined in the manner and for the period aforesaid, and the said defendant is hereby remanded to the custody of the Sheriff of this county until such time as the Sheriff can obey the directions of this sentence.

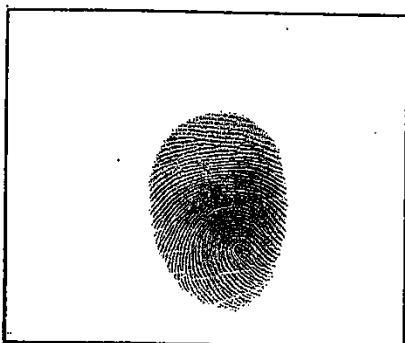
The defendant is given credit as stated above on this sentence for the time spent in county jail. The Defendant also is ordered to pay restitution to the person(s) named above in the amount specified above.

Furthermore, the following special findings or orders apply:

Signed on the 23 day of May, 2003

Robert D. Dehoney
Judge Presiding

Defendant's right thumbprint



Kristin P. [Signature]

APPENDIX 2

10-03-180-CR

1

REPORTER'S RECORD
VOLUME 3 OF 7 VOLUMES
TRIAL COURT CAUSE NO. 31,368

THE STATE OF TEXAS) IN THE DISTRICT COURT
VS.) OF HILL COUNTY, TEXAS
KEVIN MICHAEL SHEA) 66TH JUDICIAL DISTRICT

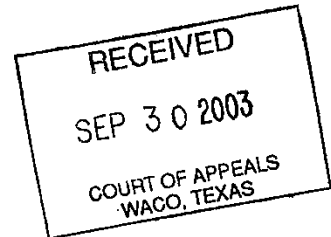
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APPEARANCES:

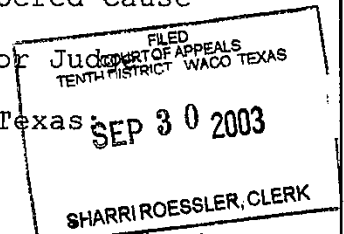
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ATTORNEY FOR THE DE PAUL CENTER



On the 18th day of June, 2002 the following proceedings came
on to be heard in the above-entitled and numbered cause
before the Honorable Robert G. Dohoney, Senior Judge,
presiding. Held in Hillsboro, Hill County, Texas.



Proceedings reported by machine shorthand.
Reporter's Record produced by computer-aided transcription.

ORIGINAL

1 As a jury, you are the determiner of the facts
2 in the case at hand, but the law in the case will come from
3 the Court. Up to this time all of the matters that have been
4 presented to the jury is not evidence. When the first
5 witness takes the stand and the first question is directed to
6 the witness, this is evidence for the jury's consideration,
7 unless part of the testimony is excluded by a ruling of the
8 Court.

9 During the recess intervals you'll be allowed
10 to move around at your leisure, but it is most vital for you
11 to remember the previous instructions issued by the Court as
12 to your conduct while you're out of the jury box. Every
13 effort will be made by the Court to give the jury such
14 explanatory directions that will be helpful to the jury in
15 carrying out your duties.

16 Ms. Williams, let me remind you you're still
17 under oath. Proceed.

18 MR. JOHNSTON: Thank you.

19 SARAH WILLIAMS,
20 having been previously sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. JOHNSTON:

23 Q Please state your name for the jury.

24 A Sarah Williams.

25 Q And Sarah, how old are you at this time?

1 A I'm twenty.

2 Q Would you state where you lived before you came to
3 Hill County?

4 A Wortham, Texas.

5 Q All right. And what age were you when you left
6 Wortham?

7 A Twelve.

8 Q Where did you move in Hill County?

9 A In Blum, Texas.

10 Q Okay. And what was your housing situation there?
11 What -- kind of, why did you move with your mom and so forth?

12 A When my mom divorced, we lived in a trailer that
13 we had bought in Wortham and moved to a different spot, then
14 we moved to Blum. We lived with my Aunt Deann for a little
15 while until we got a rent house in Blum.

16 Q Okay. And what grade were you in, then, when you
17 began school in Blum?

18 A 7th grade.

19 Q Would you describe briefly for the jury, some may
20 be familiar with Blum and some may not be, but sort of where
21 your house was compared to everything else? Was it on a
22 normal street with homes around it?

23 A My Aunt Deann's house?

24 Q Yes, where you lived.

25 A It was on, like a highway, like a -- like a normal

1 road that was paved. And where Kevin lived was diagonal from
2 it.

3 Q Okay. Were there a number of houses around your
4 house?

5 A Yes.

6 Q How many? Do you know?

7 A Well, on the right side was the Fergusons, and on
8 the left side was Glenda and Paula's.

9 Q I didn't hear you.

10 A Glenda, which was Glenda Tubbs, was on the left
11 side.

12 Q Okay. And as you were in Blum attending school
13 there in the 7th grade, can you state whether or not you got
14 to be familiar with enough of the people that lived in the
15 Blum area?

16 A No, I didn't.

17 Q Okay. How --

18 A I didn't know too many.

19 Q Okay. How about the area around your home, the
20 houses around? Did you kind of get to know those people?

21 A No, not really.

22 Q Okay. Would you describe when you -- what
23 happened when you first met Kevin Shea?

24 A He was helping me with a history project that I
25 was assigned.

1 Q Okay. How did you come to ask for Kevin Shea's
2 help, or how did he know you had a history project when you
3 were in the 7th grade?

4 A My family asked him to help me.

5 Q Okay. What was the nature of the project; do you
6 remember?

7 A It was a log cabin.

8 Q I'm sorry?

9 A A log cabin.

10 Q To build?

11 A Uh-huh,

12 Q Okay. Did you learn he had some experience with
13 wood working?

14 A Yes.

15 Q Okay. And did he help you build a log cabin?

16 A Yes, he did.

17 Q Did you turn it in?

18 A Yes, I did.

19 Q From there, in terms of that sort of thing, did
20 you seek Kevin Shea's help on other matters, school things?

21 A School things? No.

22 Q Okay. How about becoming where he would come over
23 to your house and so forth?

24 A Yes.

25 Q And how often would he come over to the house you

1 were living in?

2 A Not too often, but often enough to come play games
3 or whatnot like Monopoly.

4 Q Like Monopoly --

5 A Uh-huh.

6 Q -- you said? And would there be times where he'd
7 come over like that at first, when this first began, where
8 your family would be there, of course, right?

9 A Oh, yeah.

10 Q Okay. And anything unusual about that, as you saw
11 it --

12 A No.

13 Q -- Ms. Williams?

14 A Huh-uh. Just a little close, that's all.

15 Q Okay. But as it began, Mr. Shea, when he came
16 over to your home, there were other people there, as you
17 said, correct?

18 A Yes, parents.

19 Q Okay. Did there come a time following that to
20 where Mr. Shea would call just for you, maybe call the home
21 on the telephone?

22 A Yes.

23 Q Okay. And can you describe about how old you were
24 when that began?

25 A Thirteen.

1 Q Okay. And then did there come a time in the
2 progression of events to where you had occasion to be alone
3 with Mr. Shea, physically alone in different places?

4 A Yes.

5 Q And how did that first happen that you were asked
6 to go somewhere or do something just with him? How did that
7 take place?

8 A It just, you know, over time, over phone calls and
9 stuff we just got -- became close friends. And then, just,
10 one time he came to my window.

11 Q Okay. The acoustics in this courtroom are bad,
12 and we all know that. But it's important that you talk close
13 enough in the microphone so you can be heard, and I may slow
14 you down too, okay?

15 A Okay. Sorry.

16 Q I'm -- I'm going to ask you to kind of repeat
17 that. I was asking you how it came that you found yourself
18 alone with Mr. Shea, and you said something about phone
19 calls, through phone calls and so forth?

20 A Yes, we became close friends through phone calls,
21 and him coming over and playing Monopoly, and talked to my
22 mom, and we were all just like a family friend, I mean --

23 Q Okay. How did it -- and if you recall the first
24 time, fine. And if not, just give us the context of it. How
25 then did it come about that you and Mr. Shea would find

1 yourself, just the two of you, doing things together?

2 A Sometimes he'd come to my window at night.

3 Q Okay. Had he talked to you on the phone before
4 that time or had you --

5 A Yes.

6 Q -- met out between -- between houses or something
7 before that time?

8 A Normally, we'd talk on the phone.

9 Q Okay. What sorts of things would you talk on the
10 phone about with Mr. Shea during that time, that first year
11 or so of this relationship?

12 A Maybe the problems I was having at the time.

13 Q And what were some of those problems, Sarah?

14 A We had just moved to Blum and I didn't know
15 anybody. And it was hard in school. I didn't know anybody.

16 Q Okay. And would you tell him these personal
17 thoughts you had?

18 A Yes.

19 Q Would he give you advice?

20 A Yes, he would.

21 Q Did it help?

22 A Yes.

23 Q Okay. And then through, whether it's something he
24 asked on the phone or whatever, would you describe for the
25 jurors what you first recall in terms of Mr. Shea dealing

1 with you or contacting you, just him and you?

2 A When -- when he would come to my window. And you
3 want the first instance?

4 Q Okay. Let me -- let me ask this. Was -- were you
5 sharing a room with anyone at the house?

6 A No.

7 Q Okay. And did Mr. Shea, was he able to know that
8 through having been in the home?

9 A Are you talking about my Aunt Deann's home?

10 Q Yes.

11 A Well, yes, I was sharing it with, I think Lorena --

12 Q Okay.

13 A -- at the time.

14 Q Okay. Did there come a time when you weren't
15 sharing a room?

16 A No, not in Deann's house.

17 Q Okay. Well, you need to let us know, then, when
18 you went from your Aunt Deann's house to another house.

19 A A couple of months. We were there a couple of
20 months and then we moved to -- to a rent house about a block
21 down the road.

22 Q Okay. And at the time you lived in the rent
23 house, were you still about thirteen years old?

24 A Yes.

25 Q Coming on fourteen?

1 A Uh-huh.

2 Q That is yes?

3 A Yes. I'm sorry.

4 Q And then which house was it that Mr. Shea came to
5 the -- your window?

6 A Oh, we lived -- the trailer house that we got
7 after a couple of months of being at the rent house.

8 Q Okay. All right. When you first moved to Blum,
9 did you live with your Aunt Deann?

10 A Yes.

11 Q After a couple of months of that, did you get a
12 rent house?

13 A Yes.

14 Q After a couple of months of that, did you get a
15 trailer?

16 A Yeah, we just moved the old one to Blum.

17 Q Okay. And the remainder of the time in Blum, were
18 you at the trailer?

19 A Yes, sir.

20 Q Okay. And at the trailer, did you have your own
21 room?

22 A Yes, sir.

23 Q And had Mr. Shea been in that trailer?

24 A Yes, sir.

25 Q And could someone who had been in the trailer

1 know whether or not you had your own room?

2 A Yes, sir.

3 MR. MASON: Your Honor, at this time --

4 MR. JOHNSTON: Now --

5 MR. MASON: -- with permission of the Court, I
6 would lodge an objection in that the questions are leading
7 questions.

8 THE COURT: Sustained.

9 Q (BY MR. JOHNSTON) Okay. Ms. Williams, would you
10 state the first time you recall Mr. Shea coming to a window?
11 What happened? What time of night was it?

12 A It was -- it was normally really late.

13 Q It was normally?

14 A It was normally really late, about midnight or so.

15 Q And what -- and what happened?

16 A We'd talk and -- about normal stuff that we
17 normally would over the phone. And what do you -- which
18 instance do you want?

19 Q Well, how would he get your attention? Would you
20 be asleep or in the room?

21 A Sometimes we'd be talking on the phone before he
22 came.

23 Q And would he say he was coming over?

24 A Yes.

25 Q Okay. And -- all right. Would you describe your

1 first recollections about him coming to your window? What
2 happened?

3 A I want to say the first thing that comes to mind
4 is when we was standing there, we were talking about
5 something, and he touched me right there and he told me that
6 there was like nerves and it was sensitive and stuff.

7 MR. MASON: Your Honor, at this time, based on
8 our earlier hearing, I want to lodge an objection to the
9 Court. It's extraneous matter.

10 THE COURT: Overruled.

11 MR. MASON: Your Honor, I'd ask, with the
12 Court's permission, that the Court issue an instruction at
13 this time -- at the time that the extraneous matter is
14 submitted to the jury regarding extraneous --

15 THE COURT: We'll deal with that when we do
16 the charge.

17 MR. MASON: Excuse me, sir?

18 THE COURT: We'll do that when we do the
19 charge.

20 MR. MASON: All right. You're -- you're
21 basically -- I'm trying to be courteous to the Court. You're
22 overruling my objection that an instruction be given at the
23 time the evidence is offered?

24 THE COURT: Yes, sir.

25 MR. MASON: Thank you, Your Honor.

1 Q (BY MR. JOHNSTON) All right. Your testimony
2 involved an incident at your -- at your window. What sorts
3 of discussion did you have with Mr. Shea leading up to that
4 time where any intimacy or body stuff was talked about, or
5 sex stuff?

6 A What instance over the phone?

7 Q Well, in other words, leading up to this time that
8 you're starting to describe, had y'all had some pretty
9 serious talks?

10 A Yes.

11 Q Okay. Had you had anything that was sort of in
12 that area of boy/girl things?

13 A What, what we talked about?

14 Q Yes.

15 A Yes.

16 Q Okay. All right. What was your maturity at that
17 time? And I'll have some pictures in a minute. But were you
18 going through puberty at that time?

19 A I was starting to develop.

20 Q Okay. And go ahead for the jurors and describe,
21 then, that instance at your window and what you started to
22 say a moment ago. Okay.

23 A I'm sorry. We were talking and he -- he was
24 talking about how -- how the nerves in the -- in the breast
25 was sensitive and had nerves in it.

1 Q Okay. And what did Mr. Shea do with his hand, if
2 anything, while discussing that with you at your window?

3 A He just -- he just touched my breasts.

4 Q Okay.

5 A And told me that.

6 Q Okay. And when you say your breasts, and in none
7 of this am I intending to embarrass you, but did he touch the
8 nipple area of your breast?

9 A Yes, sir.

10 Q Okay. And -- and what was his -- what, if
11 anything, else did he say about it?

12 A He would just tell me it was nerves and it --
13 that somehow when -- when it gets all -- when the nerves are
14 stimulated, it's called some arousal and stuff.

15 Q Okay. And after that time -- how did you respond
16 physically when you were being touched there?

17 A I kind of went back like this.

18 Q Okay. Now, did the relationship between you and
19 Mr. Shea develop to the point as -- now I'm taking you
20 through your thirteenth year and your fourteenth, to where
21 you would go riding with him places?

22 A I remember when he told me we were going to go
23 riding.

24 Q Okay. And did there also come times when he would
25 ask you to meet him places?

1 A Yes, sir.

2 Q Okay. I will ask you to think back. Let -- let
3 me ask you this. What -- when you're thirteen and fourteen
4 years old in Blum, Texas, how would you describe your
5 relationship with Mr. Shea?

6 A He was one of my good friends.

7 Q All right. All right. Were you ever asked by
8 Mr. Shea to so-called sneak out with you at night?

9 A Yes.

10 Q And where would you go?

11 A I remember when we went on top of the school hill.

12 Q The school hill?

13 A (Moving head up and down)

14 Q In Blum?

15 A Yes.

16 Q Is that in Hill County, Texas?

17 A Yes.

18 Q And what happened on the school hill at Blum with
19 you and Mr. Shea?

20 A I walked up there to give him letters, I think,
21 and we had went up there. We started talking and --

22 Q And what did you do and what did he do?

23 A And he wanted me to lay down and he told me to
24 relax.

25 Q And did you?

1 A Just for a second.

2 Q What -- what happened?

3 A Then I got up and I went home.

4 Q Why did you get up and go home?

5 A Because he started to touch me.

6 Q Okay. And what were you wearing? Give us a rough
7 time reference to your age and grade in school by that time.

8 A 8th grade, and I was about fourteen, I think.

9 Q Okay. And do you recall, Ms. Williams, do you
10 recall when, based on what you described, when you were asked
11 to go to that the school hill in Blum and meet Mr. Shea, do
12 you recall what you were wearing?

13 A Shorts.

14 Q All right. Do you recall --

15 A And a T-shirt.

16 Q Okay. And would you describe for the jurors what,
17 if anything, Mr. Shea did with his hand or hands with you
18 after you lie down?

19 A He placed his hand right here.

20 Q Okay.

21 A And that's when I got up.

22 Q Okay. Can you state whether or not his hand went
23 up under your shorts?

24 A Yes.

25 Q And can you state whether or not his hand came in

1 contact with your vaginal area?

2 A Just for a second. I got up after that.

3 Q Okay. But did it?

4 A Yes.

5 Q Okay. What, if anything, was he saying to you at
6 that time?

7 A Say that again.

8 Q What was he saying to you, if anything, during
9 that time? You say he said --

10 A Just to relax.

11 Q -- just to relax. Is that it?

12 A That's all I remember. I wanted to get up.

13 Q Okay. Did you go home?

14 A Yes, I did.

15 Q Ms. Williams, one might wonder after such an
16 incident why you would even ever see Mr. Shea again. Why
17 would you ever -- did you --

18 MR. MASON: Your Honor --

19 MR. JOHNSTON: -- see him again?

20 MR. MASON: Your Honor, I'm going to object
21 under the rules that he is leading the witness.

22 THE COURT: Overruled.

23 Q (BY MR. JOHNSTON) Did you see Mr. Shea again
24 after that?

25 A Uh-huh.

1 Q Why?

2 A He was the only one I could talk to. He was
3 really my only friend.

4 Q Okay. Well, did -- do you recall a time when you
5 were a little older, whether or not you were asked by
6 Mr. Shea to go riding in the truck?

7 A Yes.

8 Q And where did y'all go?

9 A We met at the cemetery, and I remember -- which
10 instance do you want?

11 Q Okay. Was there a time when you went with him in
12 his pickup somewhere in the Blum area? I won't say where. I
13 want you to tell us.

14 A Well, one time was the Nolan River bridge.

15 Q Okay. Was there a time somewhere else in Blum,
16 near a ball field?

17 A Yes, it was near a ball field.

18 Q Okay. Can you state when you showed up?

19 MR. MASON: Your Honor, I'm going to object to
20 him leading the witness.

21 THE COURT: Sustained.

22 Q (BY MR. JOHNSTON) Ms. Williams, can you tell the
23 jurors what happened, how you would actually get in contact
24 with Mr. Shea? What happened so that you went with Mr. Shea
25 in a truck?

1 A He would -- we would talk about it over the phone.

2 Q And what happened then?

3 A And then he -- we would set a time, and then I'd
4 meet him somewhere, then he would take me there.

5 Q And what -- and what happened with reference to
6 riding in a truck and going somewhere you described?

7 A The bridge, we parked over to one of his -- one of
8 his friend's house, his lot, and we walked underneath the
9 bridge.

10 Q Which bridge?

11 A The Nolan River bridge.

12 Q And what happened then?

13 A We were just talking and, you know, throwing
14 rocks, and talking about anything and everything like we do
15 over the phone.

16 Q And what happened then?

17 A He came behind me and swung me around, you know,
18 playing, whatever.

19 Q Excuse me. Playing with you, swinging you around.
20 Would you describe how he swung you around?

21 A He came up behind me, and like this, and swung me
22 around.

23 Q Grabbed you around the waist or something?

24 A It was about right here.

25 Q Okay. Maybe just under the breasts?

1 A Uh-huh.

2 Q And what did -- what did he do?

3 A He swung me around, then he sat me in front of
4 him.

5 Q Okay. When you say he sat you in front of him,
6 describe the relationship between your two bodies.

7 A I was sitting in front of him like this, in
8 between his legs.

9 Q Okay. You're describing with your hands that you
10 were sitting on his legs, more or less in his lap?

11 A Yeah -- not on his lap, in -- like in between his
12 legs, you know, like on the ground but in between his legs.

13 Q Okay. And what happened then, Ms. Williams?

14 A We started talking, then he -- he placed his hand
15 on -- (Crying)

16 Q Okay. Go ahead.

17 A On my breast, and he started to feel. And I asked
18 him what he was doing. And he said he was just, just
19 checking for something himself. And he said I'd -- I'd be
20 filling out more.

21 MR. MASON: Your Honor, at this time I need to
22 pose an objection under the law. This is an extraneous
23 matter that arose in our earlier hearings, and I would ask
24 the Court to instruct the jury regarding extraneous matters.

25 THE COURT: Overruled.

1 Q (BY MR. JOHNSTON) Go ahead. What else happened,
2 and what was said?

3 A He was doing that, then I tried to get up and he
4 wouldn't let me. And some time went by, and then we finally
5 got up.

6 Q And what was doing at -- what was happening as
7 that time went by when he wouldn't let you get up?

8 A He was -- still had his hand right here.

9 Q On your breast?

10 A (Moving head up and down)

11 Q Okay. And how old were you by this time?

12 A Fourteen.

13 Q Had you developed somewhat in the breast area by
14 that time?

15 A A little. I'd just now begun, not too -- not too
16 soon before that.

17 MR. JOHNSTON: Your Honor, may I approach the
18 witness with some photographs?

19 THE COURT: Yes.

20 Q (BY MR. JOHNSTON) Ms. Williams, I'll show you
21 what's been marked as State's Exhibit No. 6, first of all.
22 These won't be, maybe, in the right order. But is that a
23 photograph of you?

24 A Yes, sir.

25 Q And can you state whether or not that accurately

1 depicts the way you looked about the time you moved from
2 Wortham to Blum?

3 A Yes, that was right before.

4 Q Okay. How old were you in this picture?

5 A Twelve.

6 Q Okay. And that's State's No. 6, correct?

7 A Yes.

8 Q State's No. 4 is a photograph of you and some
9 other folks, correct?

10 A Yes.

11 Q And how old were you, about, at this time of this
12 photograph?

13 A About thirteen. I think I just turned thirteen.

14 Q Okay. And does that photograph, State's 4,
15 accurately depict the way you looked when you were thirteen?

16 A Yes.

17 Q State's Exhibit 3 is a photograph of you, is it?

18 A Yes.

19 Q How old were you, about the time State's 3 was
20 taken?

21 A Thirteen.

22 Q Does that accurately depict the way you looked
23 when you were thirteen?

24 A Uh-huh. Yeah, I remember the ugly haircut.

25 Q Pardon me?

1 A I remember the ugly haircut.

2 Q Okay. Does it depict you, though?

3 A Yeah.

4 Q Okay. State's 2 is another photograph of you and
5 a little girl?

6 A Uh-huh.

7 Q How old were you at the time of State's 2?

8 A Fourteen.

9 Q Does that photograph accurately depict the way you
10 looked when you were fourteen?

11 A (Moving head up and down)

12 Q Yes?

13 A Yes.

14 Q State's 5 is a photograph of you?

15 A Uh-huh, yes, sir.

16 Q How old were you at the time of State's 5?

17 A About fifteen, almost fifteen or fifteen.

18 Q Okay. And did -- okay. And does State's 5
19 accurately depict the way you looked when you were about
20 fifteen there in Blum?

21 A Yes.

22 MR. JOHNSTON: Okay. The State moves
23 admission of State's Exhibits 2, 3, 4, 5, and 6.

24 MR. MASON: No objection, Your Honor.

25 THE COURT: They're admitted.

1 MR. JOHNSTON: Your Honor, I'd ask permission
2 to publish these.

3 THE COURT: Granted.

4 MR. JOHNSTON: You may pass these around.

5 Q (BY MR. JOHNSTON) Can you state whether or not
6 there was another time when you met Mr. Shea in the Blum
7 area, like you talked about?

8 A Yes.

9 Q And by what occasion -- what happened that he
10 asked you to meet him?

11 A It was just like the time before, just, you know,
12 meet me whenever, such and such time.

13 Q And did you?

14 A Yes.

15 Q And did he have anything, a beverage or any kind
16 of thing on that occasion?

17 A Yes, he had wine coolers.

18 Q Did he offer one to you?

19 A Yes, sir.

20 Q Did you drink part of it?

21 A Uh-huh.

22 Q Yes?

23 A Yes.

24 MR. JOHNSTON: And, Your Honor, may I approach
25 with defense counsel right quick?

1 THE COURT: Sure.

2 MR. JOHNSTON: Mr. Mason.

3 (Discussion at bench, outside jury's hearing)

4 MR. JOHNSTON: Your Honor, it is during this
5 instance she is getting ready to describe when Mr. Shea,
6 while they were in this truck, exhibits a knife and said
7 something like this is a thing you use to kill people. And
8 that's part of what they discussed and what she saw in the
9 truck.

10 It is also, I think the testimony will show,
11 one of the reasons she was afraid of him, intimidated by him.
12 And I wanted to approach the bench because that's been the
13 subject of a motion in limine.

14 THE COURT: I'll get rid of the jury and hear
15 it outside their presence.

16 MR. MASON: Thank you, Judge.

17 (End of bench discussion)

18 THE COURT: Ladies and gentlemen of the jury,
19 if you'll follow the bailiff, please, I'm going to hear a
20 matter outside of your presence. Follow the bailiff,
21 please.

22 (The jury leaves the courtroom)

23 THE COURT: Let the record show the jury has
24 left the hearing of the courtroom.

25 Proceed, Mr. Johnston.

DIRECT EXAMINATION

BY MR. JOHNSTON:

Q All right. Ms. Williams, I began questioning you about another instance when you and Mr. Shea got together in his truck. And I would ask you, in addition to the wine coolers, did he show you anything else in his truck?

A Yes.

Q What did he show you?

A The knife.

Q Okay. And did he make any statement about the knife?

A I do recall he -- he said something about like it's used, you know, for protection or whatnot, and you stab people with it.

Q Okay. And can you state whether or not that frightened you in any way?

A A little.

Q Pardon me?

A A little, yeah.

Q And in terms of your willingness to speak out about this entire thing that happened to you, I'm not asking you to describe all the reasons, but can you state whether or not a part of your reason not to speak out regarding this is a fear of Mr. Shea?

A Yes.

1 Q Yes?

2 A Yes.

3 Q And are you afraid of him physically?

4 THE WITNESS: Thank you. (Given a tissue)

5 A Yes.

6 MR. JOHNSTON: I have -- that's my offer of
7 proof.

8 THE COURT: Cross examine.

9 CROSS-EXAMINATION

10 BY MR. MASON:

11 Q Okay. Sarah, let me ask you some things.

12 Where -- where were you at when this happened?

13 A In the truck.

14 Q And where -- where was the truck parked, or it was
15 driving?

16 A This that we're taking about is over on the side
17 of the softball field, and you pull in there. It's kind of
18 like a big "U" away from the road.

19 Q Okay. And was there anyone else there?

20 A Just me and him.

21 Q Okay. And what time of the day or night was it?

22 A It was real late at night.

23 Q And, I mean, is -- is this a situation where --
24 where you met him on a street corner or --

25 A Yeah.

1 Q Okay. After one of these phone conversations?

2 A Yes.

3 Q And you snuck out and met him?

4 A No. We were going to, but then I didn't come out
5 of my window so he come up there and got me. And so then
6 we -- then from there we went.

7 Q What did you think you were going to do?

8 A Just ride around. He didn't tell me we were going
9 to stop anywhere. He told me we were going to ride around.

10 Q He didn't say that you were going to stop and
11 what?

12 A He told me -- I mean, he told me we were just
13 going to ride around. He didn't say we were going to stop
14 somewhere.

15 Q Okay. Now, when -- when you stopped, was there
16 any knife when you got in the car -- the truck?

17 A Yes.

18 Q Where was the knife?

19 A It was in a sheath on, like, near the seat belt,
20 near the seat belt buckler.

21 Q In the center? Is it a bench seat?

22 A Yes.

23 Q Or bucket seats?

24 A No, it was bench.

25 Q And it was in a sheath, a knife sheath?

1 A I do believe, yes.

2 Q Laying down flat, laying upright, or do you know?

3 A It was in -- like, in the hole that was where the
4 seat buckle was, standing up a little.

5 MR. MASON: Your Honor, let me just kind of
6 hold my questioning in abeyance. I'm going to object. In
7 the back of the courtroom, across the hall, is this witness'
8 mother taping notes on a window, and I would ask the Court to
9 instruct the bailiff that they need to be -- stay away from
10 the windows or --

11 THE COURT: What now?

12 MR. MASON: Across the -- across the --
13 across the aisle here there's notes taped on the window by
14 this witness' mother and --

15 THE COURT: Isn't that the note that says
16 absolutely no food or refreshments in the law library?

17 MR. MASON: No, there's something out there
18 on the window. I don't know what it is. Her mother's been
19 standing there looking at her. I'd just -- I'd ask that
20 they --

21 THE COURT: I think that's the note that says
22 absolutely no food or refreshments in the law library.

23 MR. MASON: Could I ask Mr. Cook to look at it
24 real quick and I'll just --

25 THE COURT: Would the bailiff look and see

1 what the note is.

2 (Bailiff complies)

3 MR. MASON: And then the other matter, Your
4 Honor, it's kind of a procedural thing and I'll try to finish
5 this up. I -- as the Court well knows, the bailiff's kind of
6 station, their offices, are kind of next to the jury room.
7 I'd ask that the -- that the bailiffs take steps to be sure
8 those doors are closed. I think there's monitors and
9 microphones in that room.

10 THE COURT: Okay.

11 MR. MASON: Thank you, Judge.

12 THE COURT: There is. And I'm pretty sure he
13 keeps the door closed. What does the note say?

14 THE BAILIFF: Your Honor, this was the note.
15 It says no food or drink in the library. It fell off and
16 they just put it back.

17 MR. MASON: Okay. That's it, Judge. I
18 apologize to the Court.

19 THE COURT: Okay.

20 MR. MASON: I thought it might influence this
21 witness in a way.

22 Q (BY MR. MASON) All right. Sarah, let me ask you,
23 what type -- what did it look like -- look like, the knife?

24 A Like a knife. Like a knife.

25 Q I mean, a folding knife?

1 A No, it was a kitchen knife. It was one you can't
2 fold down.

3 Q Okay. In a seat. And you saw it when you first
4 got in the truck?

5 A (Moving head up and down)

6 Q And what did Mr. Shea say to you about the knife?

7 A He didn't say anything about the knife when we got
8 in the truck, it was when -- you know, we were already there.
9 When he stopped.

10 Q All right.

11 A And I looked at it.

12 Q And did you say something to him about it or did
13 he say something to you about it first?

14 A Well, I looked at it, and I touched it, and then
15 that's when he -- he told me that.

16 Q Oh, okay. You saw it, you looked at it, and then
17 when he saw you looking at it the topic came up?

18 A Yes.

19 MR. MASON: Your Honor, I would object to that
20 as an extraneous matter, extraneous offense not relevant, and
21 would object to it.

22 THE COURT: Mr. Johnston.

23 MR. JOHNSTON: We stand on our proffer. It's
24 part of the events that occurred.

25 THE COURT: What rule of evidence do you rely

1 on, Mr. Johnston?

2 MR. JOHNSTON: His statement about the knife,
3 that it's the kind you use to kill people or stab people, the
4 fact that he possessed the knife. And as a grown man, whose
5 age alone may have an intimidating factor, intimidating
6 effect, may help explain -- may be relevant, I believe it is
7 relevant, to help explain why this story was not told
8 earlier. This witness, in addition to all sorts of trust and
9 emotional issues, afraid of the defendant, afraid to report
10 the crime.

11 Your Honor, may I propose a resolution of
12 this? Why don't I not illicit that on direct. If it becomes
13 relevant on cross, if he asks her something, why she waited
14 to report, then I may ask the Court -- approach the Court at
15 that time and ask the Court to do it on redirect. But
16 that -- that -- I may see you about that then, Your Honor, if
17 I may. I'll -- I'll instruct the witness not to mention the
18 knife on this occasion.

19 THE COURT: Bring the jury back in.

20 MR. MASON: Your Honor, do I need to renew?
21 Okay. He's withdrawn that; is that correct?

22 THE COURT: It's not been offered.

23 MR. MASON: Okay. Thank you.

24 (The jury enters the courtroom)

25 THE COURT: Proceed, Mr. Johnston.

DIRECT EXAMINATION CONTINUED

BY MR. JOHNSTON:

Q Ms. Williams, can you state whether or not there was another occasion you specifically recall where Mr. Shea contacted you about going with him for a ride?

A Yes.

Q And would you state how that occurred, any conversation that took place leading to that, please?

A He just told me, you know, you want to ride around or whatever. And I was like okay.

Q And what time of day or night was this?

A It was late at night.

Q About how late?

A Midnight, somewhere around 1:00.

Q And would this have been leading -- about how old were you at this time?

A About fourteen.

Q And what happened next?

A We got in -- in a truck, after he had come up there and got me.

Q Okay. Were you supposed to meet him some place?

A The corner of the road. He said he was going to drive by, and then he was going to stop at the end of the road. And I was going to -- you know, when I saw him, I was going to meet him at the end of the street, but I didn't. I

1 stayed in my room.

2 Q Okay. So you didn't meet him as directed?

3 A No. He came -- he come up to the window and got
4 me.

5 Q How did he get your attention at the window?

6 A I think he just -- I think -- I'm not sure if my
7 window was open or not, but I'm -- he made a noise, like
8 knocking on it or told -- said something to me.

9 Q Okay. What did you do?

10 A I just got up and went.

11 Q Okay. And you've described a couple of occasions
12 at least, when something happened at your window. Would
13 anyone else in the house be in a position to see or know what
14 you were doing?

15 A No.

16 Q Okay. And on this occasion that you're getting
17 ready to describe, how did you leave the home?

18 A The window.

19 Q Okay. What happened once you got out of the
20 window and after Mr. Shea said he wanted -- you wanted -- do
21 you want to drive around. What happened?

22 A Well, we got in the truck and we started -- he
23 started, you know, driving, you know, I was okay. But he
24 didn't go driving around, he stopped.

25 Q Okay.

1 A (Inaudible)

2 (The reporter asks for clarification)

3 A By the softball field.

4 Q Okay. And did y'all drink something? I may have
5 already covered that.

6 A Uh-huh, wine coolers.

7 Q And what -- what happened next?

8 A I couldn't -- I couldn't drink it, and I was
9 shaking, and I saw --

10 Q Okay. Just go ahead in terms of -- in terms of
11 what conversation took place or actions.

12 A We just talked.

13 Q Okay.

14 A And I couldn't drink it.

15 Q Okay. And can you state on that occasion whether
16 or not Mr. Shea asked --

17 A Yes.

18 Q -- something?

19 A (Moving head up and down)

20 Q What did he ask?

21 A He asked if he could kiss me.

22 Q What did you say?

23 A I said no.

24 Q And what happened then?

25 A He is -- I think he might have asked again, and I

1 told him no. And then he asked, he said, are you afraid of
2 something, or something like that. I was like, no.

3 Q Okay. Okay. And did y'all go home?

4 A After he had told me, he was talking about
5 something about the tree.

6 Q A tree?

7 A Put me up on a tree somewhere.

8 Q Say -- pardon me, ma'am, what?

9 A Putting me on a tree somewhere, like, you know,
10 like, you know, like putting me up on a tree. Like a tie --
11 tying me up in a -- a tree. You know, just like for fun or
12 whatever. He thought it was funny, I guess.

13 Q What happened then?

14 A Not too soon after that I think I told him I wanted
15 to go home.

16 Q Did he take you home?

17 A Yes, he did. He dropped me off at the end of the
18 road.

19 Q Okay. You've described some photographs for the
20 jury, and the jurors have them now. Had -- in the last one,
21 you said you were about fifteen, is that correct?

22 A Yes.

23 Q And did this relationship with Mr. Shea, that
24 you've described, continue until you were fifteen?

25 A Yes.

1 Q And thereafter maybe?

2 A Yeah, through e-mails and phone calls.

3 Q Okay. And about when did Mr. Shea leave the Blum
4 area and go to Cleburne?

5 A Right about the time I turned sixteen.

6 Q Which was when?

7 A About '98.

8 Q When in '98 was your birthday?

9 A June the 10th.

10 Q Okay. So did the relationship, any physical
11 relationship, end by about June 10th, '98?

12 A Yeah, the physical.

13 Q Okay. Ma'am, would you state whether or not you
14 continued to dialogue with him, talk with him?

15 A Yes.

16 Q Okay. And by what means?

17 A Telephone and e-mails.

18 Q Okay. And Ms. Williams, can you state how you
19 knew -- or pardon me. First of all, in -- in any telephone
20 conversations with Mr. Shea, would he let you know whether or
21 not he was going to send you e-mail, talk to you about
22 e-mail?

23 A Yes, a little bit, yeah.

24 Q Okay. And after he had sent an e-mail to you, can
25 you state whether or not he would ask you if you got it, for

1 instance?

2 A Yes.

3 Q Okay. And by that, Ms. Williams, did you know --
4 come to know Mr. Shea's e-mail address and his sender name,
5 identifying information?

6 A Yes.

7 Q And had you given him your e-mail address?

8 A Yes, I did.

9 Q And you -- would you write back to him?

10 A Yes, I would.

11 Q And would he acknowledge he received it?

12 A Yes.

13 Q And can you state whether or not when you sent it
14 back to him you sent to the address from where you had
15 received these --

16 A Yes.

17 Q -- e-mails?

18 A Unless -- one time he had changed it.

19 Q Okay.

20 A And he had changed it two other times, I do
21 believe.

22 Q Other than when he changed it -- well, even after.
23 Did you know his e-mail address -- e-mail address?

24 A Yes, I did.

25 Q And I'd like for you not to state the -- at this

1 time, the significance of any number, but I'd ask you to
2 state was there a unique number that Mr. Shea bore on his
3 e-mail address?

4 A Yes.

5 Q What was that number?

6 A 99751.

7 Q Pardon me?

8 A 99751.

9 MR. JOHNSTON: May I approach the witness?

10 THE COURT: Yes, sir.

11 Q (BY MR. JOHNSTON) And did the e-mail continue
12 into at least the fall of '98?

13 A Yes.

14 Q Can you state whether or not things discussed in
15 the e-mail were reflective of your relationship you've
16 described in your testimony?

17 A Yes.

18 Q I'll show you State's Exhibit No. 1, ma'am, and
19 ask you to take a moment to look through that several pages.
20 Take a moment to look through those.

21 A (Witness complies. Crying)

22 Q Can you state whether or not the papers in State's
23 Exhibit No. 1, that you recognize them, ma'am?

24 A Yes.

25 Q Can you state what your practice was regarding

1 e-mails that you received from various people?

2 A Just reply.

3 Q I mean, but besides replying, about keeping them.

4 A Anybody, any of my friends, they had their own
5 little folders.

6 Q What do you mean their own little folders?

7 A Like receiving mail, you know. You receive it,
8 you can, you know, move it to, you know, a designated folder.
9 And every one of my friends had a different folder.

10 Q Did you have a folder for the e-mails you received
11 from Mr. Shea?

12 A Yes, I did.

13 Q And did you keep them in that folder?

14 A Yes, I did.

15 Q And did you --

16 A Of course.

17 Q And did you download and print those out? I'm not
18 saying download. Did you print those out at some point?

19 A Yeah, after -- after everybody knew about it.

20 Q And is what's in State's 1 some of those e-mails
21 that you had received from Mr. Shea that you -- that are
22 reduced to writing now?

23 A Yes.

24 MR. JOHNSTON: Move admission of State's
25 Exhibit No. 1.

1 (No response)

2 MR. JOHNSTON: Move admission of State's
3 Exhibit No. 1.

4 MR. MASON: Bill.

5 (Discussion at bench, outside jury's hearing)

6 MR. MASON: I'd like to take this up outside
7 the jury's presence, if we could. This is not anything that
8 I think I can do in front of the jury to lodge appropriate
9 objections.

10 THE COURT: Okay.

11 (End of bench discussion)

12 THE COURT: Ladies and gentlemen of the jury,
13 if you'll retire to the jury room, please. I'm going to hear
14 the matter outside of your presence.

15 (The jury leaves the courtroom)

16 THE COURT: Let the record show the jury has
17 left the courtroom. Proceed, Mr. Mason.

18 MR. MASON: Your Honor, I would object to
19 State's Exhibit No. 1 in that there is no -- it's hearsay.
20 It's a document that contains hearsay, but it contains
21 multiple matters, none of which have -- has there been any
22 foundation laid for their admissibility. I mean, if you want
23 me to, I can ask the witness a few questions about it.

24 MR. JOHNSTON: I'd like to respond before you
25 do.

1 MR. MASON: Okay.

2 THE COURT: Proceed.

3 MR. JOHNSTON: Judge, I have laid the
4 foundation for it. First of all, in terms of authenticity.
5 She's established that these are the printouts of e-mails
6 she received from Mr. Shea. She described how she knew they
7 were from him, the uniqueness of his add -- address, that he
8 had verbally confirmed, that is, say on the phone, confirmed
9 that this was coming from him by telephone calls, and I asked
10 whether or not these e-mails reflect a matter, detailed
11 matter reflective of their relationship under -- under --
12 this is -- I say to the Court this is as close to anything
13 the exact purpose of 38.37, to show a relationship of the
14 parties and the state of mind of the defendant.

15 I'm not offering any of these to prove the
16 truth of the matter asserted. I'm offering these to show the
17 relationship and state of mind. That the statement was made
18 at all to her is relevant.

19 One of them is -- I'll go through these
20 briefly for the record. The first one begins, Hi, my friend.
21 Talks about his computer and says, talk to you later. Just
22 me. Another one talks about him being at the computer.
23 Says, what you doing two weeks from tonight, among other
24 things. Another one is a very long e-mail, talks about
25 zoning and Mr. Shea's shop, and his life being busy, and some

1 other personal matters. The next one talks about his
2 computer address and his plans to be in Blum. The next one
3 talks about their trust with one another, and talks about
4 their intention to get together. And the last one is just
5 describing their relationship.

6 None of these are offered for the truth of the
7 matter, it's a relationship issue, whether or not this
8 defendant had a -- an abnormal and improper relationship with
9 this young lady, and this helps establish that he did. But
10 it's not offered to prove the truth of any assertion therein.

11 THE COURT: Mr. Mason, do you want to take the
12 witness on voir dire?

13 MR. MASON: Your Honor, I'll just waive voir
14 dire of this witness. I'm just going to argue, Judge, that
15 this is -- first of all, 38.37, he's still permitted, if the
16 Court so rules, that he can get into prior relationships, he
17 can get into communications that were made between the
18 parties.

19 My objection is to the admissibility of this
20 document in that it contains hearsay. For example, a
21 computer printout from a scientific laboratory, we need -- we
22 need the scientist to tell us -- to interpret it for us.
23 It's -- we don't know the internet service provider, we don't
24 know the type of the equipment it came from, we don't know
25 the capability of the cut-and-paste proceedings that you can

1 move e-mails around and put them under things that look like
2 they're all together to make a -- a tampered-with document
3 look original.

4 I -- I just object to it that it's hearsay.
5 There's no -- there's no threshold, there's no foundation
6 laid. We have no one to explain the type of e-mail, whether
7 it's Hot Mail or some other service provider, what the
8 language -- there's about ten lines of computer gibberish on
9 these documents, Judge, and if it's not properly
10 authenticated or interpreted, it's going to fall into the
11 hands of the jury, and it's prejudicial to the defendant.

12 I don't think the matters about which she may
13 testify to are necessarily objectionable, but I think the
14 document is objectionable in that there's -- it's -- it's
15 repetitive, it's bolstering, she's already testified that --
16 that she received e-mails. The documents themselves have not
17 been promptly authenticated, and the fact that she says this
18 came from Kevin is -- it's impossible for me to cross examine
19 a computer, and I just object.

20 THE COURT: The objection is overruled.
21 State's Exhibit 1 is admitted. Bring the jury back.

22 MR. MASON: Can I see those again?

23 (Off record discussion between attorneys)

24 (The jury enters the courtroom)

25 THE COURT: State's Exhibit No. 1 is admitted.

1 Proceed, Mr. Johnston.

2 MR. JOHNSTON: May I approach the witness?

3 THE COURT: Yes, sir.

4 DIRECT EXAMINATION CONTINUED

5 BY MR. JOHNSTON:

6 Q Regarding what's now in evidence as State's
7 Exhibit No. 1, obviously there's some computer-type language
8 at the top of each one, a sender and receiver, correct?

9 A Yes.

10 Q Is that yes?

11 A Yes.

12 Q And when it says, "from" and would have the sender
13 address, can you tell the jurors what the sender address is?

14 A conspoint@yahoo.com.

15 Q And is that how you would reach Mr. Shea by
16 computer?

17 A Yes, until he changed it again.

18 Q Okay. And then it would have to you, correct?

19 A Yes.

20 Q And you had an e-mail add -- name of what?

21 A SuiCideW@yahoo.com.

22 Q Okay. And can you state whether or not these
23 printouts are the words, or merely printing of the word you
24 saw on your computer screen when Mr. Shea would e-mail you?

25 A Yes, I do. From -- as soon as I read them, they'd

1 go right in the folder.

2 Q Okay. And as I stated or I asked earlier, can you
3 state whether or not on occasion when an e-mail would come to
4 you from this address, which you're saying is Mr. Shea's, he
5 would call you and ask if you got it?

6 A Not every time, but he has, yes.

7 Q Okay. Am I correct, in the first page of State's
8 Exhibit No. 1 is the message from Mr. Shea:

9 Hi, my friend. My computer crashed the other
10 day and has been in the shop. Just went back online a few
11 minutes ago and checked my mail. I will sit down later and
12 peck out more thoughts but right now I have to go finish my
13 order of furniture due this weekend. Talk to you later.
14 Just me.

15 Is that correct?

16 A That is correct.

17 Q And that's what it says?

18 A Yes.

19 Q And when he talked about furniture, what -- what
20 did he do about -- what was his relationship to furniture?

21 A That was his job. He knew how to build all kinds
22 of furniture. That's the way he worked, the way he got his
23 money from his job.

24 Q The second e-mail in State's 1, can you look on
25 with me and state whether or not it says -- and this is

1 all -- all of these in State's 1 are from Kevin Shea to you;
2 is that correct, ma'am?

3 A Yes.

4 Q Okay. Does the second page, second e-mail, say:

5 I am at my computer when I should be asleep.
6 I -- I do want to get off a lot of thoughts to you but now is
7 not the time. Tomorrow is better. What are you doing two
8 weeks from tonight? More later. Kev.

9 K-E-V, correct?

10 A That's correct.

11 Q And once again, are these in the fall of '98 by
12 now?

13 A Yes.

14 Q Are you still sixteen years old?

15 A Yes.

16 Q Is the next e-mail rather lengthy?

17 A Yes.

18 Q Okay. I'll try to be slow. Can you state whether
19 or not it says, from Kevin Shea to you:

20 Finally finished my order and got it out the
21 door to my buyer in Houston. \$10,000.00 worth of furniture,
22 at least it is worth that much on the retail end but I am a
23 manufacturer so my take is just a percentage. Need to do
24 some factory direct sales to haul down the big bucks. Biding
25 my time for that to happen. A website with a few of my

1 products will be a venture I'm going to attempt --

2 There's no "t" on it.

3 -- before the millennium arrives. I firmly
4 believe you can succeed in business if you try. I am now up
5 to speed with my computer and can start working on the rest
6 of the things necessary to fatten my bank accounts.

7 That's the first paragraph, right?

8 A Yes.

9 Q Next paragraph: Receiving a zoning change
10 application from the people that own the lot next to my shop.
11 They want to put in a house. That area is zoned light
12 industrial use and a house requires a special use permit.
13 Being a land owner within 200 feet I have a chance to object
14 to the permit or not. I am going to the zoning commission
15 meeting to state my position and then to the city council
16 meeting for the vote on the matter.

17 That's the second paragraph, right?

18 A Yes.

19 Q Next paragraph: I have to oppose them, even
20 though I truly do not want to deny the folks a house. My
21 concern is the noise I make at all hours of the day and night
22 and how it would disturb anybody living only a few feet away
23 from a furniture manufacturing plant.

24 I don't think I should have to think about if
25 I am waking up their children at 2:00 in the morning when I

1 turn on any tool in my shop. That is a position I do not
2 want. It is not fair for me to work under those conditions.
3 That is my position on the matter. Convincing the City to
4 deny the permit is another thing. They may have a complete
5 set of other rules they play by I am unaware of. We shall
6 see.

7 That's the -- that paragraph, right?

8 A Yes.

9 Q The last full paragraph: My life is just too damn
10 busy. Never have time to get around to more fun stuff. Such
11 as seeing you. Our schedules conflict and you are not
12 available when I am. I just feel that in the future that we
13 will change and we will have a chance to be around each other
14 more and to see if our relationship can expand. Tell me your
15 thoughts. Later, Kev.

16 Correct?

17 A (Moving head up and down)

18 Q Yes?

19 A Uh-huh.

20 Q Is the next e-mail from Kevin Shea to you
21 relatively short?

22 A Yes.

23 Q Begins: Hi, friend. Do not use the conspoint
24 address anymore. My new way of contact is the above address.

25 Correct?

1 A Yes.

2 Q And was that his new address?

3 A Yes, it was.

4 Q Lastly in this e-mail: Homecoming night I plan to
5 be in Blum. Let me know if I can see you somehow. Always
6 on, Kev.

7 A (Moving head up and down)

8 Q Yes?

9 A Yes.

10 Q And when we're talking about Kev and Kevin Shea, do
11 you see Kevin Shea, the person writing these e-mail, do you
12 see him in the courtroom?

13 A (Moving head up and down) Over there.

14 Q Okay. And point him out for the record.

15 A (Pointing)

16 Q What's he wearing?

17 A Wearing a plaid shirt and button down.

18 MR. JOHNSTON: Okay. May the record reflect
19 the witness has identified this defendant?

20 (No response. Witness crying)

21 MR. JOHNSTON: Your Honor, may the record so
22 reflect for identification?

23 THE COURT: Yes.

24 Q (BY MR. JOHNSTON) Why -- why -- why does this
25 upset you?

1 A It just makes me think about everything again. I
2 don't --

3 Q Have you seen Mr. Shea since some of these things
4 occurred?

5 A I haven't seen him in a while.

6 Q Okay. However, ma'am, can you state whether or
7 not Mr. Shea approached you in January '99 with something
8 from his attorney that he wanted you to sign?

9 A Yes.

10 Q Did he ask you to sign a retraction of everything
11 you had said against him?

12 A Yes, he told me -- he told me it was the wrong
13 date so it would be the right thing to sign it.

14 Q That the indictment date wasn't right so you could
15 sign that?

16 A (Moving head up and down)

17 Q Did you sign it?

18 A Yes, I did.

19 Q I'd like to ask you about the next e-mail in the
20 series and what's in evidence before the jury is State's
21 Exhibit No. 1. The next e-mail begins -- correct me if I'm
22 wrong, ma'am, as I read:

23 I do trust you. I saw you riding around in
24 the truck, you never looked at me. Clock turns back this
25 weekend, gets darker earlier and the freaks come out at

1 night so you should beware of those wanting to go for a ride
2 with you. I like your locker number.

3 Let me stop there. What was your locker
4 number?

5 A I believe it was 122 or 22 or something.

6 Q Did the -- did you and Mr. Shea often talk about
7 the word 20 -- the numbers 22?

8 A Yes, we were 22 years apart.

9 Q Continuing with the e-mail: Perhaps I should come
10 to Blum on a night that you are not going to be occupied with
11 an event. Maybe the event should be us. What is the latest
12 you will see me? Home in time for breakfast good enough? By
13 then I'll certainly have eaten my fill and satisfied the
14 night's hunger. This address is a safe haven from all who
15 use this computer and I would like for you to feel free to
16 put into words all your thoughts you believe would express
17 who you are, and what I am to you. Nobody is home when I
18 access this mail, tell me anything you want.

19 Is that what Mr. Shea wrote to you, ma'am?

20 A Yes.

21 Q The next paragraph in this same e-mail, I'm
22 reading: Our fain -- our foundation is solid on my end and I
23 intend to keep it so. You are important in my future, I feel
24 this to be so in my soul. Together we are going to do
25 something, just exactly what is not known but I believe soon

1 we will discover more to tell us what is ahead for us.

2 Correct?

3 A Yes.

4 Q You have gone from girl to young woman and I think
5 that you may need to evaluate our relationship and make sure
6 you feel comfortable about us. Just keep telling me how you
7 feel at every step and I will do the same. Enjoy your day.
8 Thinking of you, Kev.

9 Correct?

10 A Correct.

11 Q Was that written by the man you identified over
12 here?

13 A Yes.

14 Q Ms. Williams, did you think maybe you had a future
15 with Mr. Shea? Be hon -- be candid with the jury. Maybe
16 you --

17 A He was one of my best friends.

18 Q Did you think maybe he would marry you someday, or
19 did you know?

20 A No. Too old.

21 Q Did -- did he ever ask -- did he ever ask you
22 about marrying you or having children with you?

23 A He said that his girlfriend couldn't have any
24 kids and so she wouldn't mind if I was to have a kid for
25 them.

1 Q Did -- can you state whether or not he's ever
2 talked to you about your virginity?

3 A Yes.

4 Q What did he say about your virginity at that time?

5 A Well, before I lost my virginity, he was telling
6 me that he would like to be the one, instead of some
7 pimple-faced boy.

8 Q Instead of some what?

9 A Pimple-faced boy that didn't know what he was
10 doing. But then afterwards, when I told him that I wasn't a
11 virgin anymore, and that was when, you know, before -- I
12 think it was before everybody knew everything, he told me --
13 he was mad, because he reminded me that I -- he was supposed
14 to be the one.

15 Q Did he ever get that far with you?

16 A No.

17 Q Did you let him?

18 A No.

19 Q Is the next e-mail from him, that's in evidence
20 now in front of the jury, this page I'm holding? Is that the
21 last e-mail?

22 A Yes.

23 Q And that -- was that written by the defendant to
24 you in the fall of '98?

25 A Yes.

1 Q Correct me if I read it in -- incorrectly as I
2 begin.

3 A Okay.

4 Q No need to be sorry at all. Yes I have to be a
5 bit more subdued when she is around -- yes I have to be a bit
6 more subdued when she is around when I am talking to you. It
7 is quite evident I am sure. She and Kim have just left to go
8 yard saling (is that a word) and I have some time to get a
9 few thoughts out before I go to my shop. I am sorry for the
10 last letter's tone to you, guess I was trying to type with
11 the wrong digit. Glad it was a short burst. And I will quit
12 now while I am ahead. Okay. I'll stop.

13 Is the next line: Male hormones will rage,
14 two exclamation marks?

15 A Yes.

16 Q Next line: I do hope you know that getting in
17 your pants is not my sole intent, though I will not tell you
18 that the thought does not enter my mind when I think of you.

19 Correct?

20 A Yes.

21 Q Is the next line this, Ms. Williams: I -- and
22 pardon me. I like all of you, Sarah, that includes your
23 pussy.

24 Is that what it says here? Mr. -- what
25 Mr. Shea wrote to you, ma'am?

1 A Yes.

2 Q Is the next line: And if it is half as
3 interesting as your brain then I fear my imagination is not
4 good enough to foresee the pleasure that could be derived.

5 Correct?

6 A Yes.

7 Q Yes I am very anxious to get close to you and
8 enjoy your company, have you not noticed that I really do
9 like you. Your life is going to be so much fun because of
10 how you think, that I find I want to be a part of it, just as
11 I have for this long and for just as long as you care to call
12 me your friend.

13 Correct?

14 A Yes.

15 Q Did these e-mails reflect the growing intimacy,
16 ma'am, of your relationship with Mr. Shea?

17 A Yes.

18 Q Had he talked like this before in some other terms
19 that you've described but not --

20 A Over the phone.

21 Q And then, Ms. Williams, it all came out, correct?

22 A Yes.

23 Q What happened to bring it all out?

24 A I was -- I was admitted into De Paul in Waco.

25 Q De Paul Center?

1 A Yes.

2 Q Were you having serious emotional problems by this
3 time?

4 A Yes.

5 Q And did you tell one or more people about this?

6 A When I got in there.

7 Q And -- and, ma'am, did the Hill County Sheriff's
8 Office eventually come to see you?

9 A No, we had to go to them because --

10 Q I'm sorry?

11 A Because -- yeah, they told us to come over there.

12 Q Okay. Well, what I meant to say was you filed a
13 statement or you helped the investigators on the case,
14 correct?

15 A Yes.

16 Q And then to your knowledge was Mr. Shea accused
17 and arrested?

18 A Yeah, because he called me.

19 Q Okay. And he called you. What did he say?

20 A He was mad.

21 Q What did he say?

22 A He asked me if I had gone to the police, the
23 sheriff's office, and told them something.

24 Q What did you say?

25 A I told him no.

1 Q And what happened next? Did he say anything
2 about -- anything else about this allegation?

3 A He was -- he was mad. He was telling me that it
4 could ruin him.

5 Q Okay. And at some point did he or his girlfriend
6 or someone call you about meeting them?

7 A Yes, he did. He called me, told me they had a
8 paper for me.

9 Q Pardon me. That they what?

10 A They told me that they had a paper. That he found
11 a notary. And it was at night, and he wanted me to go sign
12 it because the date on the -- the paper that they gave him
13 wasn't right, and he knew it wasn't right. Because when I
14 said it, he told me just to -- not to say it, you know,
15 because other people around.

16 Q Okay. And did he -- did some legal-looking
17 document come to you? Did someone deliver it to you?

18 A Yes, he met me down at the propane tanks, about a
19 mile out of Blum.

20 Q Who met you?

21 A Him and his girlfriend.

22 Q Who is him?

23 A Kevin Shea.

24 Q And did you have anything to do with drafting,
25 putting these words together?

1 A No, I didn't even read it.

2 Q Ma'am, are these your words? Did you say -- do
3 you talk like this, ma'am? The paper I'm holding: Before
4 me, the undersigned authority. And then: I am signing this
5 affidavit knowingly, voluntary, and freely. Are those -- are
6 those your words?

7 A (Moving head side to side)

8 Q Is that the way you talk, Ms. Williams?

9 A No.

10 Q Okay. And Mr. Shea, did he tell you you need to
11 sign this?

12 A Yeah, because the date wasn't right on it, and I
13 agreed that the date wasn't right, that he --

14 Q June 10th exactly, correct?

15 A (Moving head up and down)

16 Q And you and I have talked about this,
17 Ms. Williams. These events that occurred began when you were
18 about thirteen; is that right?

19 A Uh-huh, right when I turned thirteen.

20 Q Okay. After you are thirteen. And continued --
21 this physical relationship continued up until on or about the
22 time that you say he left the Blum area, correct?

23 A Yes.

24 Q And that -- when he left was on or about June
25 10th, correct, of '98?

1 A Uh-huh.

2 Q Is that right?

3 A Well, it was -- about that time is when I went
4 into De Paul.

5 Q Okay. Whether you left then, three months before,
6 or three months after, was it in -- sometime in '90 -- late
7 '97, mid '98?

8 A Yes.

9 Q Okay. And whatever the case, ma'am -- oh, I'm
10 sorry. Had you been to the De Paul Center by the time he
11 came to you with this?

12 A (Moving head up and down)

13 Q In '99?

14 A Yeah, I had been to De Paul.

15 Q You had or had not?

16 A I had. Because that's -- nobody knew until I went
17 into De Paul.

18 Q Okay. Ms. Williams, are you -- are you afraid of
19 Mr. Shea?

20 A (Moving head up and down)

21 Q In what way?

22 A I'm sure if he got mad enough, he could hurt
23 somebody.

24 Q Ma'am, I would ask you, do you still have -- do
25 you still have any feelings for Mr. Shea, as a friend?

1 A He's not my friend anymore. Friends don't do
2 that.

3 MR. JOHNSTON: I pass the witness.

4 THE COURT: We're going to recess for lunch.
5 We'll be -- please return from lunch at 1:00 o'clock.

6 (The jury leaves the courtroom. Lunch break)

7 (Witness, Jury, Defendant and Counsel present)

8 THE COURT: Proceed, Mr. Mason, with your
9 cross-examination.

10 MR. MASON: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. MASON:

13 Q Sarah, my name is Bill Mason, and I have some
14 questions that I'm going to ask you this afternoon. If you
15 get upset about something, just ask me if you can take a
16 break and I'll -- I'll stop what I'm doing. Okay? Do you
17 understand that?

18 A (Moving head up and down)

19 Q All right?

20 A Yes.

21 Q Did Mark and Julia bring you to court today?

22 A Mark didn't come.

23 Q But your -- Julia did?

24 A Yes.

25 Q And during the time that you've been testifying,

1 have you been able to see her across the hall in those --
2 through that glass?

3 A I just now noticed them. They're over there now.

4 Q And when you leave today, you're going to leave
5 with them; is that correct?

6 A Yes, my truck's broke.

7 Q Julia, (sic) during the time that you've known
8 Kevin, there were occasions that you wanted to see him; is
9 that true?

10 A Yes.

11 Q And occasions when you wanted to talk to him; is
12 that true?

13 A Yes.

14 Q And that you tried to contact him; is that true?

15 A Yes.

16 Q Okay. You testified earlier about some problems
17 you were having, that you would talk with him about your
18 problems over the telephone. What problems are you talking
19 about?

20 A Problems I was having in school, with my parents,
21 pretty much anything.

22 Q And what problems were you having at school, for
23 example?

24 A Maybe getting picked on or having some problems
25 getting friends or whatnot.

1 Q Okay. And what problems were you having with your
2 parents?

3 A Just normal teenage stuff.

4 Q Did you say on one occasion that your mother's
5 choking the life out of you? Do you remember saying that?

6 A Yeah. Because she's really overprotective.

7 Q Okay. And the De Paul Center, that you referred
8 to, what is that?

9 A It's a -- like a -- kind of like a mental
10 hospital.

11 Q Okay. And where is it located? Do you know what
12 town it's in?

13 A Waco.

14 Q All right. And The Bridge, where is that?

15 A It's in Fort Worth.

16 Q Okay. And did you and your mother decide that --
17 that together, that y'all would have counseling at The
18 Bridge?

19 A We didn't have counseling together.

20 Q But you started counseling there?

21 A (Moving head up and down)

22 Q And was that before or after De Paul?

23 A That was before.

24 Q And do you know when that was?

25 A Huh-uh, just sometime before.

1 Q Or do you know your age when that was?

2 A Fifteen, I'm going to say. Fifteen/sixteen. It
3 was before I went to De Paul.

4 Q Okay. So The Bridge was the first place you went
5 for counseling?

6 A (Moving head up and down)

7 Q And would you agree or disagree that
8 approximately, say, April/May of ninety -- at fifteen, it
9 would be ninety -- '98?

10 A Probably '97. Well, there's the beginning part of
11 '98 when I would be fifteen.

12 Q Okay.

13 A And the end of '97.

14 Q And how frequent were those? How often did you
15 go?

16 A At first it was, I'm wanting to say, two -- one
17 time and it was like two times a week, and then I only went
18 like one time a week.

19 Q And at whose insistence? Did you go because you
20 wanted to or because Julia wanted you to?

21 A I wanted to.

22 Q Okay. And when you were first admitted there, the
23 counseling was for what kind of problems, would you say?

24 A I had all kinds of problems. You know, from when
25 I was little and then, of course, him.

1 Q All right. And is that what you told them when
2 you first went there?

3 A No, not when I first went there. I didn't want to
4 tell anybody.

5 Q And when did you go to De Paul? When was that?

6 A When I was sixteen. I don't remember, but I was
7 sixteen.

8 Q Would it be in nineteen -- in June of '98 you were
9 sixteen, so it was after that or before that?

10 A That I what? That I went to De Paul?

11 Q Yes.

12 A It was after my birthday because I was sixteen.

13 Q I guess what I'm asking, were you going to both
14 places at the same time for a time period?

15 A No. The person -- my counselor moved to New
16 Mexico.

17 Q Okay. Who is John Gerhart? (Phonetic spellings)

18 A He's one -- he's a counselor at Bridge.

19 Q Who is Christy Sorrell?

20 A She was my psychotherapist at the time.

21 Q Okay. Who is Greg Drummon? Drummon, Greg. You
22 don't know him?

23 A No, sir. Or it doesn't ring a bell.

24 Q Is it true that about the time you were discharged
25 from -- how many times have you gone into De Paul?

1 A Three.

2 Q Do you know when those were?

3 A I'm going to say two times when I was sixteen and
4 once when I was seventeen.

5 Q Okay. November of '98, does that sound right?

6 A That sounds right.

7 Q September of '99, does that sound right?

8 A Yes.

9 Q And then finally in May of 2000?

10 A Oh, yeah.

11 Q Okay. And would you agree with me that the first
12 admission, when you were discharged from De Paul, when that
13 was all done and over with, is that when your mother found an
14 e-mail from Kevin and she became real angry with you?

15 A No, when I got out of De Paul I printed out the
16 e-mails. And I'm trying to think. I'm not sure that -- my
17 mom might have found them.

18 Q Well, when you got out of De Paul, is that when
19 you went to the sheriff's office?

20 A Yes, the -- when they found out at De Paul, they
21 made me -- they told me that they had no choice, they have to
22 tell the officials.

23 Q But I mean, is that -- is that approximately, on
24 the calendar, what happened? When you left De Paul, you went
25 to the sheriff's office?

1 A Yes.

2 Q Am I correct when I say that your mother does not
3 like Kevin?

4 A She had no reason not to like Kevin until I
5 started showing more problems.

6 Q All right. But the problems you showed at De Paul
7 was not his problem. That wasn't reported until six months
8 later.

9 A That -- that doesn't mean I don't have any effects
10 from it.

11 Q Okay. Let me ask you some things about the
12 internet. Do you currently have a internet -- an internet
13 e-mail account?

14 A Yes, I do.

15 Q And a e-mail name?

16 A Yes.

17 Q And how long have you been familiar with and
18 started working on the internet, you know, sit at the
19 computer screen and talk to people?

20 A I didn't -- we didn't have the internet until we
21 moved into the rent house, I think.

22 Q Okay. And you don't know when that was or when
23 your -- how old you were or anything like that?

24 A I think I was -- well, almost fourteen when I
25 started learning about the internet, fourteen.

1 Q Are you familiar with, when I say cut and paste,
2 do you know what that means?

3 A (Moving head up and down)

4 Q What does that mean? Tell the jury kind of what
5 that means.

6 A Where you click, and then you kind of highlight
7 everything, and then you can go up to the tool bar and click
8 copy, and then you go to wherever you want or need to be, and
9 you press -- go to the tool bar again, and you press paste,
10 and it switches everything from that to -- that document to
11 the other.

12 Q All right. And for example, Sarah, if I wanted to
13 take maybe a paragraph out of -- out of some document that's
14 on the screen, I could basically cut that paragraph the way I
15 want it, transport it through the internet and put it in the
16 middle of some other document. That's true, isn't it?

17 A Uh-huh.

18 Q Pretty easy thing to do.

19 A (Moving head up and down)

20 Q If somebody wants to do that.

21 A Yeah, but I didn't.

22 Q But it can be done?

23 A Yes, it can.

24 Q If somebody wants to.

25 A (Moving head up and down)

1 Q Now, you had mentioned about -- and I apologize,
2 it's not a real polite subject, but you had referred to this
3 earlier about virginity. Do you recall that earlier today?

4 A Yes.

5 Q And you've had sexual contact with others, have
6 you not?

7 A Uh-huh, yes, I have.

8 Q With at least a boy that's almost the same age as
9 you?

10 A Yes.

11 Q And at least one other?

12 A Uh-huh.

13 Q And was your mother happy about those things?

14 A Well, she's like, you know, what else is she going
15 to do? You know, we talked about it, and it's just something
16 that happens.

17 Q When did you last see -- in person, before today,
18 when did you last see Kevin?

19 A That would be when I signed that affidavit.

20 Q Before that, when did you last see Kevin?

21 A I don't remember which incident it was.

22 Q You don't remember when or --

23 A Uh-huh.

24 Q -- you don't remember what?

25 A I don't remember when or what.

1 Q Okay. Or where.

2 A Yeah, I can't place too much of them in order.

3 Q All right. Can you say generally when you stopped
4 seeing? Do you even know that?

5 A After the affidavit.

6 Q But you were seeing whom -- I mean, you were
7 seeing him up until that point?

8 A No, because he moved to Cleburne. I couldn't.

9 Q But were you communicating with him?

10 A Yeah.

11 Q Were there --

12 A Telephone.

13 Q Excuse me?

14 A Telephone and e-mails.

15 Q There's occasions that you contacted him, he
16 contacted you?

17 A Yes.

18 Q Do you recall talking to Theresa Castillo in 1998
19 when she told you there was too many calls? Do you remember
20 her telling you there's too many calls, that you were making
21 too many calls?

22 A I don't recall her telling me anything.

23 Q And do you recall her telling you that there's too
24 much talk about sex?

25 A No.

1 Q That wasn't said?

2 A No.

3 Q Do you recall anger towards your mother when you
4 destroyed some property in your room?

5 A Like what do you mean?

6 Q Tore up something in your room when you were mad.

7 A I was upset.

8 Q About what?

9 A Just - just angry.

10 Q Do you recall saying that I'm the best at
11 deceiving? Do you remember telling somebody that you're
12 a -- that you're good at deceiving?

13 A No.

14 Q Do you recall saying that you lied so well?

15 A No.

16 MR. MASON: May I approach the witness, Your
17 Honor?

18 THE COURT: Yes, sir.

19 MR. MASON: Thank you.

20 Q (BY MR. MASON) Sarah, let me ask you to look at
21 what's been marked as Defendant's Exhibit 1.

22 A Uh-huh.

23 Q Let me just count the pages. Approximately eleven
24 pages that I've stapled together. First of all, what I want
25 you to do is just look at it. Would you just kind of flip

1 through it? Because I'm going to ask you some questions
2 about it.

3 A (Witness complies)

4 Q Are you through looking at it?

5 A Yes, I am.

6 Q What are those?

7 A Those are e-mails that I sent to Kevin.

8 Q That you what?

9 A That I sent to Kevin.

10 Q Sent to Kevin.

11 A Most of them -- some of them are forwards, like
12 jokes.

13 Q All right. Where does -- where does it show, for
14 example, on this top page, the date that it was sent?

15 A In December.

16 Q Okay. Is it right here? This date line?

17 A Uh-huh.

18 Q December 7th, '98?

19 A (Moving head up and down)

20 Q So these are e-mails in this exhibit from you to
21 Kevin, December 7th of '98, December 23rd of '98, December
22 31st of '98, December 21st -- 24th, January 17th of 1999?

23 A (Moving head up and down)

24 Q January 14th of 1999, January 18th; is that
25 correct? Is that kind of what this is?

1 A Yes.

2 Q And does this -- and do these e-mails fairly and
3 accurately print out the things you e-mailed to him over the
4 internet?

5 A Yes.

6 MR. MASON: Your Honor, I'd like to offer this
7 exhibit into evidence.

8 MR. JOHNSTON: Well, I haven't -- haven't seen
9 it. To what relevance? I object to showing the relevance of
10 their e-mails. What are they -- what's the point of it, is
11 my objection.

12 THE COURT: Overruled. Any other objection?

13 MR. JOHNSTON: I'd like a minute to review
14 them and make sure I have copies. Thanks. (Pause)

15 I have a problem with the jury seeing any
16 e-mails. I would object to them legally. These appear, Your
17 Honor, the first at least two or three appear to be forwards
18 of e-mails from unknown people to a dozen people, and just
19 containing stories and such as that.

20 I -- I guess I would object that there's -- I
21 objected to relevance earlier, I object now to the -- I
22 guess, authenticate what this is, how it may bear on the
23 issues of the case. The fact that there's e-mails, unless
24 there is some relevance that authenticate -- to have
25 something to do with the issues in the case. I'd object to

1 the first one in particular. It looks like something that's
2 been passed around the internet. I object to it.

3 THE COURT: Overruled. Defense 1 is admitted.

4 MR. MASON: Thank you, Judge.

5 Q (BY MR. MASON) Sarah, look at what I marked as
6 Defendant's Exhibit No. 2. It looks like about four pages
7 stapled together. Would you look at that too?

8 A I sure would.

9 Q And I'll ask you some questions about it.

10 A (Witness complies)

11 Q I'm sorry. Are you through looking at it? What
12 is that?

13 A Just a card you send.

14 Q Okay.

15 A Just like a greeting.

16 Q Do you know what this one is, though?

17 A Uh-huh, it's a greeting card.

18 Q Excuse me?

19 A It's a greeting card sent over the e-mail.

20 Q I understand. Who is it sent from? Who sent it?

21 A Well, I did.

22 Q And who did you send it to?

23 A To Kevin and Theresa.

24 Q Okay. Does it fairly and accurately represent
25 what you sent to him over the internet?

1 A Yes.

2 MR. MASON: Your Honor, I'd like to offer --

3 THE WITNESS: Just to say hi.

4 MR. MASON: Defendant's Exhibit 2.

5 MR. JOHNSTON: No objection to it. Thank you.

6 THE COURT: Defendant's 2 is admitted.

7 Q (BY MR. MASON) Let me ask you to look at
8 Defendant's Exhibit No. 3. What is that?

9 (Pause in proceedings)

10 THE COURT: Mr. Mason, proceed.

11 MR. MASON: Oh, I'm sorry, Judge.

12 Q (BY MR. MASON) What is that?

13 A It's a letter I wrote Kevin.

14 Q Okay. Finally, let me ask you to look at
15 Defendant's Exhibit No. 4. And first of all, look at it.

16 A (Complies)

17 Q What is 4? Well, first of all, let me back up.
18 Is that your signature on there? Did you sign that?

19 A Yes.

20 Q All right. And what is this?

21 A That's that so-called affidavit that I signed.

22 Q All right. And does this piece of paper,
23 Defendant's Exhibit 4, to the best of your knowledge,
24 represent the -- the original affidavit that you signed?

25 A Looks like it.

1 MR. MASON: Your Honor, I'd like to offer 4
2 into evidence.

3 MR. JOHNSTON: No objection to that at all.
4 Thank you.

5 THE COURT: 4 is admitted.

6 Q (BY MR. MASON) All right. Now, the exhibits that
7 were offered earlier, prior to lunch, were e-mails from Kevin
8 to you; is that correct?

9 A That is correct.

10 Q The ones that I've asked you to look at are ones
11 from -- that you sent to him?

12 A Uh-huh.

13 Q Is that correct?

14 A Yes, sir.

15 Q Okay. You sent -- Defendant's Exhibit 3 is a
16 handwritten letter that you sent to him; is that correct?

17 A Yes, it is.

18 Q And then the greeting card you sent, do you know
19 when that was sent?

20 A No, I don't.

21 Q Was it after they moved to Cleburne?

22 A I -- I'm not sure. It had to be, because we
23 really didn't e-mail until after he got to Cleburne.

24 Q Okay. You contacted him because you wanted to
25 contact him, didn't you?

1 A It goes both ways.

2 Q But you did, you contacted him because you wanted
3 to keep up the communication with him.

4 A He was supposed to be my friend.

5 Q One of these e-mails is an original contact from
6 you to him on January 17th. It says: Sunday, January 17th.
7 You -- you contacted him, didn't you?

8 A Yes.

9 Q And it looks like maybe two e-mails, at least,
10 that day; is that correct?

11 A I do believe so if that's what the date mark says.

12 Q And one of them says: I'm giving you permission
13 to write me anytime you want. And you tell him your e-mail
14 address.

15 A (Moving head up and down)

16 Q Is that true?

17 A Yes.

18 Q Did you have a phone conversation with him about
19 this case?

20 A Um --

21 Q Did you talk to him by phone?

22 A I remember him calling me and asking me if I had
23 talked to the police.

24 Q But you talked about whether or not it had
25 happened at all. Do you remember that?

1 A Yeah, but he knows it happened. He even said it
2 did over the phone.

3 Q But you told him it didn't happen.

4 A I did -- not on that date.

5 Q And you told him that --

6 A It was before that date.

7 Q -- you would be willing to sign something that
8 says it didn't happened.

9 A No, he told me to sign it because it didn't
10 have -- had the wrong date.

11 Q You said that you would be willing to sign it and
12 went to go sign it, didn't you?

13 A You'd have to know him. As I said, you know I was
14 scared.

15 Q So you're scared of him. Based upon your
16 testimony, they moved away around your birthday, about the
17 end of 1998 -- the jury may learn it was 1997. But in any
18 event, he's gone from Blum, Texas, isn't he?

19 A Yes.

20 Q And you contact him and you tell him it didn't
21 happen, that you'll sign whatever needs to be signed because
22 it didn't happen.

23 A I didn't --

24 Q And then you're telling us today you're scared of
25 him.

1 A I didn't say it didn't happen.

2 Q So you have never said that he's never touched me
3 in a sexual way on my chest or on my female area?

4 A No. I did not read that document when I signed
5 it, plus I was a minor.

6 MR. MASON: Okay. Your Honor, at this time
7 I'd ask permission of the Court -- I would pass this witness.
8 I would ask permission to publish these to the jury.

9 THE COURT: These being 1, 2, and 4?

10 MR. MASON: Let's see, Judge. 1, 2 -- if I
11 haven't yet, Judge, I'd offer Defendant's Exhibits 1, 2, 3,
12 and 4.

13 MR. JOHNSTON: I don't think I saw 3.

14 THE COURT: 1, 2, and 4 are in evidence.

15 MR. MASON: Oh, I'm sorry.

16 THE COURT: 3 has not been offered.

17 MR. JOHNSTON: Right.

18 THE COURT: Any objection to 3?

19 MR. JOHNSTON: Oh, let's see. I've seen 4,
20 but I didn't see 3.

21 MR. MASON: Oh.

22 MR. JOHNSTON: And I'm sure it's fine, but --
23 well, we have no objection to 3.

24 THE COURT: 3 is admitted. You may publish 1,
25 2, 3, and 4.

1 (Exhibits delivered to jury)

2 MR. MASON: I'll pass the witness, Judge.

3 THE COURT: Redirect.

4 MR. JOHNSTON: Very briefly, I think, on just
5 one thing. Before the jury gets to look at that too close,
6 if I can just ask you, may I approach the witness?

7 THE COURT: Yes, sir.

8 REDIRECT EXAMINATION

9 BY MR. JOHNSTON:

10 Q I believe you had a question by the defense
11 lawyer, something about the first visit to De Paul. And I
12 believe the question was but you hadn't reported -- reported
13 until six months after that, or six months later. Do
14 you remember that question he asked you?

15 A Yes.

16 Q Okay. I'm going to show you, just to the extent
17 it may refresh your memory. That's the only reason. I'm
18 going to show you some records from the November '98
19 admission to De Paul. And I'm going to ask you, only to the
20 extent it refreshes your memory, to look at the very top of
21 that page. Have you read that?

22 A (Moving head up and down)

23 Q Did you --

24 A No.

25 Q I'm sorry. Right up here.

1 A I've said that.

2 Q Okay. So when -- when you first got to De Paul
3 and were dealing with all your stuff you were having to deal
4 with, did you let them know what happened with this guy?

5 A Uh-huh, when I finally broke down.

6 MR. JOHNSTON: Okay. I pass -- that's all I
7 have. Pass the witness.

8 MR. MASON: No questions, Judge.

9 THE COURT: You may step down. Call your next
10 witness.

11 MR. JOHNSTON: All right. Your Honor, Donna
12 Pickett. And I believe she's just right across the hallway
13 here.

14 (Mr. Johnston leaves the courtroom)

15 MR. MASON: Your Honor, when Bill comes back I
16 want to approach the bench.

17 (Off record discussion at bench - Mr. Mason)

18 (Witness and Mr. Johnston enters)

19 THE COURT: Would you raise your right hand,
20 please, ma'am.

21 THE WITNESS: Yes.

22 (One witness sworn by the Court)

23 THE COURT: Let me advise you the Rule has
24 been invoked, which means you're not to discuss your
25 testimony with any other person, except the attorneys in the

1 case, or except by permission of the Court.

2 THE WITNESS: Yes, sir.

3 THE COURT: While you are under the rule
4 you'll not read any report of or comment upon any of the
5 other testimony in the case. Except for the time you are
6 testifying, it will be necessary for you to remain outside
7 the hearing of the courtroom.

8 Mr. Johnston.

9 MR. JOHNSTON: May I proceed?

10 MR. MASON: Your Honor, at this time I'd just
11 ask for a brief hearing outside the jury's presence pursuant
12 to Rule 705.

13 THE COURT: Okay. Ladies and gentlemen of the
14 jury, please follow the bailiff and I'll hear a matter
15 outside of your presence.

16 (The jury leaves the courtroom)

17 THE COURT: Let the record show that the jury
18 left the courtroom. Mr. Mason.

19 MR. MASON: Your Honor, I guess at this time I
20 would ask the State to indicate that -- it may -- it may
21 shorten my examination of this witness outside the jury's
22 presence -- the purpose for which this witness is being
23 called.

24 My suspicion is it's not necessarily a fact
25 witness to the offense, but on the other hand, it's probably

1 a person who has counselled with the complainant. And as
2 such, I'd ask to test her qualifications. I assume that she
3 would, in that respect, be testifying as an expert, and I'd
4 like to test those qualifications and also make kind of an
5 oral motion in limine.

6 I think the current state of the law is that a
7 counselor can testify to symptoms of an abused child, and
8 symptoms that she may have seen in a -- in this particular
9 child, but she cannot testify to her opinion regarding the
10 witness' truthfulness.

11 THE COURT: Let's develop whatever it is
12 you're going to develop, Mr. Johnston, while the jury's not
13 here.

14 MR. JOHNSTON: Yes, sir.

15 THE COURT: Then you make your objection,
16 cross examine, and then I'll make a decision.

17 MR. JOHNSTON: Yes, sir. Your Honor, I can
18 tell you this is sort of an extension fact witness or fact,
19 slash, expert witness. We have no concern about her
20 credibility -- I mean, about her qualifications and the
21 Daubert challenge.

22 I'll be glad to kind of try to qualify -- I'll
23 take the lead and try to qualify her right now. And as to
24 the other question, which sort of invades the providence of
25 the jury, or that ultimate question of the credibility of the

1 child, I will not ask that of her.

2 THE COURT: Okay.

3 DONNA PICKETT,

4 having been first duly sworn, testified as follows:

5 QUALIFICATION EXAMINATION

6 BY MR. JOHNSTON:

7 Q Ma'am, please state your name.

8 A My name is Donna Pickett.

9 Q And would you briefly describe the field of work
10 you've been in, and for how many years?

11 A I'm licensed as a licensed professional counselor,
12 a LPC, a LCDC, licensed chemical dependency counselor. I'm
13 licensed as a social work associate and I'm licensed as a
14 TCLEOSE instructor, which is for peace officers.

15 Q And would you --

16 A And --

17 Q Pardon me.

18 A How long?

19 Q Yes.

20 A I've been working professionally or in a
21 professional setting since about '91.

22 Q Okay. Would you describe the education and
23 training you've had which enabled has enabled you to do that
24 sort of work?

25 A I have a master's degree in counseling

1 psychology, and I've had special training in child sexual
2 abuse, and in perpetrators, you know, the processes they go
3 through.

4 I'm on the child welfare board to help -- our
5 purpose is to help educate people about child abuse and
6 sexual abuse, is one of the primary things that happens,
7 that people are uneducated about. And we offer education to
8 schools and groups and whoever is willing to hear.

9 I'm also on the Regional Counsel of Child
10 Welfare Boards for Region 7, and I've had special training
11 in child abuse cases and the perpetrator's side of it as
12 well.

13 Q Twice you referred, regarding your qualifications,
14 that you've had special training.

15 A Yes, sir.

16 Q Particularly in the areas of child sex cases.
17 Would you, for the Court, briefly describe that special
18 training in terms of what it entailed, the time periods, and
19 who the instructors may have been.

20 A Okay. Well, for one thing, on the child welfare
21 board, one of the processes we go through is that the State
22 liaison comes and educates us, first of all about child
23 abuse, and especially about child sexual abuse, so that we
24 know what we're talking about when we go out and talk to
25 other people. And oh, gosh, let's see.

1 Q Is or -- other seminars, events, or training --

2 A Yes, lots of seminars, and on-the-job training,
3 and the children that I work with primarily have been kids
4 with behavior problems, depression, and serious problems,
5 and the majority of those children have been sexually
6 abused.

7 Q Okay. Would you state in your experience now,
8 thus far in your career, about how many children you have
9 counselled and spoken with that are the victims of child sex
10 offenses?

11 A Well, the --

12 Q Approximately.

13 A Oh. I've seen a lot of kids. In one of the
14 things that I have, that I believe to be true, is that a
15 child who's been sexually abused really wants to let that
16 out, to express that emotion because it's very, very painful.
17 But the problem is no one asks them the question. And that's
18 one of the questions I ask the children, have you ever been
19 sexually abused.

20 Q And how many children do you think you have dealt
21 with, in terms of dozens or hundreds?

22 A Well, over -- over a hundred. Maybe as many as
23 200 children.

24 Q Okay.

25 A That, you know, have answered that question yes.

1 Q Okay. And then have you used your master's degree
2 in education, then your supplemental training, to deal with
3 and counsel those children?

4 A My master's is in counseling psychology, and of
5 course, you know, in your training you go through that. And
6 I use that, and on my special training, you know, we have to
7 have continuing ed. hours, and I do a lot of that on child
8 abuse.

9 Q Okay.

10 A And I use that training with the children, yes.

11 Q And can you state whether or not you have
12 testified in the courts of the State of Texas previously
13 about matters like which you are called upon to testify
14 today?

15 A Yes, I have.

16 Q And have you been allowed to testify regarding
17 your opinions about victims of child sex abuse and
18 perpetrators?

19 A Yes, sir, I have.

20 Q In district courts in the State of Texas?

21 A Yes.

22 MR. JOHNSTON: I pass the witness for the
23 qualification questions.

24 THE COURT: Cross examine.

25 MR. MASON: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. MASON:

Q Ms. Pickett, your master's, where did you receive that?

A The university -- let's see, the University of Central Texas in Killeen, that is now a part of the A&M system.

Q And you mentioned TCLEOSE, is that a -- did you qualify to -- to instruct -- instruct under the TCLEOSE, to instruct police officers?

A Yes, sir. As you know, you have to be invited to become an instructor, and you have to be sponsored, and I was sponsored by the Hill County Sheriff's Office, and took the -- you have a forty-hour course you have to take on instruction, and you have to pass the course.

Then you do a video that goes to the State, and then you do -- they do an FBI check, and the whole thing. And then if you pass all that, you're qualified to teach the areas that you have expertise in.

Q Are you currently employed by a state agency?

A No, sir, I'm not.

Q You're in private practice?

A That's correct.

Q And where is your private practice located?

A Well, Hill County primarily. At the current time

1 I'm -- I have had some real serious health issues the last
2 three years and have not been able to work very much. So I'm
3 just -- I just see special cases.

4 Q And you said professionally in this area since
5 nineteen -- not in this area geographically but in this --
6 in this topic area, since 1991?

7 A Yes, sir.

8 Q Eleven years or so prior to that, what did you do?

9 A I worked in the schools as a teacher's aid. I did
10 a lot of community work, Boy Scouts, Sunday School, you know,
11 the things that -- that a mother does with small children,
12 you know, whatever they were involved in, I was involved in.
13 And of course at school, you know, you get training too on
14 sexual abuse and outcries. And I have -- I have done
15 training on child abuse as well for the schools.

16 Q The Child Welfare Board, is that something in
17 Hill -- Hill County?

18 A Yes, it's affiliated with the county, that the
19 county commissioners have to agree to appoint the members of
20 the Child Welfare Board, and they serve the county. In fact,
21 we -- we raise money for CPS to have a case aide so that they
22 can more acutely deal with the cases and not have to deal so
23 much with the paperwork and visitation and that sort of
24 thing. And I've worked very closely with them for several
25 years.

1 Q And is that a paid position on the welfare board?

2 A No, sir, it's not. It's voluntary.

3 Q All right. And your testimony today, have you
4 made an agreement regarding your -- your fee for appearing
5 today or not?

6 A No, sir, I'm -- I'm not charging to be here today.

7 MR. MASON: Okay. Your Honor, I believe
8 that's all I have of this witness. I'll pass the witness.

9 MR. JOHNSTON: Well, we'll be offering her as
10 an expert to that extent, qualification.

11 THE COURT: Bring the jury back in. I don't
12 know where the bailiff is.

13 MR. MASON: The only -- the only other -- real
14 short, Judge. Is that she not be offered as an outcry
15 witness under 3807.2, which is our outcry witness statute.
16 It's basically an exception to hearsay.

17 MR. JOHNSTON: I'm not going to ask her
18 anything that she was told by the young lady.

19 MR. MASON: Okay.

20 THE COURT: Bring them in.

21 MR. JOHNSTON: And make sure you don't
22 reference any hearsay. If I ask you your opinion, you can't
23 be telling what someone told you. Okay. You won't need to.

24 THE WITNESS: Okay. I just give you my
25 opinion. I understand. Keep it general.

1 MR. JOHNSTON: Just don't quote anybody that's
2 telling you something.

3 THE WITNESS: I understand.

4 (The jury enters the courtroom)

5 THE COURT: Proceed, Mr. Johnston.

6 MR. JOHNSTON: Yes, Your Honor. I believe the
7 witness has been sworn; is that correct, sir?

8 THE COURT: That's correct.

9 DIRECT EXAMINATION

10 BY MR. JOHNSTON:

11 Q All right, ma'am. Please tell the jurors your
12 name.

13 A I'm Donna Pickett.

14 Q And Ms. Pickett, what is your profession?

15 A I am a licensed professional counselor.

16 Q All right. Would you briefly tell the jurors
17 about your educational background and your training that
18 enables you to be a counselor, particularly with reference to
19 child sex cases?

20 A Yes, sir, I have a master's degree in counseling
21 psychology, and I have attended many special trainings on
22 child abuse, on perpetrators, and the whole case scenario of
23 how this happens.

24 I am on the child welfare board, and part of
25 the -- on the Hill County Child Welfare Board, and part of my

1 job there is to educate the public about child abuse and
2 child sexual abuse. And we receive special training from the
3 State liaison to teach us what happens in order that we can
4 accurately give information to the public.

5 And then in my job training, and I get a lot
6 of children who have been sexually abused, and so I do a lot
7 of just reading on all -- what all the experts have to say to
8 look for and to do and --

9 Q And is this since 1991, approximately been --

10 A Yes, sir.

11 Q -- what you do?

12 A Yes, sir, in 1991 I was working at a boys'
13 residential treatment center, which they contracted with the
14 Texas Youth Commission, which if you don't know, is jail for
15 children.

16 And we got cases where the children -- they
17 felt their behavior problems were more emotionally based than
18 violence. And most of those children have been sexually
19 abused. So that we -- we got a lot of training there,
20 on-the-job training, you know, about what the symptoms are
21 and what to look for.

22 Q And in addition to all of that, are you an
23 instructor or teacher, to law enforcement officers and to
24 others in this area of child sex cases?

25 A Yes, sir, I'm a licensed TCLEOSE instructor, which

1 is the -- let's see if I can remember the axiom, Texas
2 Commission on Law Enforce -- Law Officers -- let's see,
3 Standards and Training, or something like that. But it's a
4 very special honor to be an instructor, because first of all
5 you have to be invited to become an instructor. You can't
6 just decide you want to go to class and do this.

7 And I'm sponsored by the Hill County Sheriff's
8 Department because they were familiar with my work, because
9 I'm involved with them a lot for mental health warrants and
10 child abuse cases, and one thing and another. And they had
11 requested that I take the training to become an instructor.
12 And you have to take a forty clock-hour instruction course,
13 pass the course, do a teaching video, which goes to the
14 State. They do an FBI background check. And if you pass all
15 of that, then you become a licensed instructor.

16 And I have given several classes to the law
17 officers here in Hill County on sexual abuse and mental
18 health issues, and all the things that are encountered in
19 family violence and that sort of thing.

20 Q Okay. In addition to the education you've
21 described, your master's and so forth, and your various
22 training events you've attended, and the special training and
23 now the instructing, in addition to all that, which is a lot
24 of book stuff, I'd like to ask you the practical, real world.
25 Have you had an occasion to speak with a large number, ma'am,

1 of sexually abused children?

2 A Yes, sir, I have.

3 Q Could you give the jurors an idea of how many?

4 A Well, the children that I generally work with are
5 severe cases, and a lot of times sexual abuse issues come out
6 as anger and violence, either they explode outwardly with
7 violence and attack other people, or inwardly where they
8 become very depressed, suicidal, have eating disorders, or
9 some kind of other mental health problem.

10 Q And how many --

11 A And approximately --

12 Q -- kids have you?

13 A Most of the children I see have been sexually
14 abused, or they -- they -- that is what they've told me. And
15 because I see a lot that have been through court and they
16 come to me for healing afterwards, because sexual abuse is
17 something that lasts, the effects last a lifetime. You never
18 really get over it.

19 MR. MASON: Your Honor --

20 MR. JOHNSTON: Give --

21 MR. MASON: Your Honor, at this time I would
22 just object to the narrative nature --

23 THE COURT: Sustained.

24 MR. MASON: -- of her answer and ask that she
25 limit her answers to the questions.

1 THE COURT: Sustained.

2 Q (BY MR. JOHNSTON) Okay. Then give us an idea,
3 just a number of --

4 A I would say probably well over 200 children.

5 Q Okay. Would you please describe for the jury the
6 things you look for, that is to say the characteristics of
7 children who have been sexually abused? I'm talking about
8 young teens, for instance.

9 A One of the first things you'll notice is their
10 self-esteem. They generally take on the shame and guilt of
11 what's happened and exhibit that in their behavior. Lack of
12 trust. The -- the emotion that they show when they talk
13 about what's happened, the amount of detail that they give,
14 especially I look for age-inappropriate detail, things that a
15 child that age would not normally know.

16 And also, you know, you work with so many of
17 these children you get an intuitive feel for, especially with
18 small children, you can just see it in their eyes. They're
19 like little adults. Because once they have been violated,
20 you turn on that sexual button, and you can't turn it back
21 off again. And that shame just resides in them and you
22 can -- you can actually feel it and see it.

23 Q Can you state whether or not it is typical or
24 atypical of children who have been sexually abused that they
25 have emotional issues that often get -- become severe?

1 A Absolutely.

2 Q That sometimes require hospitalization?

3 A Yes, sir. Like I said, sometimes they explode,
4 where they take it out on other people, or they implode,
5 where they take it out on themselves. And you see
6 depression, eating disorders, they want to kill themselves.

7 And -- and it -- I would say that the crux of
8 the matter is when they make their first outcry. If it's --
9 if the people they tell listen to them and take them
10 seriously, or whether they're discounted. If they're
11 discounted, then they feel like the shame is theirs, and they
12 just shut down and they keep it all inside and it just
13 continues to boil inside.

14 Q All right. I would like to ask you also about
15 motivation. And this is based on your hard experience,
16 ma'am, having seen and talked to these hundreds of cases.
17 And based upon that, do you -- can you help the jury in
18 understanding whether or not a child would normally make
19 up -- and you've probably seen the whole gambit, but would
20 make up something about being sexually abused or molested?

21 A It would be very unusual.

22 Q Why? Why, ma'am, is that something that is not
23 normal behavior you see?

24 A Well, because, first of all, it's usually age
25 inappropriate. And that they feel ashamed. They take on all

1 the shame and guilt, and they make an adult decision in a
2 child's body that they should have been able to prevent this
3 somehow. And they -- of course, they couldn't. They were
4 children dealing with an adult who knew what they were doing
5 and had planned this activity.

6 So usually they are very reluctant to talk
7 about it. And again, the outcry is the crux. If -- if the
8 person they make the outcry to, and an outcry is when they
9 first tell someone they've been sexually abused. If the
10 person is sensitive to that and knows how to respond, then
11 the child feels like they can talk about it.

12 And if, for instance, it's a member of the
13 family especially, they say, Uncle Joe wouldn't do that, quit
14 lying. Well, they just completely shut down. So they're
15 very cautious about who they talk to and what they say, and
16 they'll usually test the waters a little bit.

17 And again, because of the experience I have, a
18 lot of times people don't ever ask have you been sexually
19 abused, and that's one of the questions that I ask up front.
20 And they usually want to talk about this because it hurts so
21 much. They want someone to hear their story.

22 Q Ma'am, I would like to ask you, in your experience
23 now, and you can't say in a given case, can -- whether
24 something's the truth or not, right? In a given case, it
25 stands on it's own, doesn't it; is that right? I'm not

1 asking your opinion, in other words. Okay?

2 A Okay. I'm not quite sure I understand.

3 Q Well, every case stands on it's own. That's why
4 we have juries, correct?

5 A Exactly.

6 Q Okay. But I would like to ask you, based upon
7 your experience, what benefit comes to a child who makes up a
8 detailed story of sexual abuse? Is that something you've
9 seen actually helps them, or not?

10 A Well, the place where I've seen it the most is in
11 children who were molested and been through the system.
12 Because they know what to say and they see the power that it
13 gives them. And then if they go to another family, and the
14 parents discipline them, this is a tool that they can use for
15 retribution. And of course they don't understand the full
16 consequences of what they're doing. They -- they stay angry,
17 and that's one way they have of controlling other people.

18 Q Is that --

19 A So that -- but -- but usually that's the only time
20 that you will see it. Now --

21 Q Where they've actually been abused and been
22 through the system and seen the power?

23 A Yeah, because they see what happens in the system
24 and what happens to mom and dad, you know, that they have
25 power. Because sexual abuse, mostly, is not about sex, it's

1 about power and control.

2 Q Okay. And isn't -- regarding the young lady Sarah
3 Williams, is there any evidence that she had that sort of
4 motivation?

5 A No, sir.

6 Q Okay. And I would like to ask you once again,
7 based on your hard experience of talking to children and
8 listening to them and their families, and exploring these --
9 these events, can you tell the jurors why a child who has
10 been sexually molested would continue to go back to the
11 perpetrator and seek him or her?

12 A Yes, sir.

13 Q Please.

14 A I really -- to answer that question, I'd need to
15 talk a little bit about the perpetrators.

16 Q Please -- please do, as it relates and is relevant
17 to my question.

18 A Okay. Perpetrators often go where they have free
19 access to children, because they'll join the Boy Scouts or in
20 church or, you know. They'll be the guy that's at all the
21 activities, or just parties, so that he has access to
22 children. And they go through a process of what we call
23 grooming.

24 Q What is grooming, please?

25 A Grooming is a term that we use to describe the

1 process where the perpetrator comes in and they're the
2 child's best friend. They'll do anything for them. They'll
3 take them to the park or, you know, buy them things, and get
4 them to trust them. And children are taught to trust adults
5 and to, you know, obey authority.

6 And so the first thing they do is they gain
7 the child's trust, because this is not usually -- when we're
8 talking about a perpetrator that -- a multiple perpetrator,
9 we're not talking about a one-time incident of rape, we're
10 talking about someone who does this consistently.

11 And they first gain their trust, and they act
12 like they're their best friend. And they choose children
13 that are usually -- they'll have their heads down, you know,
14 they're having trouble at home, they don't have a lot of
15 friends, they're having difficulty at school, their
16 self-esteem is low, and they're looking for somebody to
17 affirm them.

18 And that's what a perpetrator does. He tells
19 them how beautiful they are, and how talented or whatever.
20 That they seem to have an intuitive feel for what each
21 particular child needs, and that's what they give them, that
22 reassurance, that friendship, and they gain the child's
23 trust.

24 And once they have their trust, and family
25 trust, because they come over and they play games and they do

1 things and they -- it only takes a few seconds for a
2 perpetrator to touch a child, you know, in an inappropriate
3 place, but the child's affected by that because they feel
4 like there's something wrong.

5 Q But why, if the child feels that there's something
6 wrong and maybe are conflicted still in a sense, why would
7 they go back and communicate with the perpetrator again,
8 ma'am?

9 A Because they have such a need for affirmation is
10 one of the reasons. And the other is because most children
11 are perpetual optimists. They -- they want to believe that
12 it was an accident and that this person really is their
13 friend.

14 Because if they have to make the choice that
15 he is out to hurt them or to harm, then everything that he
16 said was a lie and they're back to where they started and
17 they don't want to go back there.

18 But yet -- so they're -- they're in the
19 position of this is the only place where I get affirmation,
20 and yet he's hurting me. But I don't want to tell because
21 they won't believe me and they're just -- especially the
22 prepubescent child, they just don't have enough information
23 to know what to do with this kind of conflict.

24 Q And have you -- can you state, in the
25 approximately 200 cases, is it common or uncommon for a child

1 who's in a long-standing relationship with a perpetrator, for
2 the child to repeatedly go back to and communicate with the
3 perpetrator? Is that common or uncommon?

4 A That's pretty common. Because again, this may be
5 the only place they get any strokes, you know, even though
6 there's -- and -- and what happens to the child, they get so
7 confused because love and violence are joined together and
8 they can't separate it.

9 And again, they take it internally and think,
10 you know, that they're causing it in some way. And they go
11 back to try and make it right sometimes. They think, you
12 know, he really is okay, and if I hadn't have done this --
13 and of course the perpetrator perpetuates this belief that,
14 you know, you brought this on and you really want it and that
15 sort of thing. And it's very insidious.

16 This is not something that happens overnight.
17 Grooming can take -- they can take up to two years to groom a
18 child before they actually do a sexual act with the child.
19 So it's very insidious. So the child has a history with this
20 person. And again, they're taught to obey authority and it's
21 just very confusing to them.

22 And the violence and the fear of the violence,
23 you know, makes them afraid. But yet on the other hand,
24 here's somebody who's -- who's affirming them. But then
25 after they've committed the act, then they begin to threaten

1 these girls, and so it's not just a matter of wanting to go
2 back, but a lot of times they'll say -- show them, you know,
3 here's my knife, and if you say anything to anybody or don't
4 show up, somebody in your family's going to die.

5 And so they begin to build that fear that if
6 the girls don't come back, then something is going to happen
7 that's going to be of a very serious consequence. And so the
8 girls are -- they've seen the violence in this person and
9 they're afraid that they'll carry out that threat.

10 Q Okay. I would ask you, then, in this case, did
11 you, without going into anything that was said to you,
12 ma'am --

13 A Yes.

14 Q Did you have occasion, on one or more occasions,
15 to meet with and visit with Sarah Williams?

16 A Yes, sir.

17 Q And to observe her?

18 A Yes, sir.

19 Q I would ask you then, ma'am, based upon your
20 training and experience, can you state whether or not Sarah
21 Williams, to your observation, her demeanor and presentment
22 was consistent with somebody who had been abused sexually?

23 A Yes, sir.

24 MR. JOHNSTON: I pass the witness.

25 THE COURT: Cross examine.

1 MR. MASON: Thank you, Judge.

2 CROSS-EXAMINATION

3 BY MR. MASON:

4 Q Ms. Pickett, let me ask you a few things just real
5 briefly.

6 A Yes, sir.

7 Q In your -- the time period that you spoke with
8 Serena Williams, (sic) was it your opinion that she likes
9 excitement and danger? Did you ever make that notation?

10 A I would phrase it differently.

11 Q Well, but my question is, did you ever make a
12 notation that she likes excitement and danger?

13 A No, I would not say that she likes it.

14 Q Did you ever make a notation about something about
15 a gang in Cleburne?

16 A Yes.

17 Q Did you make a notation that she was playing games
18 with her medicine Paxil?

19 THE WITNESS: Your Honor, I have a question.
20 I'm -- I'm not supposed to talk about anything they said to
21 me?

22 THE COURT: You can answer that question.

23 THE WITNESS: Okay. Yes, sir.

24 Q (BY MR. MASON) A notation that she's not
25 interested in getting better. Your notes. Did you make a

1 note like that?

2 A Yes, I felt she had an eating disorder.

3 Q That she's manipulative and gets an attitude?

4 A Yes, sir.

5 Q That her mother was overprotective?

6 A That was her opinion, yes.

7 Q A note about an explosive temper. Did you note
8 that?

9 A Yes, and --

10 Q How many individual teen, preteen, children, have
11 you counselled, would you say, over the years? And I know
12 it's an estimate.

13 A A lot.

14 Q Well, let's just say over -- what years have you
15 been undertaking counseling with teens, preteens?

16 A Well, just for instance, when we -- when I started
17 working at the RTC, we had about 36 boys that I saw. And of
18 course they changed during the year, so I would say on an
19 average fifty kids a year.

20 Q Seriously, serious counseling?

21 A Yes.

22 Q And what is RTC again?

23 A Residential treatment center.

24 Q Okay.

25 A That's a -- rather than go to jail, or when a

1 child goes through the court process, if they're having
2 behavior problems, and the Court -- or if they're committed
3 to TYC and they just go through evaluation, if they feel like
4 the child's issues are more emotionally based, then they'll
5 go a treatment center for treatment rather than be
6 incarcerated.

7 Q Ms. Pickett, my question, though, is including
8 residential treatment center kids like you've talked about,
9 but also --

10 A Yes, sir.

11 Q -- kids in your private therapy practice, you say
12 fifty a year, would you say that?

13 A I -- I would guess, except for the last few years,
14 as I told you.

15 Q Yes, ma'am. And would you also agree with me that
16 a child who feels like there's no alternatives, there's no
17 one to cry out to, there's no place to go, that they're stuck
18 with this situation. The younger the child, the more likely
19 the child feels trapped. Because literally there are less
20 alternatives for --

21 A Yes, because they -- they -- they're not aware,
22 really, of what's going on, much less what their options are.
23 And they make adult decisions with a child's information and
24 a child's maturity. And so a lot of times, you know, they
25 take on all the blame but --

1 Q But the older the child, the less likely we have
2 these limited alternatives?

3 A No, sir.

4 Q The more like --

5 A Not necessarily. Because if the perpetration
6 started at an early age, they sort of stop growing
7 emotionally at that age and get trapped in that mind set,
8 because they made decisions that they work off of that they
9 feel are valid and they continue to work off those
10 assumptions, even though they're in an older body.

11 Q Okay. Have you ever counselled with children who
12 described inappropriate sexual contact that you later found
13 out to be not true?

14 A No, sir, I can't recall any case where I have
15 dealt with a case where a child has made an outcry that
16 proved to be false later on. Now, a lot of them may have
17 gone undetermined, but none that were proven false.

18 Q Okay. I guess my question is, in your eleven
19 years, you've never interviewed a child who said one thing
20 then you later decided that child was not being truthful?
21 That's never happened?

22 A Yes, now that's happened, that they say something
23 that I later find out is not true. Because a lot of clients
24 when they come are hostile and they want to test whether or
25 not they can trust you, so they display a lot of hostility

1 and test you to see if you're trustworthy before they'll
2 really talk to you.

3 Q All right. Depending -- I'm sure depending on the
4 circumstances for which you are counseling a child, is there
5 a time period that counselors discuss among themselves, after
6 which counseling may not be doing any good and we probably
7 need to stop counseling? Does that ever come up? Are you
8 aware of the --

9 A Uh --

10 Q -- the thought in the field of therapy about
11 counseling too much, not accomplishing anything?

12 A Yes, that's something that we continually assess
13 for.

14 Q Uh-huh.

15 A However, in child abuse cases, sexual abuse in
16 particular, this is an issue that they have to deal with at
17 every stage of development, and they continue to grapple with
18 it throughout their life. It -- it never goes away.

19 Q All right. With a particular counselor and with
20 a particular child, there's not a point at which counseling
21 isn't achieving things, that all people agree that it is
22 probably maybe more harmful to go forward and it's time to
23 either find another counselor, or to stop for the time
24 being?

25 A Well, I work with a team approach with the child

1 and the family, and if that issue comes up -- sometimes a
2 child will want to quit counseling because it's becoming too
3 painful, but they have to get through that pain in order to
4 heal.

5 Q But --

6 A But they may make a decision that they don't want
7 to go forward right now and that, of course, is their
8 privilege.

9 Q What I'm talking about, though, Ms. Pickett, is
10 occasions where you say this thing is kind of going in
11 circles. We're not gaining any ground, it may be better off
12 that we either get a different counselor, or we stop with me
13 for right now.

14 I mean, that -- there's -- there's a school of
15 thought among counselors that we're not accomplishing
16 anything anymore and maybe we need to rethink. I mean, you
17 don't -- you don't have psychotherapists for five years and
18 ten years because things aren't improving.

19 A Well, it's difficult to assess improvement.
20 Sometimes --

21 Q Well, let me --

22 A -- the -- the --

23 Q Let me just limit it in this way, though. There
24 is a school of thought that there's too much counseling. You
25 may not be able to answer that, but there is a school of

1 thought --

2 A Yes, there is a school of thought --

3 Q -- that too much counseling --

4 A -- that there is a time to terminate counseling.

5 Q Okay. I guess that was my question. And also is
6 there another school of thought that if a child is having
7 counseling during the same time from two different places,
8 that that's not a good idea either?

9 A No, sir. What we try to do in our profession, if
10 I counsel with a child and find out they have another
11 counselor, or vice versa, if any counselor counsels with
12 someone and finds out they are talking to another counselor,
13 then we communicate with each other and with the family that
14 that's --

15 Q There's a number of --

16 A -- usually not appropriate.

17 Q My point is there's a warning that needs to be --
18 or not a warning, but a -- we need to get all this counseling
19 business on the table, which is if one counselor over here
20 may not -- may be doing --

21 A Exactly.

22 Q -- something opposite.

23 A And that's why we contact each other when we're
24 made aware that there is another counselor involved.

25 Q And so if there's two counselors going on, unless

1 y'all are working together, that could be harmful?

2 A Yes, sir, it could be.

3 Q And was there two counselors going on with Sarah
4 Williams?

5 A Uh --

6 Q And do you caution people about that?

7 A Yes, sir.

8 Q Who was --

9 A What had --

10 Q -- the other?

11 A What had happened though --

12 Q Who was the other counselor?

13 A Oh, gosh. Sarah was severely depressed and made a
14 suicide attempt and was put in De Paul, and she saw a
15 counselor there, and she continued to see that counselor, and
16 I talked to the family about it and to the counselor. And I
17 can't recall at the moment her name, but she's out there at
18 Labondary. (Phonetic spelling)

19 And basically, I went to the school every week
20 to counsel children, and it was her thought that, you know, I
21 could continue to -- to talk to the -- to Sarah but she was
22 doing counseling. Because Sarah had kind of looked to me as
23 an emotional support.

24 Q Thank you. Let me ask you to look at this --
25 this letter. Take a minute to look at that.

1 A (Complies) Okay. Let me see it. (Returned) It
2 was in 2000. Okay.

3 Q Thank you. Have you and I ever talked before
4 today?

5 A I believe I did return that call. But I -- I have
6 to qualify that, because in '99 I had surgery and had blood
7 clots. And in 2000 I was very, very ill. And so 2000, well,
8 up until this point, I have not been able to work full time,
9 and I have been -- had some very serious illness. So some of
10 that's a little cloudy for me.

11 Q I appreciate that.

12 A I apologize.

13 Q But basically this document that you've read is a
14 letter from me to you?

15 A Yes, sir.

16 Q Stating that I would like to discuss this case
17 with you.

18 A Yes, sir.

19 Q Did we ever discuss it?

20 A What I recall is I -- I returned your phone call,
21 but I -- I just -- it seems like we talked, but I -- I truly
22 can't remember.

23 MR. MASON: Thank you, ma'am. I believe
24 that's all I have, Judge.

25 MR. JOHNSTON: Very briefly.

REDIRECT EXAMINATION

BY MR. JOHNSTON:

Q Counsel asked you a number of questions, kind of a laundry list of problems or things about Sarah, and you answered the question. Do you remember? He kind of had a list, did you make a note of so and so, did you make a note of so and so. Do you remember that?

A Yes, sir.

Q A series of questions. Can you state whether or not every one of those things he asked you, in your experience, could have been caused by sexual abuse, those types of problems?

A Yes, sir.

MR. JOHNSTON: Pass this witness. Thank you.

MR. MASON: No questions, Judge.

THE COURT: You may step down. Call your next witness.

(Whispered discussion. Witness brought in)

THE COURT: Raise your right hand, please.

(One witness sworn by the Court)

THE COURT: Be seated, please. Let me advise you the Rule has been invoked, and that means you are not to discuss your testimony with any other person except the lawyers in the case, or except by permission of the Court.

THE WITNESS: Yes, sir.

1 THE COURT: While you're under the Rule, do
2 not read any report of or comment upon any of the other
3 testimony in the case. Except for the time you are
4 testifying, you'll need to remain outside the hearing of the
5 courtroom.

6 THE WITNESS: Yes, sir.

7 THE COURT: Mr. Johnston.

8 BRENDA KADDATZ,
9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. JOHNSTON:

12 Q Please state your name and how you're employed.

13 A My name is Brenda Kaddatz, and I'm a deputy
14 sheriff with the Hill County Sheriff's Office.

15 Q Spell your last name for the record.

16 A K-A-D-D-A-T-Z.

17 Q How many years have you been with the Hill County
18 S.O.?

19 A I think about twelve, about twelve years.

20 Q And as a part of that, are you invest -- are you
21 an investigator?

22 A Yes, I am.

23 Q Did you -- were you in patrol for a period of
24 time?

25 A I'm kind of off and on, but I've been a deputy

1 sheriff for ten years and mainly work in the office and
2 interview children, women, victims of crime.

3 Q Okay. Now, are you pretty familiar with Hill
4 County, Texas?

5 A Yes, sir.

6 Q How long you have lived here?

7 A Fifteen years.

8 Q Okay. And without going on what anyone told you,
9 are you familiar with the areas that are sort of at issue,
10 the hill near the school at Blum, for instance, are you
11 familiar with that area?

12 A I know where the school is.

13 Q Okay. The school at Blum.

14 A (Moving head up and down)

15 Q The bridge under -- the Nolan River?

16 A Yes, sir.

17 Q Okay. The softball field at Blum?

18 A Yes, sir.

19 Q Okay. Can you state whether or not those areas
20 are in Hill County, Texas, ma'am?

21 A Yes, they are.

22 Q And as to cases of this nature, ma'am, have you
23 investigated many?

24 A Yes, I have.

25 Q Can you state whether or not it is a bit of a

1 guess sometimes to try to find an exact date on which to
2 allege, for your purposes of getting a warrant for instance,
3 on which to allege the offense?

4 A Correct. I mean, you kind of have to get on or
5 about the date of perhaps maybe the last incident or the
6 first one, but it has to be, you know, right around in there.

7 Q Okay. And is that -- can you state if that's
8 particularly true with reference to events that occurred over
9 a period of time and with children?

10 A Yes, yes. Yes, it is. With children, a lot of
11 the ways we determine times is, you know, was it summertime,
12 was it hot, was it close to Christmas. We relate to
13 birthdays, holidays, and it's -- it is hard sometimes, but we
14 do try to get it down very close.

15 MR. JOHNSTON: All right. Pass the witness.
16 Thank you.

17 CROSS-EXAMINATION

18 BY MR. MASON:

19 Q Deputy, could I ask you briefly, you were the
20 officer assigned to investigate this particular case, Sarah
21 Williams?

22 A I -- I was assisting Kent Head.

23 Q Kent Head. And Sarah Williams was brought in by
24 her -- by her mother, Julia Scott; is that correct?

25 A Yes, sir.

1 Q All right. And in this particular case, did you
2 order that -- or see that a full medical exam was done on the
3 complainant?

4 A You know, I really don't remember. We normally
5 do, unless we know that, say -- I think it's like three days
6 have passed, and -- and then of course there would not be any
7 evidence. I don't remember, to tell you the truth. I really
8 do not remember if she had a medical exam or not.

9 Q Do you -- do you know her age at which she came in
10 and reported -- or the date at which she came in and reported
11 with her mother?

12 A I want to say it was in November that she came in.

13 Q Right.

14 A But I don't -- I couldn't tell you exactly when.

15 Q Of which year?

16 A Oh, '98.

17 Q And do you know the age of the child, Sarah
18 Williams, at that time?

19 A 14, 15, I --

20 Q Would it be typical or uncommon that you would
21 request or order or see that a full physical exam is done of
22 a child making allegations of this nature?

23 A I would say yes.

24 Q Would it be something that you would want to know
25 as to whether or not a 14 year old is -- is -- has not had

1 any type of sexual intercourse?

2 A That we would want to know that, is that what
3 you're asking?

4 Q I'm -- I'm just asking is that something that you
5 would have typically have done on a 14 year old child in a
6 sexual complaint type case? Is it information you --

7 A Well, if it's -- I -- I would say if they come in
8 making the allegations of, you know, having sexual
9 intercourse, that a -- or any kind of penetration, we'll say,
10 we -- we would.

11 Q But in other cases where that complaint isn't
12 made, you wouldn't do it?

13 A I don't -- I -- you know, it's like half and half.
14 Each case is different, you know. And I really cannot
15 remember that one.

16 MR. MASON: I believe that's all I have,
17 Judge. Thank you.

18 REDIRECT EXAMINATION

19 BY MR. JOHNSTON:

20 Q Lastly. Deputy, if the allegation -- I can sure
21 show you the indictment and you can see it. If the
22 allegation was not rape but indecency with just contact, are
23 you going -- if you did a medical exam ten minutes later,
24 are you going to find any evidence of the perpetrator?

25 A Correct.

1 Q I mean, in other words, there's no evidence to be
2 left in that case, right, ma'am?

3 A That's correct.

4 Q Okay. It may be after a rape case or something
5 where there would be tearing or evidence of DNA, right,
6 ma'am?

7 A Correct, that is correct.

8 MR. JOHNSTON: Pass the witness.

9 MR. MASON: No questions, Judge.

10 THE COURT: You may step down. Call your next
11 witness.

12 MR. JOHNSTON: May I have just a moment, Your
13 Honor?

14 THE COURT: Yes, sir.

15 (Pause in proceedings)

16 MR. JOHNSTON: Your Honor, the State of Texas
17 rests its case.

18 THE COURT: Mr. Mason, call your first
19 witness.

20 MR. MASON: Your Honor, may I take just a
21 brief break?

22 THE COURT: We will be recessed for ten
23 minutes.

24 MR. MASON: Thank you, Judge.

25 (Break taken)

1 (Open court. Jury, Defendant, and Counsel
2 present)

3 THE COURT: Call your first witness.

4 MR. MASON: Your Honor, at this time I'd
5 ask -- I'd like to call Betty Reeb, who's present in the
6 courtroom. She has not been sworn.

7 THE COURT: Okay. Betty Reeb. Would you
8 raise your right hand, please, ma'am.

9 (One witness sworn by the Court)

10 THE COURT: Would you have a seat right there,
11 please, ma'am. Ma'am, let me advise you the Rule has been
12 invoked. And that means you're not to discuss your testimony
13 with any other person except the attorneys in the case or
14 except by permission of the Court.

15 While you're under the Rule, you'll not read
16 any report of or comment upon any of the other testimony in
17 the case. Except for the time you're testifying, it will be
18 necessary for you to remain outside the hearing of the
19 courtroom.

20 THE WITNESS: (Moving head up and down)

21 THE COURT: If you will kind of move that
22 mike and speak into the microphone, please, ma'am.

23 Mr. Mason.

24 MR. MASON: Let me help you.

25 (Microphone adjusted)

1 THE WITNESS: This is all new to me.

2 MR. MASON: Yeah.

3 BETTY REEB,

4 having been first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MASON:

7 Q Have you been in a courtroom before?

8 A (Moving head side to side)

9 Q Ma'am, I'll ask you, if you would, could you state
10 your name, spell your last name for the court reporter.
11 She's taking down what you're saying today.

12 A My name is Betty Reeb, last name is R-E-E-B, as in
13 boy.

14 Q And Ms. Reeb, how are you employed, ma'am?

15 A I'm the city secretary, City of Blum.

16 Q And how long have you been the city secretary for
17 the City of Blum?

18 A Ten years.

19 Q Okay. Ms. Reeb, we didn't -- until today we
20 haven't spoken with each other, have we?

21 A No.

22 Q Let me direct your attention, Ms. Reeb, to
23 January, approximately January 19th of 1999. Were you
24 employed as city secretary at that time?

25 A Yes, I was.

1 Q And are you, among other things, are you also a
2 licensed notary public, commissioned by the State of Texas?

3 A Yes, I am.

4 Q Let me ask you if you have -- if you have a memory
5 of notarizing a written statement signed in your presence by
6 Sarah Williams?

7 A I remember that she came in, and I was called by
8 Pat Shelly to meet her down there, about 10:30 at night.

9 Q And when you say down there, to your desk at your
10 office?

11 A Right, yes, sir.

12 Q And you met her there at that time and you
13 notarized a signature that she signed in your presence?

14 A Yes, sir.

15 Q Is there anything else? Do you recall if she was
16 with somebody or alone?

17 A I really can't remember that far back.

18 Q All right. Is there anything out of the ordinary
19 that sticks in your mind about this particular situation?

20 A None, other than the fact that I was awoken at
21 10:30 to come down and do it.

22 Q By whom was it?

23 A Pat Shelly.

24 MR. MASON: Okay. Thank you, Ms. Reeb.
25 That's all I have of this witness.

CROSS-EXAMINATION

BY MR. JOHNSTON:

Q Well, now who is Pat Shelly, compared to the defendant?

A His mother.

MR. JOHNSTON: Mother. Pass the witness. Thank you, ma'am.

MR. MASON: May this witness be excused, Your Honor?

MR. JOHNSTON: All right with us.

THE COURT: Any objection?

MR. JOHNSTON: No, sir.

THE COURT: You may step down and you may go as you please, Ms. Reeb.

THE WITNESS: Thank you.

THE COURT: Call your next witness.

MR. MASON: Your Honor, at this time I'd like to call Dan Taylor, who I think is right here by these doors.

THE COURT: Raise your right hand, please, sir.

(One witness sworn by the Court)

THE COURT: Be seated, please, sir. While you're taking your seat, let me advise you the Rule has been invoked, which means you're not to discuss your testimony with any other person, except the lawyers in the case or

1 except by permission of the Court.

2 And while you're under the Rule, you'll not
3 read any report of or comment upon any of the other testimony
4 in the case. Except for the time you're testifying, you must
5 remain outside the hearing of the courtroom. You'll need to
6 pull that microphone up closer, Mr. Taylor.

7 Proceed Mr. Mason.

8 DAN TAYLOR,
9 having been first duly sworn testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MASON:

12 Q Sir, could you state your name and spell your last
13 name for the court reporter, please?

14 A It's Dan Taylor, T-A-Y-L-O-R.

15 Q And sir, what is your occupation or profession?

16 A General manager of Shoestring Creations.

17 Q All right. And where is that business located?

18 A It's located at Grandview, Texas, on County Road
19 423.

20 Q And you said shoestring productions?

21 A Shoestring Creations.

22 Q Creations?

23 A Yes, sir.

24 Q And what type of business is that?

25 A It's a custom furniture operation. We make

1 handmade furniture.

2 Q All right. Is it -- are you also a carpenter by
3 trade?

4 A I'm the -- an artist and I do more of the art work
5 and painting of the pieces.

6 Q Do y'all do a particular unique kind of furniture,
7 or is it just general furniture that you would find in -- in
8 many households?

9 A It's fairly unique.

10 Q What is it that's unique about it?

11 A It's multicolored and brightly painted.

12 Q All right. And what --

13 A And hand crafted.

14 Q All right. What items of furniture do you build?

15 A Myself personally or the company?

16 Q The company.

17 A Anything from picture frames, all the way up to
18 armoires, tables, pedestals, just quite a variety.

19 Q You build on your site there, or -- or do you have
20 subcontractors so to speak?

21 A We have mainly finish and trim on the site I work
22 at, then we have various subcontractors.

23 Q All right. And when you have a finished product
24 at Shoestring Creations, what happens next with it?

25 A It's either trucked with a moving van or shipped

1 via UPS to a gallery or store, one of our clients.

2 Q Okay. You have numerous clients?

3 A Yes, sir.

4 Q Not just one or two?

5 A No, no, it's pretty well distributed nationwide,
6 and one or two foreign countries.

7 Q So you receive orders, you fill them, either
8 yourself or subcontractors, and then ship them?

9 A Yes, sir.

10 Q How long have you been doing that, sir?

11 A Since 1995, February.

12 Q And prior to that, how were you employed?

13 A I was employed at McCoy's Building Supply for the
14 previous ten years.

15 Q What McCoy's store?

16 A On North Main in Cleburne.

17 Q And do you know Kevin Shea that's sitting to my
18 right here?

19 A Yes, sir.

20 Q How long -- how long have you known him?

21 A We went to junior high school together in 1972.
22 And we've also worked together in the past several years.

23 Q All right. And let me ask you about your
24 relationship with him -- with Shoestring Creations?

25 A Uh-huh, yes, sir.

1 Q And is that your company? Do you own that?

2 A No, sir, I -- I manage it for Ralph Garrett. I --
3 I'm just a -- an employee of the owner.

4 Q All right. In -- in the business, what is it that
5 Kevin Shea does related to your business?

6 A Well, Kevin manufactures various products for us,
7 anything from picture frames to bookcases, and just several
8 piece work. He is a producer, a builder.

9 Q All right. How many others do you have like him?

10 A I -- I would have to think a moment. I would say
11 three to four, though only about two of them really that
12 heavily involved.

13 Q Is --

14 A And we have various others that do one or two
15 pieces.

16 Q Is he pretty productive? Does he --

17 A Yes, he -- he's very productive.

18 Q How is your notice to him? How do you -- how do
19 you make orders to him, by phone or by written order? What
20 happens?

21 A We have written work statements, but we will
22 telephone from time to time. Plus on items such as picture
23 frames, I'll contact him via e-mail, electronically.

24 Q And when did that start with you and Kevin Shea?
25 When did that business relationship --

1 A Kevin Shea and I, I guess '95, probably.

2 Q All right. For the last seven years --

3 A Yes, sir.

4 Q -- you've had that relationship? Has he been a
5 good worker for your company?

6 A Yes.

7 Q Has he always done the things that you ordered
8 him -- be ordered from him?

9 A Yes, very well.

10 Q And are you satisfied with his work?

11 A Yes, sir.

12 MR. MASON: Your Honor, I believe that's all I
13 have of this witness, I'll pass him.

14 THE COURT: Cross examine?

15 MR. JOHNSTON: No, thank you. No further
16 cross.

17 THE COURT: You may step down, sir. Call your
18 next witness.

19 MR. MASON: Let me step out in the hallway.

20 THE COURT: Yes, sir.

21 MR. MASON: If the Court will permit me.

22 THE COURT: (Moving head up and down)

23 (Retrieves witness)

24 THE COURT: Raise your right hand, please,
25 sir.

1 (One witness sworn by the Court)

2 THE COURT: Be seated, please. While you're
3 taking your seat, let me advise you the Rule has been
4 invoked, and that means you're not to discuss your testimony
5 with any other person except the attorneys in the case or
6 except by permission of the Court.

7 While you're under the Rule, you'll not read
8 any report of or comment upon any of the other testimony in
9 the case. Except for the time you're testifying, you'll need
10 to remain outside the hearing of the courtroom. Mr. Mason.

11 MR. MASON: Thank you, Your Honor.

12 RALPH GARRETT, JR.
13 having been first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. MASON:

16 Q Sir, could you state your name and spell your last
17 name for the court reporter?

18 A My name is Ralph Garrett, Jr. My last name,
19 G-A-R-R-E-T-T.

20 Q All right. And what type of business or
21 profession are you in, sir?

22 A I have a small pine --

23 (The reporter asks for clarification)

24 A Pine painted furniture manufacturing business.

25 Q All right. And where is that located?

1 A In Grandview.

2 Q All right. Do you have any other occupation or
3 means of income?

4 A No.

5 Q How long have you done that, sir?

6 A Maybe fourteen years.

7 Q Fourteen?

8 A Yes.

9 Q And do you know Kevin Shea that's seated to my
10 right?

11 A Correct.

12 Q And how do you know Kevin Shea?

13 A That he --

14 Q Well, let me rephrase that. When did you first
15 meet Kevin Shea?

16 A About seven years ago he came to work for me in my
17 facility there in Grandview. And maybe two years after that
18 he started subcontracting work for me full time in his own
19 business.

20 Q All right. And Mr. Taylor, who was just in here,
21 is he an employee of yours?

22 A Yes.

23 Q Do you have any other employees?

24 A Yes, fourteen others.

25 Q There on your site?

1 A On our site.

2 Q Okay. And of course, Kevin is not a -- a -- he's
3 a private contractor?

4 A Private contractor, but he only does work for me.

5 Q Okay. During the course of you -- do you have any
6 other prior -- do you have -- did you know him socially
7 before this business relationship?

8 A No, sir.

9 Q Okay. Has he been a good subcontractor for you?

10 A Yes, he's been a model employee and subcontractor.

11 Q Never had any problem? Except when business
12 slowed down, like it did last year for everybody.

13 A Uh --

14 Q Otherwise --

15 A That was just a minor bump, I mean, but we never
16 had any problem. He's always been on time and done
17 everything he's ever said he was --

18 Q He's always --

19 A -- going to do.

20 Q He's always filled the orders you've asked him of?

21 A Yes.

22 Q And delivered them in a timely manner?

23 A Yes, when he said. If he ever told me he was
24 going to do something, he did it.

25 Q And his work itself, are you satisfied and happy

1 with his work?

2 A Yes, he is one of my top producers.

3 Q And generally, what does he do specifically that
4 he supplies to you?

5 A I've got one component of my business. I design
6 and build several styles of furniture, and he is in charge of
7 building components and product for one particular line of
8 furniture that I build.

9 Q What -- what is that? What piece of furniture is
10 it, I guess.

11 A It's called stripe furniture, where we cut little
12 narrow strips of wood and paint them different colors and
13 nail them back together and then build furniture out of it.
14 It's real bright and colorful furniture.

15 Q And you're aware of the allegations made against
16 him here today?

17 A Yes, sir.

18 Q How long have you been so aware of that?

19 A I guess since -- since he was picked up.

20 MR. MASON: Your Honor, I believe that's the
21 only questions I have of this witness. I'll pass the
22 witness.

23 MR. JOHNSTON: We have none. Thank you, sir.

24 THE COURT: You may step down, sir. Call your
25 next witness.

1 MR. MASON: May this witness be excused?

2 MR. JOHNSTON: (Moving head up and down)

3 THE COURT: You may go as you please, sir.

4 THE WITNESS: Thank you.

5 (Next witness retrieved)

6 THE COURT: Have a seat up here, please,
7 ma'am. I remind you you're still under oath and still under
8 the Rule.

9 THERESA CASTILLO,
10 having been previously sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. MASON:

13 Q Ma'am, could you state your name, please?

14 A Theresa Castillo.

15 Q And do you know Kevin Shea that's seated to my
16 right?

17 A Yes, I do.

18 Q And how long have you known him?

19 A Since 1972.

20 Q Okay. And in 1972, what was it -- how is it that
21 you knew him at that time?

22 A We went to school together.

23 Q And where -- where did you live at that time?

24 A In Blum, Texas.

25 Q And did he also live in Blum?

1 A Yes, he did.

2 Q And was his family there?

3 A Yes.

4 Q And your family there?

5 A Yes.

6 Q And is some of your family still there?

7 A Yes, sir.

8 Q All right. Do you come from a small or a large
9 family?

10 A Large, I'd say.

11 Q All right. How many brothers and sisters do you
12 have?

13 A I have five sisters and two brothers.

14 Q All right. And did Kevin know one of your
15 brothers in particular?

16 A Yes, he did.

17 Q Which brother was that?

18 A My older brother.

19 Q What's his name?

20 A Patrick.

21 Q Patrick?

22 A Yes

23 Q And how did Patrick and Kevin know each other?

24 A They were friends. They used to hang out.

25 Q Okay. When did you first meet Kevin in the '90s?

1 Approximately when was that that you -- that you first met
2 him?

3 A Christmas of 1991.

4 Q And -- and under what circumstances in 1991?

5 A I was on a visit from Nebraska to see my mom.

6 Q At home in Blum?

7 A Yes.

8 Q And did he -- how did that happen? Did he ask you
9 out or -- or how did y'all come to see each other?

10 A We ran into each other, and actually I asked him
11 out.

12 Q While you were there in '91?

13 A Yes. I saw him over at my brother's house,
14 Patrick's house, and at that time I asked him out.

15 Q Okay. And were you -- you said you were living
16 out of state?

17 A Yes, I was living in Nebraska.

18 Q Okay. And when, after that, did you become
19 seriously interested in him, so to speak?

20 A In 1993.

21 Q And why in ninety -- what happened in '93?

22 A I moved from Nebraska to Blum.

23 Q All right. And was Kevin living in Blum at that
24 time?

25 A Yes, he was.

1 Q And did your relationship become more serious
2 beginning then about?

3 A Yes, it did.

4 Q Where -- where was he living?

5 A He was living with his mom in Blum.

6 Q What type of business was he doing at that time?

7 A At that time, I believe he was driving for an auto
8 parts store.

9 Q Okay. Something in Blum or Hillsboro or --

10 A It was in Cleburne.

11 Q Cleburne. All right. You began dating; is that
12 correct?

13 A Yes.

14 Q And finally at some point did you move in
15 together?

16 A Yes, we did.

17 Q Tell me, if you could, when was that that you and
18 he began living together as husband and wife?

19 A June 1st, 1997.

20 Q All right. And do you consider yourself -- and
21 you've lived with him continuously since that time?

22 A Yes, I have.

23 Q And been with him pretty -- almost daily?

24 A Yes.

25 Q You said June 1st of '97?

1 A Yes.

2 Q Why do you recall that date specifically?

3 A Well, that was the first time that we moved in
4 together and --

5 Q Where -- into what housing did you move?

6 A In Cleburne.

7 Q In what -- what address? What street?

8 A It was on Spruce Street in Cleburne.

9 Q So in other words, he left Blum, you left Blum,
10 and you got a house in Cleburne?

11 A Correct.

12 Q All right. And since that time have you remained
13 in Cleburne, since June 1st of 1997?

14 A Yes, we have.

15 Q Okay. Prior to that, was Kevin working with
16 Mr. Garrett and Mr. Taylor?

17 A Yes.

18 Q And did he build a shop in Cleburne to continue
19 his employment with them?

20 A Yes.

21 Q Are you sure about the date that you came to
22 Cleburne with Kevin?

23 A Yes, I am.

24 Q It wasn't any time in 1998, was it?

25 A No.

1 Q Sometime during 1998 did you -- do you have any
2 children?

3 A Yes, I have a daughter.

4 Q And who is -- what's her name?

5 A Kimberly Castillo.

6 Q And in 1998, did she move to live with you and
7 Kevin in Cleburne?

8 A Yes, she did.

9 Q Do you remember approximately when that was that
10 she came back to live with you?

11 A She got here for the start of the school year, so
12 it must have been in August sometime or September.

13 Q '98?

14 A Yes.

15 Q And she continued to live with you up until when?

16 A She left this past May.

17 Q Okay. Let me ask you, do you know Sarah Williams?

18 A Yes, I do.

19 Q How do you know Sarah Williams?

20 A She lives in Blum, and it's a small town and we
21 all kind of know each other there.

22 Q People kind of know each other on sight or --

23 A Yeah.

24 Q -- at least know who their family is?

25 A Yeah, you see people walking around the streets.

1 Q Do you recall a telephone conversation with Sarah
2 in 1998?

3 A Yes.

4 Q A telephone conversation where you were in
5 Cleburne and she was some other place?

6 A Yes.

7 Q Do you know where she was calling from?

8 A Her house.

9 Q Do you recall a telephone conversation with her
10 where you told her to quit calling or there was too many
11 calls?

12 A Yeah, I asked her not to call so often. I told
13 her that I didn't have a problem with her calling once a
14 week.

15 Q What was your impression about that relationship
16 with -- with Sarah and Kevin?

17 A Well, I felt like she had a crush on him and I
18 felt like she was just calling too often.

19 Q Okay. Did you make a comment to her about why her
20 conversations were of a sexual nature?

21 A I did ask her that, yes.

22 Q What did you ask her?

23 A I asked her why she likes to talk a lot about
24 sexual things.

25 Q And what was her response?

1 A She said that that's what she likes to talk about.

2 Q Was it a -- what I would describe as a pleasant
3 and a good conversation where everyone agreed, or not?

4 A I think she got kind of upset with me. But I -- I
5 don't know for sure.

6 Q And on that occasion, did you also mention to her
7 about Kim or did she mention to you about Kim?

8 A I -- I told her that my daughter was now living
9 with us, and she asked me some questions about her.

10 Q About her appearance or how she looked?

11 A Well, she asked me if Kevin liked her. She asked
12 me if her and Kevin got along. And she asked me how old she
13 was and what she looked like.

14 Q To your knowledge, had -- had Kevin and Sarah been
15 together since June 1st of 1997, to your knowledge?

16 A No.

17 Q Were you working also during that time period?

18 A Yes.

19 Q Where did you work?

20 A I worked at our business, the shop we built.

21 Q Oh, you worked with Kevin?

22 A Yes.

23 Q Okay. And do you continue to work with him?

24 A Yes.

25 Q And are you around him almost every day?

1 A Every day, yes.

2 Q Your daughter Kimberly, in 1998, how old was she?

3 A In 1998, she was seventeen.

4 MR. MASON: Your Honor, at this time I pass
5 the witness.

6 THE COURT: Cross examine.

7 MR. JOHNSTON: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. JOHNSTON:

10 Q Had -- had you listened in on any telephone calls
11 between Kevin and Sarah?

12 A Well, I didn't listen in on her part, but I was in
13 the house when they did talk.

14 Q And you couldn't hear her side of it.

15 A No, I did not hear her side of it.

16 Q So was Kevin's side of it something to do with
17 sex?

18 A He would tell me that she would ask him things.

19 Q Was what you heard of Kevin's side of the
20 conversation something to do about sex?

21 A I heard him talk about boys to her. She would say
22 something about boys.

23 Q What would he say to her?

24 A What did he say to her?

25 Q Yes, ma'am.

1 A Well, he would tell her that she probably
2 shouldn't go out, and that she should ask her mom some more
3 things.

4 Q What details of sex did you hear?

5 A What details of sex did I hear?

6 Q Yes.

7 A I didn't hear any details of sex.

8 Q It was you that asked Sarah not to call as often,
9 according to your story, right?

10 A Yes.

11 Q Kevin didn't do that, did he?

12 A No.

13 Q Is there a number that Kevin associates with
14 himself, a unique number, a five-digit number?

15 A A telephone number?

16 Q No, ma'am. Begins with nine.

17 A Not that I know of.

18 Q You're not aware of him having a unique number
19 associated with him, 99751 that he uses in e-mails?

20 A No, no.

21 Q Did he ever -- did he ever tell you that that
22 number had special meaning in his life?

23 A I don't know of that number, no.

24 Q With the timing of what you're saying, you were
25 only with him once y'all -- all the time once y'all moved to

1 the Cleburne area.

2 A No.

3 Q No?

4 A No, we lived -- we just lived two blocks apart in
5 Blum and he was -- we would see each other every day, and
6 sometimes I would spend the night over there.

7 Q Okay. But as the terms of what -- you were not in
8 the same house with him, living with him day in and day out,
9 to know what he was doing at 10:00 o'clock at night, at
10 midnight, at 1:00 in the morning, were you?

11 A I didn't live with him until June, right, of '97.

12 Q So in '95 and '96 and '97, up until that point,
13 you don't know what he was doing late at night, do you?

14 A Well, I know -- I don't know every night, no. I
15 know we went out to movies and stuff, and I would spend the
16 night over there, yeah.

17 MR. JOHNSTON: Thank you. Pass the witness.

18 MR. MASON: Your Honor, at this time I'd pass
19 the witness.

20 THE COURT: You may step down. Call your next
21 witness.

22 MR. MASON: Your Honor, may I talk with
23 Mr. Shea in the hallway just for a few minutes?

24 THE COURT: Yes, sir.

25 MR. MASON: Thank you.

1 (Pause. Defendant and Counsel return)

2 MR. MASON: Your Honor, at this time the
3 defendant would rest.

4 THE COURT: Any rebuttal from the State?

5 MR. JOHNSTON: No, sir.

6 THE COURT: Both sides close?

7 MR. JOHNSTON: Close.

8 MR. MASON: Yes, Your Honor.

9 THE COURT: Ladies and gentlemen of the jury,
10 both sides have rested and closed their case. And it now
11 becomes my job to prepare a written charge. That charge will
12 be several pages long and has to be typed. And after it's
13 typed, I have to give both counsel an opportunity to review
14 it and to make known any objections they may have to the
15 charge. That will take time.

16 It's 3:15. By the time we get through with
17 all that, it would be probably after 4:00 o'clock, so I'm
18 going to recess you for the day, ask that you return in the
19 morning at 9:00 a.m. Hope you have a nice evening. See you
20 in the morning at 9:00 o'clock.

21 (The jury leaves the courtroom)

22 THE COURT: I think we pretty well got the
23 charge. Do you want to have the charge hearing today or do
24 it in the morning before 9:00 o'clock?

25 MR. MASON: I'd like to do it tomorrow morning

1 before 9:00 o'clock, Judge. I may have some submissions.

2 THE COURT: Well, I'll tell you what's going
3 to be in it right now.

4 MR. MASON: Yes, sir.

5 THE COURT: Defendant not testifying.

6 MR. MASON: Correct.

7 THE REPORTER: You want this on the record,
8 don't you?

9 THE COURT: No, it's not necessary.

10 (Discussion off the record)

11 THE COURT: We'll be recessed to 8:30.

12 (End of proceedings)

13 X

14 X

15 X

16 X

17 X

18 X

19 X

20 X

21 X

22 X

23 X

24 X

25 X

1 STATE OF TEXAS)

2 COUNTY OF HILL)

3 I, SARALYN R. ROLLINS, Deputy Official Court Reporter in and
4 for the 66th Judicial District Court of Hill County, State of
5 Texas, do hereby certify that the above and foregoing
6 contains a true and correct transcription of all portions of
7 evidence and other proceedings, requested in writing by
8 counsel for the parties to be included in this volume of the
9 Reporter's Record in the above-styled and numbered cause, all
10 of which occurred in open court or in chambers and were
11 reported by me.

12

13 I further certify that this Reporter's Record of the
14 proceedings truly and correctly reflects the exhibits, if any,
15 admitted by the respective parties.

16

17 WITNESS MY OFFICIAL HAND this the 19th day of September, 2003.

18

19

20

Saralyn R. Rollins, CSR, RPR

21

SARALYN R. ROLLINS, Texas CSR #5025

22

Expiration Date 12/31/03

23

Deputy Official Court Reporter,

66th Judicial District Court

Hill County, Texas

RPR #062438

24

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Burleson, Texas 76028

25

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APPENDIX 3

10-03-180-CR

1

REPORTER'S RECORD
VOLUME 4 OF 7 VOLUMES
TRIAL COURT CAUSE NO. 31,368

THE STATE OF TEXAS) IN THE DISTRICT COURT
VS.) OF HILL COUNTY, TEXAS
KEVIN MICHAEL SHEA) 66TH JUDICIAL DISTRICT

TRIAL IN CHIEF

APPEARANCES:

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FILED
COURT OF APPEALS
TENTH DISTRICT WACO TEXAS

SEP 30 2003

CHARRI ROESSLER, CLERK

On the 19th day of June, 2002 the following proceedings came
on to be heard in the above-entitled and numbered cause
before the Honorable Robert G. Dohoney, Senior Judge
presiding. Held in Hillsboro, Hill County, Texas

Proceedings reported by machine shorthand.
produced by computer-aided transcription.

Reporters
COURT OF APPEALS
WACO, TEXAS

ORIGINAL

1 THE COURT: Ms. Reddell, has the jury reached
2 a unanimous verdict?

3 PRESIDING JUROR: We have, Your Honor.

4 THE COURT: Would you hand it to the bailiff,
5 please, ma'am.

6 (Presiding juror complies)

7 THE COURT: This is the verdict of the jury:
8 We, the jury, find the defendant, Kevin Michael Shea, guilty
9 of the offense of indecency with a child younger than 17
10 years of age as alleged in the indictment. Signed by
11 Kathleen M. Reddell, preceding juror.

12 State have any questions?

13 MR. JOHNSTON: No, sir.

14 THE COURT: Defense?

15 MR. MASON: Your Honor, the defense would
16 request that the jury be polled.

17 THE COURT: Ladies and gentlemen of the jury,
18 the verdict of the jury is as follows: We the jury find the
19 defendant, kevin Michael Shea, guilty of the offense of
20 indecency with a child younger than 17 years of age as
21 alleged in the indictment.

22 Mr. Dorsey, that is your verdict?

23 JUROR: Yes, sir. Yes, sir.

24 THE COURT: Ms. Reddell, is that your verdict?

25 JUROR: Yes.

1 THE COURT: Mr. Matthys, is that your verdict?

2 JUROR: Yes, sir.

3 THE COURT: Mr. Mason, is that your verdict?

4 JUROR: Yes, sir.

5 THE COURT: Ms. Ballew, is that your verdict?

6 JUROR: Yes, sir.

7 THE COURT: Mr. Dorris, is that your verdict?

8 JUROR: Yes, sir.

9 THE COURT: Ms. Sinks, is that your verdict?

10 JUROR: Yes, it is.

11 THE COURT: Ms. Rosson, is that your verdict?

12 JUROR: Yes, sir.

13 THE COURT: Mr. Snokhous, is that your
14 verdict?

15 JUROR: Yes, sir.

16 THE COURT: Mr. Perez, is that your verdict?

17 JUROR: It is.

18 THE COURT: Mr. Hill, is that your verdict?

19 JUROR: Yes, sir.

20 THE COURT: Mr. Cryns, is that your verdict?

21 JUROR: Yes, sir.

22 THE COURT: Anything further?

23 MR. MASON: Thank you, Your Honor.

24 THE COURT: Okay. Ladies and gentlemen of the
25 jury, I'm going to give you about a 15 or 20 minute break.

1 You can move around if you wish and then we'll get started on
2 shortly after that. We'll be recessed for 15 to 20 minutes.

3 (The jury leaves the courtroom at 2:39 p.m.)

4 THE COURT: Let the record show that the jury
5 has left the hearing of the courtroom. The Court notes that
6 the defendant, Kevin Michael Shea, is not present in the
7 courtroom. And has been advised that Mr. Mason has been
8 unable to find him since about 10:30 or 11:00 o'clock this
9 morning, is that right?

10 MR. MASON: Your Honor, all I can say is the
11 last time I saw him is probably 11:20 -- I'm sorry, that's
12 not correct, 10:20. And since that time I have not been able
13 to find him.

14 THE COURT: Okay. Mr. Johnston.

15 MR. JOHNSTON: Your Honor, on behalf of the
16 State of Texas, we ask that the Court call the companion
17 case which was also set this week, which has not been
18 continued. That Cause No. is 31,367, the State of Texas
19 versus Kevin Michael Shea. After calling that case, I would
20 ask His Honor please consider asking the bailiff to call the
21 defendant's name and make a reasonable, diligent search of
22 the courthouse and second floor thereof to see whether or
23 not the defendant is present and we'd have a motion past
24 that if that works out.

25 THE COURT: I have no objection to doing that,

1 but I'm not going to do it right now, Mr. Johnston. Right
2 now I want to hear any testimony that may be available and
3 applicable to the point as to whether or not the defendant
4 has voluntarily absented himself from the Court.

5 MR. JOHNSTON: Yes, Your Honor. We would call
6 Theresa --

7 MR. MASON: Castillo.

8 MR. JOHNSTON: Castillo.

9 MR. MASON: She's here in the hallway.

10 THE COURT: Ma'am, would you come forward,
11 please, and have a seat in the witness chair. And I'd like
12 to remind you that you're still under oath. Proceed.

13 THERESA CASTILLO,
14 having been previously sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. JOHNSTON:

17 Q Ms. Castillo, you are the same witness that
18 testified yesterday during the defense phase of the trial; is
19 that right, ma'am?

20 A Yes.

21 Q Let's see, let me move that microphone. Is that
22 correct, ma'am.

23 A Yes.

24 Q And I want to make sure you know that I'm not
25 going to ask you anything about the facts of the case

1 whatsoever. I will have just a few questions to you about
2 where Kevin Shea may be now. Ma'am, is it correct that you
3 have attended court each day this week?

4 A Yes.

5 Q And this is -- on this date of trial, did you --
6 today that is, did you come to the courthouse with the
7 defendant?

8 A Yes.

9 Q And how did y'all travel here?

10 A In the car.

11 Q And what type of car is that?

12 A A Saturn.

13 Q A Saturn?

14 A Yes.

15 Q Okay. Is that owned by you or Mr. Shea?

16 A Me.

17 Q But does he drive it?

18 A Sometimes, yes.

19 Q But he's allowed --

20 A Yes.

21 Q -- by you to drive it?

22 A Yes, he has car keys to the Saturn.

23 Q And did you-all come together this morning to
24 court?

25 A Yes.

1 Q Then this morning, of course, we had the
2 instructions and then the argument for the case, correct?

3 A Yes.

4 Q And Mr. Shea, you were aware, was present here in
5 the courtroom at that time?

6 A Right.

7 Q And then after argument was made and we had a
8 break so that the jury could deliberate, did you and Mr. Shea
9 go out in the hall?

10 A Yeah.

11 Q And was there any doubt in your mind, ma'am, that
12 you needed to be back when the jury returned the verdict?

13 A No.

14 Q And was Mr. Shea, to the extent that was
15 communicated within your presence, aware that the jury was
16 going to come back and he needed to be here?

17 A Right.

18 Q Right yes?

19 A Yes.

20 Q And ma'am, did you look for him late morning
21 today?

22 A Yeah.

23 Q And what -- what did you do to try to find him?

24 A I walked around the whole courthouse inside.

25 Q And then did you look outside?

1 A Yeah.

2 Q And what did you learn about the vehicle?

3 A That my car was gone.

4 Q Okay. And did Mr. Shea have a set of keys to the
5 car?

6 A Yes.

7 Q And ma'am, frankly, is there any doubt that
8 Mr. Shea left in the car in your mind?

9 A No, no, I did --

10 Q You believe --

11 A My car is gone.

12 Q Did anyone else in the courthouse have a set of
13 keys to your car?

14 A No.

15 Q Okay. And is it your opinion that, for whatever
16 reason, and we don't need to get into that, Mr. Shea has
17 voluntarily absented himself from the Court proceedings this
18 afternoon?

19 A (No verbal response)

20 Q Voluntarily left the court proceedings.

21 A He's not here, no.

22 Q And no one made him leave, did they?

23 A I don't -- I didn't. I didn't -- I don't know. I
24 didn't talk to everybody and ask them that.

25 Q Okay. But you don't -- as far as you know, he

1 wasn't seriously ill or anything that would have made him
2 unable to attend, correct?

3 A Right.

4 Q As far as you know, was he physically able to
5 attend this afternoon?

6 A As far as I know, yes.

7 Q Okay. And ma'am, did he have a means to get
8 back? If he left in the car, did he have a means to come
9 back in the car? A means to get back. He had a way to get
10 to the courthouse?

11 A Yeah, I guess so. If he took the car, he did.

12 Q Okay. And I believe you said no one else around
13 here had a set of keys but you and him; correct? Is that
14 right?

15 A Yes.

16 MR. JOHNSTON: I pass the witness at this
17 time.

18 THE COURT: Any questions, Mr. Mason?

19 MR. MASON: Yes, Your Honor, briefly.

20 CROSS-EXAMINATION

21 BY MR. MASON:

22 Q Ms. Castillo -- Castillo, have you checked area
23 hospitals to find out whether or not he may be in the
24 emergency room or admitted?

25 A No.

1 Q Have you checked any family members, either on
2 your side of the family or his, to see if he was there?

3 A No.

4 Q Is there a possibility in your mind that he could
5 have come upon some type of misfortune, accident, or illness?
6 Is that a possibility?

7 A Yeah.

8 MR. MASON: That's all I have, Your Honor.
9 Thank you.

10 MR. JOHNSTON: I have redirect.

11 REDIRECT EXAMINATION

12 BY MR. JOHNSTON:

13 Q Ms. Castillo, does Mr. Shea have a cell phone?

14 A Yes.

15 Q And what's that telephone number?

16 A I don't have it pro -- I mean, I have it
17 programmed.

18 Q Okay. All right. But he does have a cellular
19 telephone?

20 A Yes.

21 Q And he -- did he make any effort to contact you
22 or, as far as you know, the Court or his lawyer today to
23 express that there was any emergency or medical situation?

24 A I didn't get a phone call.

25 Q Okay. And he knows your number, doesn't he,

1 ma'am?

2 A Yes.

3 Q And has called you before?

4 A Yes.

5 MR. JOHNSTON: Pass the witness.

6 THE COURT: Anything further?

7 MR. MASON: No, Your Honor, I do not have
8 anything further.

9 MR. JOHNSTON: Nothing further here.

10 THE COURT: Ms. Cascalwin, (sic) the last time
11 you saw your husband, was he in good health?

12 THE WITNESS: Yes.

13 THE COURT: Did he seem to be of sound mind?

14 THE WITNESS: Just upset, but yes. He's
15 upset, but --

16 THE COURT: Was he upset to a -- to the extent
17 that he wouldn't have the normal use of his mental faculties,
18 do you think?

19 THE WITNESS: I don't know.

20 THE COURT: Do you think he knew what he was
21 doing?

22 THE WITNESS: I hope he did.

23 THE COURT: Thank you, ma'am. You may step
24 down.

25 MR. JOHNSTON: The State has no further

1 evidence on this issue.

2 THE COURT: Mr. Mason?

3 MR. MASON: None from the defendant, Your
4 Honor.

5 THE COURT: The Court finds that the defendant
6 has voluntarily absented himself from the proceedings and has
7 not been seen by anyone in the courthouse or by his counsel
8 since about 10:20 a.m. this morning. It's now ten minutes
9 until 3:00 p.m. in the afternoon, and the Court will proceed
10 with the punishment phase of the trial. Mr. Johnston, when
11 the jury comes back, I want to ask you to read the
12 enhancement parts of the indictment.

13 And either Mr. Mason will enter a plea of not
14 true to those enhancements, or in the absence of the
15 defendant, the Court will enter a finding of -- or an order
16 of pleading not true.

17 MR. JOHNSTON: Yes, sir. At what point could
18 I ask the Court to have a capias issued for the defendant so
19 that law enforcement --

20 THE COURT: After the jury --

21 MR. JOHNSTON: -- may be called?

22 THE COURT: -- gets out of here.

23 MR. JOHNSTON: Yes, sir.

24 THE COURT: And the -- the bailiff can call
25 his name outside the presence of the jury.

1 MR. JOHNSTON: Yes, sir.

2 THE COURT: At that time, I will do so.

3 MR. JOHNSTON: Yes, sir. Thank you.

4 THE COURT: Unless he answers.

5 MR. JOHNSTON: Yes, sir.

6 THE COURT: Mr. Mason.

7 MR. MASON: Yes, Your Honor. At this time I
8 will just make an oral motion to the Court, a motion for
9 continuance, at least until tomorrow morning to investigate
10 the facts as to whether or not -- and possibly present
11 evidence tomorrow morning as to whether or not the defendant
12 has happened upon some type of misfortune, accident, or
13 injury, illness.

14 And in that -- the purpose for this
15 continuance would be to continue the proceedings in his
16 absence hinders the defense in -- it inhibits my ability to
17 seek advice from my client on the proceedings on his own
18 case. It's prejudicial to the defendant in that it becomes
19 clear to all those here in the public courtroom that he's no
20 longer here. And I think it would bear upon the jurors -- it
21 could -- could bear on the juror's minds and have an effect
22 on any sentence that they may assess. And I object to
23 proceeding, at least until tomorrow morning.

24 THE COURT: Objection is overruled. However,
25 I will do this, Mr. Mason. The State has in place a

1 fingerprint expert who is not available tomorrow. The Court
2 will entertain evidence on that matter only today and then
3 we'll recess until 9:00 o'clock in the morning. And we'll
4 see what happens at that time.

5 MR. MASON: Your Honor, just prior to the jury
6 returning, I'm going to inform the Court that I -- without my
7 client present, I do not intend to enter a plea for him.

8 THE COURT: Therefore the Court will enter a
9 plea of not true to Paragraphs 2 and 3 of the indictment.

10 Are the -- is the jury back, Mike?

11 THE BAILIFF: Yes, sir.

12 THE COURT: Bring them in, please.

13 (Pause in proceedings)

14 THE BAILIFF: Your Honor, the jury is not back
15 yet.

16 THE COURT: When they get back, bring them in.

17 THE BAILIFF: Yes, sir.

18 (The jury enters the courtroom. No Defendant)

19 THE COURT: Mr. Johnston, will you read the
20 rest of the indictment, please, sir.

21 MR. JOHNSTON: Yes, Your Honor. Beginning in
22 Paragraph 2 of the indictment against Mr. Shea: Before
23 commission of the offense alleged above, hereinafter styled
24 primary offense, on the 22nd day of July, 1985, in Cause No.
25 111,684 Caddo Parish, Louisiana, the defendant, Kevin Michael

1 Shea, was convicted of the felony of armed robbery.

2 The final paragraph: Before the commission of
3 the primary offense, and after the conviction in Cause
4 No. 111,684 was final, the defendant, Kevin Michael Shea,
5 committed the felony of simple escape and was convicted on
6 the 14th day of July, 1986, in Cause No. 63,996 in Bossier
7 Parish, Louisiana, a true bill.

8 THE COURT: In the defendant's absence from
9 these proceedings, the Court will enter a plea for him of not
10 true to those two paragraphs. Proceed.

11 MR. JOHNSTON: With the State's punishment
12 evidence, I call the records custodian, please.

13 THE COURT: Would you raise your right hand,
14 please, ma'am.

15 (One witness sworn by the Court)

16 THE COURT: Be seated, please, ma'am. Let me
17 advise you the Rule has been invoked, and that means you are
18 not to discuss your testimony with any other person except
19 the attorneys in the case or except by permission of the
20 Court.

21 While you're under the Rule, you'll not read
22 any report of or comment upon any of the other testimony in
23 the case. Except for the time you're testifying, you'll need
24 to remain outside the hearing of the courtroom.

25 Mr. Johnston.

1 BRENDA STEPHENS,
2 having been first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. JOHNSTON:

5 Q Ma'am, please state your name for the record.

6 A Brenda Stephens.

7 Q And how are you employed?

8 A I'm employed with the Hill County Sheriff's Office
9 as custodian of records.

10 MR. MASON: Your Honor, I'm going to have to
11 object for the purpose of the record. This witness was not
12 given to me as a potential witness by the State, as ordered
13 in our pretrial discovery.

14 THE COURT: Overruled.

15 MR. JOHNSTON: There's a reason for that I
16 would like to discuss out of the presence of the jury later
17 on.

18 All right, ma'am.

19 May I approach the witness, Your Honor.

20 THE COURT: Yes, sir.

21 Q (BY MR. JOHNSTON) I'm going to show you what's
22 been marked as State's Exhibit No. 7. Take a moment, please,
23 and look at that. Do you recognize it?

24 A Yes, sir.

25 Q And can you state whether or not what's marked as

1 State's Exhibit No. 7 is an official record of Hill County,
2 Texas?

3 A Yes, sir, it is.

4 Q And is it known as an ink fingerprint card?

5 A Yes, sir.

6 Q And whose name is on the card?

7 A Kevin Shea.

8 Q And does it also have a date of birth and some
9 other identifying information on the card?

10 A (No response)

11 Q You don't need to read them, but does it have
12 other identifying information?

13 A Yes, sir.

14 Q And can you state whether or not you are a proper
15 custodian of the record which is marked as State's 7?

16 A Yes, sir.

17 Q And is that record made in the official business
18 of Hill County?

19 A Yes, sir, it is.

20 Q Is it part of the business of Hill County as a
21 Government unit to make and keep records like that,
22 State's 7?

23 A Yes, sir.

24 Q And are they kept secure in the records files in
25 the ordinary course of business of Hill County?

1 A Yes, sir.

2 Q And are the notations on that card, that is to say
3 the references that are in ink, are they made by someone
4 involved in that printing process with knowledge of the
5 transaction?

6 A Yes, sir.

7 Q And is it within the business of Hill County to
8 keep these records, ma'am?

9 A Yes, it is.

10 Q And is that part of your job?

11 A Yes, it is.

12 MR. JOHNSTON: Move admission of State's 7.

13 MR. MASON: Your Honor, may I have an
14 opportunity to examine the exhibit?

15 THE COURT: Yes, sir.

16 (Discussion between Mr. Mason and reporter)

17 MR. MASON: May I ask the witness a couple of
18 questions --

19 THE COURT: Sure.

20 MR. MASON: -- on voir dire?

21 VOIR DIRE EXAMINATION

22 BY MR. MASON:

23 Q Ms. Stephens, the notations that are made on here,
24 were they made by you?

25 A No, sir.

1 Q For example, the typewritten information.

2 A No, sir, those are 1978 prints.

3 Q And the prints themselves, were they taken by you?

4 A No, sir.

5 Q Do you know who did take those?

6 A A part of the sheriff's office at the time.

7 Q You don't know the name of the -- the person
8 compiling this information on here?

9 A I do not know the person personally, no.

10 Q Do you have the authority to -- do you have access
11 to all records in the sheriff's office?

12 A Yes, I do.

13 Q And you have the authority to make entries and
14 delete entries and add -- add information to the sheriff's
15 records?

16 A Once they -- are you talking about after the fact?

17 Q No, I'm asking you right now, in your position, do
18 you have the authority to -- to make entries in a person's
19 records or in their files in your office? Do you have the
20 authority to -- to add information to records, for example?

21 A Normally things are not added to records after
22 they're filed.

23 Q Okay. Do you have any authority at all to -- to
24 alter records, to change records, add things?

25 A No, sir.

1 Q Do you have the authority to bring the records out
2 of that office into court?

3 A That's correct.

4 Q All right. Are you the only one that has that
5 authority?

6 A To take these files out of the office? Yes.

7 Q Okay. You have no supervisory person that also
8 has that authority?

9 A I am the supervisor.

10 MR. MASON: Okay. Your Honor, I'll just
11 object.

12 Let me just ask Mr. Johnston -- could I ask
13 you a question?

14 (Sotto voce discussion between attorneys)

15 THE REPORTER: I'm sorry, I can't hear.

16 MR. MASON: Okay. Do I need to be up here?

17 (Discussion at bench, outside jury's hearing)

18 THE COURT: Do you intend to offer this
19 exhibit?

20 MR. JOHNSTON: Yeah, I intend to offer it
21 into evidence.

22 MR. MASON: Your Honor, I object. It's got a
23 bunch of extraneous matters, information -- for example, you
24 know, three lines from the top there's a reference there that
25 the State (sic) objects to. It is rank hearsay and I

1 don't -- I just object to it. It's -- there's some
2 typewritten information that I think is prejudicial to my
3 client and I object to it.

4 THE COURT: Is this the one you're talking
5 about?

6 MR. MASON: That's correct, Your Honor. Yes,
7 sir.

8 MR. JOHNSTON: For the record, the reason we
9 had to call this witness, and the reason we're having to
10 offer that record is because the defendant is not here.
11 What was going to happen was Mr. Allwardt, the fingerprint
12 man, was going to roll the defendant's prints following -- if
13 there was a guilty verdict, and he was going to be able to
14 personally testify and authenticate that set of ink prints.
15 The defendant denied that opportunity to us so we're having
16 to fall back on some existing records.

17 MR. MASON: Finally Judge, this is all I'm
18 going to submit to the Court on this exhibit. If the Court
19 so sees fit, it will be admitted, admitted for the record
20 only, and that any subsequent witness can refer to it,
21 compare the prints, and testify to matters, but it's not to
22 be published to the jury.

23 MR. JOHNSTON: I agree to that. I think
24 that's prudent. I agree to that.

25 THE COURT: With that agreement, any other

1 further objections are overruled and State's 7 is admitted.

2 MR. JOHNSTON: Thank you. No questions -- no
3 further questions. Thank you.

4 THE COURT: Anything further then, Counsel?

5 MR. MASON: No, Your Honor.

6 THE COURT: You may step down. Call your next
7 witness.

8 MR. JOHNSTON: Yes, sir. Mr. Allwardt.

9 THE COURT: Raise your right hand, please,
10 sir.

11 THE WITNESS: Yes, sir.

12 (One witness sworn by the Court)

13 THE COURT: Be seated, please, sir. And if
14 you would, swing that microphone around and speak into it.
15 The acoustics are bad in this room.

16 THE WITNESS: Okay.

17 THE COURT: Let me advise you, sir, that the
18 Rule has been invoked, which means you're not to discuss your
19 testimony with any other person, except for the lawyers in
20 the case or except by permission of the Court.

21 THE WITNESS: Yes, sir.

22 THE COURT: While you are under the Rule, do
23 not read any report of or comment upon any of the other
24 testimony. Except for the time you're testifying, you'll
25 need to remain outside the hearing of the courtroom.

1 THE WITNESS: Yes, sir.

2 THE COURT: Mr. Johnston.

3 MR. JOHNSTON: Yes.

4 ROBERT ALLWARDT,
5 having been first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. JOHNSTON:

8 Q Please state your name for the record.

9 (Telephone rings)

10 THE COURT: Sir --

11 THE WITNESS: I didn't realize it was on. I'm
12 sorry. Robert Allwardt.

13 Q And how are you employed? What do you do now?

14 A As an investigator with the Ellis County District
15 Attorney.

16 Q And do you have an area that you specialize in and
17 often find yourself traveling about testifying in front of
18 juries like this?

19 A Fingerprints and crime scene investigation.

20 Q Would you briefly describe your education,
21 training, and experience that enables you to come into court
22 and compare a set of unknown prints to a set of ink prints
23 that you know belong to an individual?

24 A I started in the '60s as a medical technician.
25 '74 I went to work for the sheriff's office.

1 Q What sheriff's office?

2 A Dallas sheriff's office, where I spent 29 years
3 before I retired. During that time -- during the time I
4 received several years of training, in fact many, many years
5 under a retired lieutenant Jim Krunn (Phonetic spelling).

6 I did a ten and a half year apprenticeship in
7 forensics and followed up with schools from -- or in service
8 schools, excuse me, from the Dallas Sheriff's Academy, Dallas
9 Police Department, Texas Department of Public Safety, the
10 FBI, ATF, Air Force OSI, and a -- one additional school was
11 the American Institute of Applied Science, took it -- took
12 their course in advanced forensics.

13 Q And based upon this training and experience, have
14 you come as your livelihood, among other things, to examine
15 fingerprints to try to exclude or include individuals who are
16 suspected of crimes?

17 A Yes, sir.

18 Q Would you briefly explain to the jurors how --
19 what it is about fingerprints that makes them unique enough
20 to be valuable to someone, such as yourself, in forensic
21 science?

22 A The best way I can describe it to you, every
23 finger on every hand has the unique ridge formation, ridges
24 being the raised layers of skin on it. They are unique to
25 every individual on the face of the earth. Thus far, none

1 have been proven to be the same on it. Not on any finger,
2 not on any person that I have read or known about to this
3 date.

4 Q And can you state whether or not there are one or
5 more points of examination which a person such as yourself
6 looks at on a fingerprint to see whether you have enough to
7 work with?

8 A There's a number of points used on identification
9 of a known print, when compared to an unknown. Each person
10 that does this type of identification uses enough prints so
11 they're satisfied in their own mind.

12 Q And are there certain standards within your
13 profession that exist which are imposed upon people such as
14 yourself before you would testify?

15 A Most of them require a number of years of training
16 on it. Myself, before I testified, it was a number of years
17 of intense training.

18 Q Before you were even allowed to testify?

19 A Yes, sir.

20 Q And since this time, you have testified on dozens
21 and dozens of occasions -- of occasions on -- in the district
22 and county courts of the State of Texas?

23 A Yes, sir.

24 MR. JOHNSTON: May I approach the witness?

25 THE COURT: Yes, sir.

1 Q (BY MR. JOHNSTON) I want to hand you what -- with
2 the Court's permission -- what's marked as State's Exhibit
3 No. 8 for identification purposes. And I'd ask you to take
4 the time necessary to look at that, and see if you recognize
5 it.

6 A Yes, sir.

7 Q And are you able to state for us now what it is
8 that is -- the set of papers contained in what's marked as
9 State's 8, what is that?

10 A It's a pen pack. It's from the State of
11 Louisiana.

12 Q And can you state, based upon the cover sheet of
13 that pen pack, penitentiary packet from Louisiana, whether or
14 not that record is a certified, exemplified copy of the
15 official State records of the State of Louisiana?

16 A Yes, sir, it appears to be.

17 Q Does it bear the custodian's mark and
18 corresponding title of the custodian of the records of
19 Louisiana?

20 A Yes, sir.

21 Q And does it bear the seal of the State of
22 Louisiana, a proper custodian of such records?

23 A Yes, sir.

24 MR. JOHNSTON: Move admission of State's 8.

25 THE COURT: Any objection?

1 MR. MASON: Your Honor, with the Court's
2 permission, may I be allowed to examine the exhibit?

3 THE COURT: Proceed.

4 MR. JOHNSTON: He's had that chance. We'll
5 sure do it again.

6 There you go.

7 (Pause in proceedings)

8 MR. MASON: Thank you, Judge.

9 THE COURT: Any objection to the admission of
10 State's Exhibit 8?

11 MR. MASON: Your Honor, the defendant would
12 object that Cause No. 111,684 does not appear to be a final
13 conviction, based on the records contained in the -- in the
14 exhibit, indicating that there was a notice of appeal given
15 without a disposition. I would object to it as being not a
16 final conviction.

17 MR. JOHNSTON: For the record, I think it does
18 show --

19 THE COURT: Let me see State's Exhibit 8.

20 MR. JOHNSTON: Yes.

21 THE COURT: I'll overrule the objection and
22 admit State's Exhibit 8.

23 MR. JOHNSTON: Approach -- may I approach the
24 witness as well?

25 THE COURT: Yes, sir.

APPENDIX 4

REPORTER'S RECORD

VOLUME 5 OF 7 VOLUMES

CAUSE NO. 31,368

THE STATE OF TEXAS : IN THE DISTRICT COURT OF
VS. : HILL COUNTY, TEXAS
KEVIN MICHAEL SHEA : 66TH JUDICIAL DISTRICT

PUNISHMENT PHASE CONTINUED - JUNE 20, 2002

On the 20th of June, 2002, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Robert G. Dohoney, Judge presiding, held in Hillsboro, Hill County, Texas.

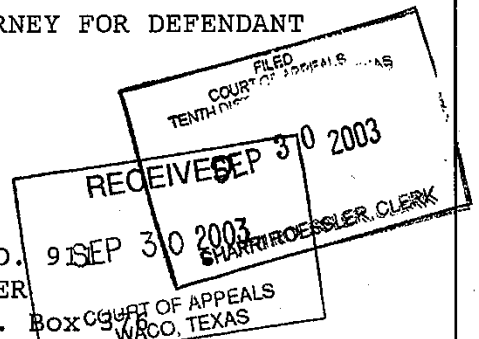
Proceedings reported by computerized stenotype machine; Reporter's Record produced by computer-assisted transcription.

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66th Judicial District P. O. Box 376
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ORIGINAL

1 L [REDACTED] B [REDACTED]
2 having been first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. JOHNSTON:

5 Q. Please state your name for the jury up here.

6 A. L [REDACTED] B [REDACTED].

7 Q. How old are you, Ms. B [REDACTED]?

8 A. Fifteen.

9 Q. Where do you live?

10 A. In Blum, Texas.

11 Q. How long have you lived in Blum, Texas?

12 A. My whole life.

13 Q. Did there come a time when someone else moved into
14 the Blum, Texas area that would be Kevin Shea?

15 A. Yes.

16 Q. How did you first meet Kevin Shea?

17 A. He was my neighbor.

18 Q. When you say neighbor, he was right next door?

19 A. He lived cater-cornered in front of me.

20 Q. Can you state whether or not he befriended you?

21 A. Yes.

22 Q. In what way? What did you all do together, if
23 anything?

24 A. We played games and built stuff together.

25 Q. Okay. Did he come over to your house from time to

1 time?

2 A. Yes.

3 Q. He's not related to you in any way, is he?

4 A. No.

5 Q. How old were you at the time when he first
6 befriended you, Mr. Shea did?

7 A. I was about eight.

8 MR. JOHNSTON: May I approach the witness, Your
9 Honor?

10 THE COURT: Yes.

11 (State's Exhibit No. 9 marked.)

12 Q. (BY MR. JOHNSTON) Let me show you what's marked as
13 State's Exhibit No. 9, and ask you to take a look at the
14 photograph. Do you recognize it?

15 A. Yes.

16 Q. And does that, State's Exhibit 9 -- does that
17 State's Exhibit 9 accurately depict the way you looked at about
18 the age you just described?

19 A. Uh-huh.

20 Q. Yes?

21 A. Yes.

22 MR. JOHNSTON: We move for admission of
23 State's 9.

24 MR. MASON: No objection.

25 THE COURT: Admitted.

1 (State's Exhibit No. 9 admitted.)

2 MR. JOHNSTON: May I publish it to the jurors?

3 THE COURT: Yes, sir.

4 Q. (BY MR. JOHNSTON) And, Ms. B [REDACTED], did there
5 come a time when your relationship with Mr. Shea became closer
6 in terms of him trying to get physically close to you?

7 A. Yes.

8 Q. And would you describe what first happened in that
9 regard that you recall, and about how old you were?

10 A. I was about nine when it started.

11 Q. About nine when it started?

12 A. (Shaking head.)

13 Q. And, specifically, ma'am, did there come a time,
14 Ms. Bellinger, when Mr. Shea asked you to come into his bedroom
15 of his home?

16 A. Yeah.

17 Q. Did you -- would you state what happened,
18 Ms. Bellinger, please.

19 A. He wanted me to come play darts with him in the
20 bedroom, and I did, and he made me -- (witness crying) -- he
21 made me put my hands on his pants.

22 Q. And what did he -- for how long did he have your
23 hand down his pants?

24 A. He made me keep it there until it got hard and he
25 made me play with it.

1 Q. And was she a cousin of yours?

2 A. Yes. She's my cousin.

3 Q. Quite a bit younger than you; is that correct?

4 A. Yes, sir.

5 Q. If she described Kevin Shea being around her, is
6 that the same person you pointed out in Court the other day?

7 A. Yes.

8 Q. You saw Kevin Shea in the same area that L [REDACTED] was
9 in and you were in?

10 A. Yes.

11 MR. JOHNSTON: I pass this witness at this time.

12 THE COURT: Cross-examination?

13 MR. MASON: Just briefly.

14 RECROSS EXAMINATION

15 BY MR. MASON:

16 Q. Sarah, your mother, Julia, is a sister to L [REDACTED]'s
17 mother; is that correct?

18 A. Yes.

19 Q. And L [REDACTED]'s mother -- what is her name?

20 A. Deanna.

21 Q. And Deanna and Julia, your mother, are sisters; is
22 that correct?

23 A. Yes.

24 Q. Did you, your mother, L [REDACTED] and her mother talk
25 about this together?

APPENDIX 5

REPORTER'S RECORD

10-03-180-CR

VOLUME 6 OF 7 VOLUMES

TRIAL COURT CAUSE NO. 31,368

THE STATE OF TEXAS : IN THE DISTRICT COURT
VERSUS : OF HILL COUNTY, TEXAS
KEVIN MICHAEL SHEA : 66TH JUDICIAL DISTRICT

SENTENCING HEARING

On the 23rd day of May, 2003, the following proceedings came on to be heard in the above-styled and numbered cause before the Honorable Robert G. Dohoney, Judge presiding, held in Hillsboro, Hill County, Texas.

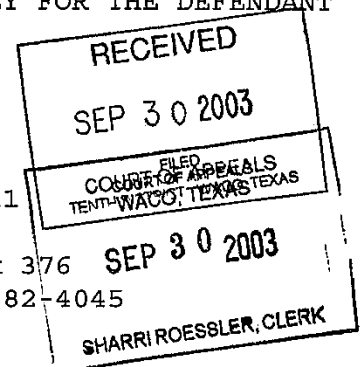
Proceedings reported by computerized stenotype machine; Reporter's Record produced by computer assisted transcription.

APPEARANCES

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FAX: 817 641-0517
ATTORNEY FOR THE DEFENDANT

JANIE C. TREADWELL, CSR NO. 911
OFFICIAL COURT REPORTER
66th Judicial District P. O. Box 376
Hillsboro, Texas 76645 PH: AC 254 582-4045



ORIGINAL

SENTENCING HEARING - MAY 23, 2003

THE COURT: This is Cause No. 31,368, State of Texas versus Kevin Michael Shea. On June the 17th, 2002, a jury trial was commenced in this case, with the jury trial ending on June 20, 2002. On June the 19th, 2002, while the jury was deliberating on the verdict of guilt or innocence, the Court had a hearing outside the presence of the jury to determine why the Defendant was absent from the proceedings. At that time, the Court found that the Defendant had voluntarily absented himself from the the Court proceedings.

Later in the day, at 3:40 p.m., the jury returned a verdict of guilty of the offense of aggravated sexual assault as alleged in the indictment. The Court then submitted the question of punishment to the jury, and on June the 20th of 2002, the jury returned a verdict of 99 years in the penitentiary. At that time, the Defendant was still absent and sentencing was deferred until the Defendant could be apprehended.

The Defendant has now been apprehended, and today we are here to pronounce sentence on the Defendant. Is the Defendant ready to proceed?

MR. MASON: Your Honor, if I may speak to the Court, with all due respect, I believe the indictment in No. 31,368 alleged Indecency with a Child.

1 THE COURT: That is correct.

2 MR. MASON: I just want the record to reflect --

3 THE COURT: Indecency with a Child was enhanced
4 by a prior conviction?

5 MR. MASON: That is correct, Your Honor.
6 Otherwise, we are ready to proceed with imposition of sentence.

7 THE COURT: Is your name Kevin Michael Shea?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Mr. Shea, by virtue of a jury
10 verdict returned in this Court on June the 20th of 2002, I am
11 now about to pronounce sentence upon you. Is there any reason
12 why sentence should not be pronounced upon you today?

13 MR. MASON: Your Honor, I don't know of any
14 reason.

15 THE COURT: Then you are hereby sentenced to
16 serve 99 years in the penitentiary as provided by the jury
17 verdict. Mr. Shea, you have a right to appeal this case to a
18 higher court. If you're unable to hire counsel, one will be
19 appointed to represent you on appeal, and a record of all the
20 proceedings will be furnished to that counsel for his use in
21 prosecuting your appeal. Do you have any questions about your
22 right to appeal?

23 THE DEFENDANT: No, sir.

24 THE COURT: Do you want to appeal this case?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: The Court will appoint for you on
2 appeal an attorney here in Hillsboro by the name of Richard
3 David Holmes, and I'm this date appointing him to represent you
4 on the appeal of this case to a higher court. I'll need the
5 Defendant and Mr. Mason to sign this notice in which the Court
6 has certified that the Defendant does have a right to appeal.

7 MR. MASON: We have signed the certification,
8 Your Honor.

9 THE COURT: Thank you. The Court understands
10 that the victim in this case, Sarah Williams, would like to
11 address the Defendant as provided by the Rules of Criminal
12 Procedure. Such address will be off the record. You may
13 proceed, if you'd like to come forward.

14 (Victim addressing Defendant off the record.)

15 THE COURT: You are now remanded into the
16 custody of the Sheriff of Hill County, Texas for execution of
17 sentence. The Sheriff of Hill County is to certify to the
18 number of days you have served in his jail awaiting trial, and,
19 also, to certify as to your conduct while you were in his
20 custody. Court is recessed.

21 MR. MASON: Your Honor, I want to ask a question
22 of the Court, if the Court knows, how long Mr. Shea will be
23 held here in Hill County and given an opportunity to meet with
24 Mr. Holmes?

25 THE COURT: I do not know. I think the Feds may

APPENDIX 6

10-03-180-CR

1

REPORTER'S RECORD

VOLUME 7 OF 7 VOLUMES

TRIAL COURT CAUSE NO. 31,368

THE STATE OF TEXAS) IN THE DISTRICT COURT
VS.) OF HILL COUNTY, TEXAS
KEVIN MICHAEL SHEA) 66TH JUDICIAL DISTRICT

I, Saralyn R. Rollins, Deputy Official Court Reporter in and for the 66th Judicial District Court of Hill County, Texas, do hereby certify that the following exhibits constitute true and complete duplicates of the original exhibits, excluding physical evidence, offered into evidence during the Trial in Chief in the above-entitled and numbered cause as set out herein before the Honorable Robert G. Dohoney, Senior Judge of Hill County, Texas, and a jury trial, beginning June 17, 2002.

I further certify that the total cost for the preparation of this Reporter's Record is \$ 2070.00 and will be paid by Hill County.

WITNESS MY OFFICIAL HAND on this, the 20th day of, September, 2003.

Saralyn R. Rollins, CSR, RPR
SARALYN R. ROLLINS, CSR #5025
Exp. Date: December 31, 2003
Deputy Official Court Reporter,
66th Judicial District Court
Hill County, Texas
421 Madeline Lane
Burleson, Texas 76028-3265
(817) 295-5172

Reported for Waits Court Reporters, (817) 641-2777

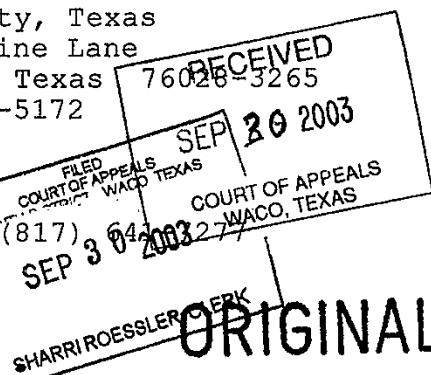


EXHIBIT INDEX

1		
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	Offered and Admitted - 115	Volume 2

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From Cons Point Fri Oct 16 13:26:39 1998

Received:from send201.yahoomail.com (205.180.60.131)

by mta103.yahoomail.com with SMTP; 16 Oct 1998 13:26:41 -0700

Message-ID:<19981016202639.4777.rocketmail@send201.yahoomail.com>**Received:**from [206.54.160.131] by send201.yahoomail.com; Fri, 16 Oct 1998 13:26:39 PDT**Date:**Fri, 16 Oct 1998 13:26:39 -0700 (PDT)**From:**Cons Point <conspoint@yahoo.com> [Add to Address Book](#)**Subject:**I'm BACK!!!!!!**To:**w Sarah <SuiCideW@yahoo.com>**MIME-Version:**1.0**Content-Type:**text/plain; charset=us-ascii**Content-Length:**524

Hi my friend. My computer crashed the other day and has been in the shop.

Just went back online a few minutes ago and checked my mail.

I will sit down later and peck out more thoughts but right now I have to go finish my order of furniture due this weekend.

Talk to you later.

Just me

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From Cons Point Fri Oct 16 21:13:23 1998

Received:from send204.yahoomail.com (205.180.60.158)

by mta103.yahoomail.com with SMTP; 16 Oct 1998 21:13:23 -0700

Message-ID:<19981017041323.11402.rocketmail@send204.yahoomail.com>**Received:**from [206.54.160.141] by send204.yahoomail.com; Fri, 16 Oct 1998
21:13:23 PDT**Date:**Fri, 16 Oct 1998 21:13:23 -0700 (PDT)**From:**Cons Point <conspoint@yahoo.com> [Add to Address Book](#)**To:**w Sarah <SuiCideW@yahoo.com>**MIME-Version:**1.0**Content-Type:**text/plain; charset=us-ascii**Content-Length:**379

I am at my computer when I should be asleep.

I do want to get off a lot off thoughts to tou but now is not
the time.

Tomorrow is better.

What are you doing two weeks from tonight?

More later.

Kev

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From Cons Point Sun Oct 18 07:04:50 1998

Received:from send202.yahoomail.com (205.180.60.132)

by mta107.yahoomail.com with SMTP; 18 Oct 1998 07:06:16 -0700

Message-ID:<19981018140450.12607.rocketmail@send202.yahoomail.com>**Received:**from [206.54.160.147] by send202.yahoomail.com; Sun, 18 Oct 1998 07:04:50 PDT**Date:**Sun, 18 Oct 1998 07:04:50 -0700 (PDT)**From:**Cons Point <conspoint@yahoo.com> [Add to Address Book](#)**Subject:**morning thoughts**To:**w Sarah <SuiCideW@yahoo.com>**MIME-Version:**1.0**Content-Type:**text/plain; charset=us-ascii**Content-Length:**2204

Finally finished my order and got it out the door to my buyer in Houston. Ten thousand dollars worth of furniture, at least it is worth that much on the retail end but I am a manufacturer so my take is just a percentage. Need to do some factory direct sales to haul down the big bucks. Biding my time for that to happen. A web site with a few of my products will be a venture I am going to attempt before the millenium arrives, I firmly believe you can succeed in business if you try. I am now up to speed with my computer and can start working on the rest of the things necessary to fatten my bank accounts.

Recieved a zoning change application from the people that own the lot next to my shop, they want to put in a house. That area is zoned light industrial use and a house requires a special use permit. Bein a land owner within 200 feet I have a chance to object to the permit or not. I am going to the Zoning Commission meeting to state my position and then to the City Counsel meeting for the vote on the matter.

I have to oppose them, even though I truly do not want to deny th folks a house. My concern is the noise I make at all hours of the da and night and how it would disturb anybody living only a few feet awa from a furniture manufacturing plant. I don't think I should have to think about if I am waking up thier children at 2 in the morning when I turn on any tool in my shop. That is a position I do not want. It is not fair for me to work under those conditions. That is my

position on the matter. Convincing the City to deny the permit is another thing, they may have a complete set of other rules they play by I am unaware of. We shall see.

My life is just too damn busy, never have time to get around to more fun stuff. Such as seeing you. Our schedules conflict and you are not available when I am. I just feel that in the future that will change and we will have a chance to be around each other more to see if our relationship can expand.

Tell me your thoughts.

Later.

Kev

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From Kev S Wed Oct 21 17:32:07 1998

Received:from send203.yahoomail.com (205.180.60.155)

by mta102.yahoomail.com with SMTP; 21 Oct 1998 17:32:48 -0700

Message-ID:<19981022003207.28817.rocketmail@send203.yahoomail.com>**Received:**from [206.54.160.108] by send203.yahoomail.com; Wed, 21 Oct 1998 17:32:07 PDT**Date:**Wed, 21 Oct 1998 17:32:07 -0700 (PDT)**From:**Kev S <kev99751@yahoo.com> [Add to Address Book](#)**Subject:**change**To:**SuiCideW@yahoo.com**MIME-Version:**1.0**Content-Type:**text/plain; charset=us-ascii**Content-Length:**362

Hi friend

Do not use the conspoint address anymore, my
new way of contact is the above address.

Homecoming night I plan to be in Blum. Let me know if I can see
you somehow.

Always on,

Kev

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From Kev S Fri Oct 23 12:43:41 1998

Received:from send204.yahoomail.com (205.180.60.158)

by mta101.yahoomail.com with SMTP; 23 Oct 1998 12:42:59 -0700

Message-ID:<19981023194342.29180.rocketmail@send204.yahoomail.com>**Received:**from [206.54.160.149] by send204.yahoomail.com; Fri, 23 Oct 1998
12:43:41 PDT**Date:**Fri, 23 Oct 1998 12:43:41 -0700 (PDT)**From:**Kev S <kev99751@yahoo.com>[Add to Address Book](#)**Subject:**us**To:**SuiCideW@yahoo.com**MIME-Version:**1.0**Content-Type:**text/plain; charset=us-ascii**Content-Length:**1046

I do trust you. I saw you riding around in the truck, you never looked at me.

Clock turns back this weekend, gets darker earlier and the freaks come out at night so you should beware of those wanting to go for a ride with you.

I like your locker number.

Perhaps I should come to Blum on a night that you are not going to be occupied with an event.

Maybe the event should be us.

What is the latest you will see me. Home in time for breakfast good enough?

By then I'll certainly have eaten my fill and satisfied the nights' hunger.

This address is a safe haven from all who use this computer and I would like for you to feel free to put into words all your thoughts you believe would express who you are, and what I am to you. Nobody is home when I access this mail, tell me anything you want.

Our foundation is solid on my end and I intend to keep it so. You are important in my future, I feel this to be so in my soul. Together we are going to do something, just exactly what is not known but I believe soon we will discover more to tell us what is ahead for us.

You have gone from girl to young woman and I think that you may need to evaluate our relationship and make sure you feel comfortable about us. Just keep telling me how you feel at every step and I will do the same .

Enjoy your day.

Thinking of you,
Kev

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From Kev S Sat Oct 24 06:54:59 1998

Received:from send203.yahoomail.com (205.180.60.155)

by mta107.yahoomail.com with SMTP; 24 Oct 1998 06:56:30 -0700

Message-ID:<19981024135459.19647.rocketmail@send203.yahoomail.com>**Received:**from [206.54.160.128] by send203.yahoomail.com; Sat, 24 Oct 1998 06:54:59 PDT**Date:**Sat, 24 Oct 1998 06:54:59 -0700 (PDT)**From:**Kev S <kev99751@yahoo.com> [Add to Address Book](#)**Subject:**everything**To:**SuiCideW@yahoo.com**MIME-Version:**1.0**Content-Type:**text/plain; charset=us-ascii**Content-Length:**1864

No need to be sorry at all.

Yes I have to be a bit more subdued when she is around when I am talking to you, It is quite evident I am sure.

She and Kim have just left to go yard saling (is that a word!) an I have some time to get a few thoughts out before I go to my shop.

I am sorry for the last letters' tone to you, guess I was trying t type with the wrong digit. Glad it was a short burst....and I will quit now while i am ahead Okay I'll stop.

Male hormones will rage!!

I do hope you know that getting in your pants is not my sole intent though I will not tell you that the thought does not enter my mind when I think of you.

I like all of you Sarah, that includes your pussy.

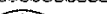
And if it is half as interesting as your brain then I fear my imagination is not good enough to forsee the pleasure that could be derived.

Yes I am very anxious to get close to you and enjoy your company, have you not noticed that I really do like you!!! Your life is going to be so much fun because of how you think that I find I want to be a part of it, just as I have for this long and for just as long as you care to call me your friend.

DEFENDANT'S
EXHIBIT
#4
6/18/02 SER

SECRET

HILL COUNTY, TEXAS

 BETTY J. REEB
NOTARY PUBLIC
STATE OF TEXAS
My Commission Expires 09/01/2001

Sarah Williams

Sarah Williams

SUBSCRIBED AND SWORN TO BEFORE ME, on the 19th day of 1999.

09-01-2001

Betty J. Leub
NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS

APPENDIX 7

Scanned Apr 18, 2013 Scanning Cover Sheet



CaseNumber: WR-78,954-01

EventDate: 01/14/2013

Style 1: Shea, Kevin

Style 2:

Event code: WRIT RECEIVED

EventID: 2511193

Applicant first name: Kevin

Applicant last name: Shea

Offense:

Offense code:

Trial court case number: 31,368-A

Trial court name: 66th District Court

Trial court number: 321090066

County: Hill

Trial court ID: 591

Event map code: FILING

Event description: Application for Writ of Habeas Corpus - 11.07

Event description code: WRIT

Remarks:

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Scanned by _____	date _____
Image ID _____	
Comment _____	

Scanned Apr 18, 2013

APPLICANT

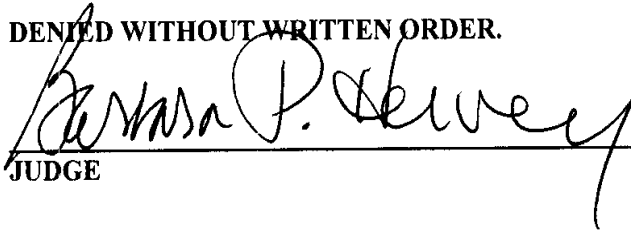
KEVIN SHEA

APPLICATION NO. WR-78,954-01

APPLICATION FOR 11.07 WRIT OF HABEAS CORPUS

ACTION TAKEN

DENIED WITHOUT WRITTEN ORDER.


JUDGE


DATE

Case No. 31,368-A
(The Clerk of the convicting court will fill this line in.)

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

APPLICATION FOR A WRIT OF HABEAS CORPUS
SEEKING RELIEF FROM FINAL FELONY CONVICTION
UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07NAME: Kevin Michael SheaDATE OF BIRTH: October 30, 1960PLACE OF CONFINEMENT: TDCJ - Allied UnitTDCJ-CID NUMBER: 1395218SID NUMBER: 02545115

(1) This application concerns (check all that apply):

☐ a conviction☒ a sentence☐ time credit☐ parole☒ mandatory supervision☐ out-of-time appeal or petition for
discretionary review(2) What district court entered the judgment of the conviction you want relief from?
(Include the court number and county.)66th District Court, Hill County

(3) What was the case number in the trial court?

31,368

(4) What was the name of the trial judge?

Robert G. BohoneyRevised: March 5, 2007

VERIFICATION

(Complete EITHER the "oath before a notary public" OR the "inmate's declaration.")

OATH BEFORE NOTARY PUBLIC

STATE OF TEXAS, COUNTY OF _____

_____, BEING FIRST DULY SWORN, UNDER OATH, SAYS:

THAT HE/SHE IS THE APPLICANT IN THIS ACTION AND KNOWS THE CONTENT OF
THE ABOVE APPLICATION AND ACCORDING TO APPLICANT'S BELIEF, THE FACTS
STATED IN THE APPLICATION ARE TRUE.

Signature of Applicant

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____

Signature of Notary Public

INMATE'S DECLARATION

I, Kevin Michael Shea, BEING PRESENTLY
INCARCERATED IN TCJ - Allied Unit, DECLARE UNDER
PENALTY OF PERJURY THAT, ACCORDING TO MY BELIEF, THE FACTS STATED IN
THE APPLICATION ARE TRUE AND CORRECT.

SIGNED ON April 29, 2011.

Kevin Michael Shea
Signature of Applicant

APPENDIX 8

CCA Scanning Cover Sheet



2546863

CaseNumber: WR-78,954-02

EventDate: 11/04/2013

Style 1: Shea, Kevin Michael

Style 2:

Event code: WRIT RECEIVED

EventID: 2546863

Applicant first name: Kevin Michael

Applicant last name: Shea

Offense: 21.11

Offense code: Indecency with a Child

Trial court case number: 31,368-B

Trial court name: 66th District Court

Trial court number: 321090066

County: Hill

Trial court ID: 591

Event map code: FILING

Event description: Application for Writ of Habeas Corpus - 11.07

Event description code: WRIT

Remarks:

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APPLICANT

KEVIN M. SHEA

APPLICATION NO. WR-78,954-02

APPLICATION FOR 11.07 WRIT OF HABEAS CORPUS

ACTION TAKEN

REMANDED FOR A LIVE HEARING.



JUDGE

11.27-13

DATE

Case No. 31,368-B
(The Clerk of the convicting court will fill this line in.)

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

APPLICATION FOR A WRIT OF HABEAS CORPUS
SEEKING RELIEF FROM FINAL FELONY CONVICTION
UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07

NAME: Kevin Michael Shea
DATE OF BIRTH: October 30, 1960
PLACE OF CONFINEMENT: TDCJ - Allied Unit
TDCJ-CID NUMBER: 1395218 SID NUMBER: 02545115

FILED DISTRICT
CLERK OF DISTRICT COURT
2013 SEP 10 AM 10:02

(1) This application concerns (check all that apply):

☒ a conviction	☐ parole
☐ a sentence	☐ mandatory supervision
☐ time credit	☐ out-of-time appeal or petition for discretionary review

(2) What district court entered the judgment of the conviction you want relief from?
(Include the court number and county.)

66th District Court, Hill County

(3) What was the case number in the trial court?

31,368

(4) What was the name of the trial judge?

Robert G. Doherty

PETITIONER'S INFORMATION

Petitioner's printed name: _____

State bar number, if applicable: _____

Address: _____

Telephone: _____

Fax: _____

INMATE'S DECLARATION

I, Kevin Michael Shea, am the applicant petitioner (circle one) and being presently incarcerated in TDCT - Allied Unit, declare under penalty of perjury that, according to my belief, the facts stated in the above application are true and correct.

Signed on September 4th, 20 13.

Kevin Michael Shea
Signature of Applicant Petitioner (circle one)

FORMAL AFFIDAVIT

THE STATE OF TEXAS §

§ AFFIDAVIT OF SARAH WILLIAMS PERKINS

COUNTY OF HILL §

FILED
ANGELIA ORR DISTRICT
CLERK HILL COUNTY, TEXAS
2013 SEP 10 AM 10:03

After being duly sworn under oath, I Sarah Williams Perkins, Social Security Number [REDACTED], my date of birth is [REDACTED] and being 31 years of age. I reside at the address, [REDACTED] in the city of Blum, Texas 76627, which is located in the county of Hill, Texas.

I make this affidavit of my own free will and accord. I am not under any threats, coercion or any promises of financial gain, or benefits from any source. I make this affidavit voluntarily and with a grasp of my mental faculties as to the incidents, occurrences and events that I have personally experienced and have knowledge of. I make this affidavit in order that the interest of justice will be served.

I herein state that I have personal knowledge of the hereafter incidents as follows:

In January of this year I wanted to contact Kevin Shea to tell him I lied at his trial. I was sure he was going to be really upset at me. He already knew I didn't tell the truth but I thought I could at least apologize and offer to help him or something. I'm married with three small boys

now and Kevin is stuck in prison because I let people influence me into saying things that weren't exactly true.

I finally found the courage to tell Kevin all this after we had exchanged a few letters. He was supportive and understood the pressure I was under back then from my mother and family. I was 16 years old and Kevin was in his 30's. It was a normal relationship to have a good friend I looked up to. My mother and father have a big age difference. My mom was in her teens and my dad in his 30's when they got together and had me. So I never thought it was a bad thing to like someone older than me. My mother knew Kevin and I were friends; we never tried to hide that fact from anyone.

I fell apart emotionally when Kevin moved away. I had counted on him for so much support, a friend, ready to talk whenever my problems would come crashing in on me. He was now further away and I couldn't see him anymore like I used to. I believe now that I was feeling jealous as well because Theresa, Kevin's girlfriend, had moved in with him. Silly teenage jealousy, but my problems got the best of me and I ended up in DePaul for treatment, counseling, and to try medication for my depression. During a group session, I had a small meltdown and had mentioned Kevin and didn't realize how much trouble and fuss they were about to cause. Things seemed to spiral out of control very quickly. I was then asked a million questions, had made a mistake to even mention Kevin and was now too embarrassed to correct it. They took all I said and twisted it to make Kevin look like a really bad person. They said they were going to call the police. I really cringed inside and felt awful about it. The Deputies talked to me and I said some things that just weren't true. It was like a snowball rolling down the hill getting bigger with everything being blown way out of proportion.

Kevin got arrested. He got out on bail and then called me. He could hardly believe what had happened and asked if I would please just tell the truth. He said they charged him with a sex offense crime. I knew then they must have misunderstood some of what I said. Nothing in our relationship was ever sexual.

His lawyer wrote a statement I signed that said nothing sexual ever happened between us. I thought that would fix everything. It didn't. They continued to prepare me to go to trial. I broke down again, it was too much to handle. I felt like there was nothing I could do to make it right. Everybody was acting like I was raped or something. Kevin never touched me sexually but everybody consistently was convincing me he did. They insisted our relationship was wrong. It was a hard time for me back then. Kevin was just a good friend and all of this was being blown way out of proportion.

Some years passed before there was a trial. I had another breakdown and went to DePaul for my third time there. They kept delaying the trial and I was really getting stressed out about it. The whole time my family pressing me to testify against him even when I knew I had misled the Deputies with my story. I just began to accept that this was what was expected of me. A new guy showed up to prosecute. He was Bill Johnston. Some big shot with the Feds that was very intimidating. We had to meet to go over what my answers would be to his questions. At one point I said "no" and he said he needed me to say "yes" to that particular question. It had to do with Kevin touching me underneath my clothes. He was the guy in charge, he knew what he was doing or so I thought, he had a lot of authority so I believed I just had to do what he said; even when I knew it was wrong.

A lot of time has gone by since all this happened and I am making a big accusation against Mr. Johnston insisting I lie at the trial. I did lie, because I did answer "Yes" when he asked me the question regarding touching me underneath my clothes. I decided to call the Sheriff's Office and see if I could get a copy of my statement I made to them. A very helpful lady had me fill out an open records request to get it. I wanted to make sure I never said he touched me sexually under my clothes. It wasn't really a transcript they sent me. It was just the Deputies writing down what I said in their own words.

I know I was a troubled teenager, depressed and on medication at that time, plus really upset that Kevin had moved away. The incidents in that report sound so horrible now. I'm not saying Kevin never hugged me, or held my hand, or even put his arm around me as we walked. He even smacked me playfully on my butt one time. I pushed him around a lot more times than he ever laid a hand on me. None of it was ever sexual. What I told those Deputies was from an upset teenager's perspective. At least they got the part right about no touching under my clothes. It was nice they paid attention to that important detail.

I know I never said he touched me like that, told Mr. Johnston the same thing. I had already signed that paper from Kevin's attorney saying nothing sexual happened. I thought they had just changed his charge to regular assault for touching a minor or something. That part would be true so it would be ok to testify about that. Telling a blatant lie seemed like I was going to get into a lot of trouble when Kevin's attorney showed everybody that statement I had signed. The truth seemed to be getting lost even further every time I answered more questions. Then Mr. Johnston comes in with his big personality and was pretty imposing to me. As we went over my answers I felt trapped. My family was expecting me to say things that I knew just weren't true.

Now this prosecutor was insisting I tell a blatant lie. A lie he made up because I never said it before to anybody. Maybe he meant well, wanting to win, put the bad guy away. Who knows. The pressure on me was enormous and I was close to another meltdown.

My family was there at the trial expecting me to say what they all believed happened. Bill Johnston was scary to me. If I didn't answer the questions the way he wanted me to, I was afraid I would get into trouble. Kevin's lawyer had that paper I signed saying nothing sexual happened. I was going to look like a liar no matter what I said. It was a terrible experience for me when I testified. I know my answers were not the whole truth. I exaggerated about the touching my breasts. Then Kevin got a 99 year sentence. It was almost too much to bear. I had lied and said a lot of misleading stuff and sent Kevin to prison for the rest of his life.

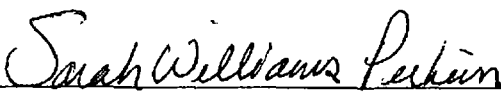
It has taken a long time for me to find the courage to admit to all of this. It has been a heavy burden on me for many years. I got in touch with Kevin earlier this year to tell him I was sorry and ask what I could do to help him. I wasn't even sure if he would write me back. He surely had to be really mad at me. He did write to me after I signed the permission paperwork TDCJ sent to me. They said he had to have my permission in order to write. Now I know why he had never written to me. After a few letters I told him about Bill Johnston insisting I tell that really big lie about touching me underneath my clothes. Kevin was very forgiving. I don't know how he doesn't hate my guts but somehow he blames all the pressure I was under for me having to testify to stuff that wasn't true.

I asked him if I could help in some way to at least get that ridiculous and excessively long sentence reduced. My God, rapists get less time! He doesn't deserve to stay in prison his whole life, especially when my lies caused him to be in there. Kevin said he had studied some law, told

me all of his appeals have been denied so far. He would try again if I was willing to admit I lied at the trial. It was a hard decision for me. I have a family, three young boys that depend on me. Admitting to that could get me into a lot of trouble. I told Kevin this. I went to the prison to visit him to he could see I was serious about helping but really concerned about what it might do to my family. He completely understood and told me he would research the law about the whole issue he called perjury. He wrote me later and said he was sure the statute of limitations would protect me because it was eleven years ago since the trial. I looked it up on the internet and think I read the information right. Perjury has like a three year limit. So he asked me to write out a statement and tell what happened. He said I might be asked to show up in court again and explain what is written in the statement. I'm okay with that. I want to tell the truth.

I found this Affidavit form on the internet to use. That is what Kevin called it so I looked it up and figured out what to do. Just type out my story and get it notarized. Kevin said to send it to him and he would get it filed.

I'm really sorry for what I have done. It was such a bad time for me during those teenage years. I screwed up and then I kept making it worse. I look back now and know it was wrong for Kevin to be convicted of a sex offense because there was never any sexual contact between us. I hope someone will listen to me now and figure out it is unfair for Kevin to spend his life in prison because I lied. I'm willing to admit to this now. That has to mean something.


Sarah Williams Perkins

Signed and Executed on this the 17 day of July 2013 A.D.

Snah Williams Perkins

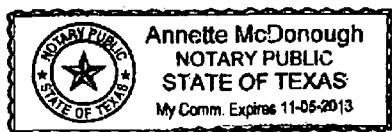
Signature of Affiant

NOTARIZATION

THE STATE OF TEXAS §

COUNTY OF Hill §

Subscribed and sworn under oath before me on this the 17 day of
July 2013 A.D., and is set by my hand and seal of this office.



Annette McDonough

Signature of Notary Public

My Commission expires 11, 5, 13



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-78,954-02

EX PARTE KEVIN MICHAEL SHEA, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 31,368-B
IN THE 66TH DISTRICT COURT FROM HILL COUNTY

Per curiam.

ORDER

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of indecency with a child and sentenced to ninety-nine years' imprisonment. The Tenth Court of Appeals affirmed the conviction. *Shea v. State*, 167 S.W.3d 98 (Tex.App.—Waco 2005).

Applicant contends, among other things, that perjured testimony was used to convict him based on the recantation of the complainant. We believe that in recantation cases such as this

one, before we make the important decision of whether Applicant is entitled to relief, the record should be more fully developed. The trial court shall therefore conduct a live evidentiary hearing on the matter at which the complainant shall be called to testify. Notice of the hearing and an opportunity to testify shall be given to those persons who participated in the trial or the investigation.

The trial court shall make findings as to the credibility of the complaining witness' recantation. The court shall make further findings of fact regarding the circumstances surrounding the complainant's recantation, including the delay between the trial and the recantation. The trial court shall make findings as to whether Applicant could have presented the information contained in the recanting witness' affidavit at the time of the filing of his prior habeas application. The trial court shall enter findings of fact as to the credibility of each witness and as to whether Applicant is entitled to relief.

It appears that Applicant is not represented by habeas counsel. The trial court, within 30 days of the date of this order, shall determine whether Applicant is indigent. If Applicant is indigent and wishes to be represented by counsel, the trial court shall appoint an attorney to represent Applicant at the evidentiary hearing. TEX. CODE CRIM. PROC. art. 26.04.

This application will be held in abeyance until the trial court has resolved the fact issues. The issues shall be resolved within 90 days of this order. A supplemental transcript containing the transcription of the court reporter's notes from the live evidentiary hearing and a copy of the exhibits admitted, along with the trial court's findings of fact and conclusions of law and a copy of the trial record, including the clerk's record and a transcription of the reporter's record of the

trial, shall be forwarded to this Court within 120 days of the date of this order. Any extensions of time shall be obtained from this Court.

Delivered: November 27, 2013
Do not publish

FINDINGS OF FACT AND CONCLUSIONS OF LAW BY ATTORNEY JACKSON

WITH RECOMMENDATIONS OF TRIAL COURT ATTACHED

NO. 31, ^{368B}~~268~~B

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

66TH JUDICIAL DISTRICT

KEVIN MICHAEL SHEA

HILL COUNTY, TEXAS

PROCEDURAL HISTORY

This proceeding bears Cause No. WR-78,954-02 in the Court of Criminal Appeals of Texas.

Kevin Michael Shea was indicted in early 1999 for the offense of Indecency With a Child, such indictment alleging that he "... knowingly engaged in sexual contact with Sarah Williams by touching the genitals and/or breast of Sarah Williams, a child younger than 17 years and not the spouse of the defendant" This indictment also contained two enhancement paragraphs alleging that the Defendant (Applicant herein) Shea previously had been finally convicted of two prior felonies in the State of Louisiana, the first enhancement paragraph describing a conviction for Armed Robbery and the second enhancement paragraph describing a conviction for Simple Escape. Such paragraphs were alleged and proven in the proper order of finality.

The Defendant was represented by trial counsel William Mason of Cleburne. The State was represented by trial counsel William Johnston of Waco, duly appointed Attorney Pro Tem. The case moved to trial during January of 2002 before a jury in the 66th District Court of Hill County, Texas, Robert G. Dohoney presiding. The Defendant was convicted by the jury on June 19, 2002 and absconded. Unremarkably, after the Defendant's conviction, flight, and proof of the enhancement paragraphs, the jury returned a punishment verdict of 99 years.

A capias for the arrest of the fugitive defendant was issued and he was captured in another state some months after the trial. He was remanded to the custody of the Texas Department of Criminal Justice for service of his sentence. R. David Holmes represented the Defendant upon direct appeal to the Tenth Court of Appeals in Waco. Walter M. Reaves of Waco represented the State of Texas as Attorney Pro Tem on direct appeal. The conviction of the Defendant was affirmed by the Tenth Court of Appeals.

FILED
ANGELIA ORR DISTRICT
CLERK
HILL COUNTY, TX
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Applicant filed an Application for Writ of Habeas Corpus at some point previous to the present Application which was denied. Applicant has filed his Application the subject of these proceedings alleging newly discovered evidence tending to show that such evidence establishes his innocence of the offense for which he was tried and convicted. Such Application was filed on September 4, 2013 by the Applicant. The Texas Court of Criminal Appeals, after reviewing the Application and supporting evidence, entered its order of November 27, 2013, in Cause No. WR- 78954-02 which contained the following language:

"We believe that in recantation cases such as this one, before we make the important decision of whether Applicant is entitled to relief, the record should be more fully developed. The trial court shall therefore conduct a live evidentiary hearing on the matter at which the complainant shall be called to testify. Notice of the hearing and an opportunity to testify shall be given to those persons who participated in the trial or the investigation.

The trial court shall make findings as to the credibility of the complaining witness' recantation. The court shall make further findings of fact regarding the circumstances surrounding the complainant's recantation, including the delay between the trial and the recantation. The trial court shall make findings as to whether the Applicant could have presented the information contained in the recanting witness' affidavit at the time of the filing of his prior habeas application. The trial court shall enter findings of fact as to the credibility of each witness and as to whether Applicant is entitled to relief."

The Hon. F.B. (Bob) McGregor, Judge of the 66th District Court determined that the Applicant was indigent and appointed Ricardo and Reynaldo De Los Santos of Cleburne to represent Applicant. E. Allen Bennett of Waco represented the State in these post-conviction proceedings. Judge McGregor appointed the undersigned, John H. Jackson of Powell, Texas to hear these proceedings and make of findings and conclusions as provided by Art. 11.07(d) of the Code of Criminal Procedure. Mr. Jackson previously served as First Assistant Criminal District Attorney of Navarro County, Texas from 1978 until 1996; and thereafter Judge and Sr. Judge of the 13th District Court of Navarro County from 1997 until 2012, at which time he resigned as a Sr. Judge and began a private law practice. Mr. Jackson has been Board Certified in Criminal Law since 1982. Mr. Jackson in his capacity as fact finder will hereinafter be referred to as "the Court" or the "fact finder."

The hearing in this case was originally scheduled for January 31, 2014, but was rescheduled by agreement in order to give counsel on both sides time to obtain and review the trial record. The Record was obtained and the hearing was set by agreement to February 13, 2014. The hearing was convened just after 9:00 a.m. on this date. Appearing were the Applicant and his attorneys De Los Santos; also E. Allen Bennett for the State. Certain preliminary matters were addressed by the Court, the most important of which was the Defendant's request that he be allowed to represent himself. The Applicant was sworn and admonished relative to the dangers of *pro se* representation and Mr. Bennett drafted a Waiver of Attorney in the form required by

law which was executed by Applicant. The Court found that the Applicant fully understood the perils of self-representation and directed that one or more appointed counsel remain with the Applicant during the hearing in the event that he wished to consult counsel concerning any matter before the Court. Applicant did, in fact, confer with stand-by counsel on several occasions.

The Court proceeded to hear evidence in the following order: (1) Sarah Williams, (now Perkins) complainant at the trial; (2) former Hill County Deputy Sheriff Brenda Kaddatz, and (3) William Johnston, prosecutor at the 2002 trial on the merits. Such witnesses were examined and cross-examined by Applicant and Mr. Bennett in proper order. Additionally, a number of exhibits were admitted in the course of the hearing and the Court took notice of certain aspects of the trial, appellate, and post-conviction writ record. Pursuant to the Order of the Texas Court of Criminal Appeals, the Court makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The **Complainant** is an attractive, intelligent, composed, well-spoken and well-dressed woman appearing to be in her early 30's.
2. **Complainant** has been married for eight years. She and her husband have three children. They live in a small town in the Central Texas area.
3. **Complainant** has been gainfully employed in positions of responsibility, including managerial positions with several employers. She is now a stay-at-home mom.
4. In the years intervening since the trial, the **complainant** testified that she felt guilt and anxiety relative to her reports to law enforcement officers and testimony concerning the alleged conduct of Applicant which resulted in his trial and conviction. She very firmly asserted that her reports to peace officers and her trial testimony were false and fabricated as to Appellant's alleged criminal conduct. She testified that her reports and testimony were the product of several factors which combined to influence her untruthful testimony, including emotional and psychological difficulties which required therapy and hospitalization before the allegations of indecency were investigated. She testified that she engaged in a "friendship" relationship with the Applicant that involved sexually suggestive language and emails. She also identified a letter she sent to her friend "Betsy" in which the complainant refers to the Applicant's "touching her in the wrong places." The **complainant** testified that this letter was "made up" and was written "for attention"

and "to impress in a way," so to afford complainant access to a particular social group in school.

5. The complainant unreservedly admits that she gave false information to Deputy Kaddatz and others which implicated the Applicant as a sex crime perpetrator. She explained to the Court that she was a young teenaged girl who had an emotional attachment to the Applicant and was likely "infatuated" with him. She further explained that she became upset and jealous when he moved to Cleburne and began a relationship with another woman. She also explained that her parents were very much opposed to her friendship with the Applicant based on a very significant age difference of more than 20 years, as well as other factors. When she spoke of a non-appropriate relationship in a group therapy session at a mental health facility, a therapist reported her comments to law enforcement authorities in Hill County.
6. The complainant testified that her mother and aunt brought significant pressure to bear on her in connection with the investigation of Applicant, and encouraged her to cooperate with investigators in order to successfully prosecute Applicant. Complainant's testimony may be fairly summarized the following: (a) She was emotionally and psychologically fragile; (b) she enjoyed her relationship with the Applicant who showed her attention; (c) she liked the references to sexual matters which allowed her to become part of a social group that she found attractive; (d) she was intimidated by her mother and aunt; (e) she felt intimidated by the prosecutor, William Johnston (although this Court finds no evidence of improper conduct by Mr. Johnston); (f) that she became angry and/or jealous when the Applicant apparently broke off the relationship and began another relationship in another town ("I felt abandoned"); (g) that she executed a non-prosecution affidavit for Applicant's trial counsel, wishing to end the conflict, but was not clear on whether she had fully read the same at the time of execution. (This affidavit is contained in the record) Complainant testified that she found the continuing prosecution "unnerving," and that "Things spiraled out of control." The complainant also testified or suggested that after she had repeated her false statements to persons in authority, she was unable to muster the courage to correct her numerous statements inculcating the Applicant and that "lying became easier." The Complainant testified she was, "... pressured by family." "Given no choice." "I was a coward; I had told so many lies." Complainant's affidavit and testimony assert that she finally found the courage to admit her misconduct only recently.
7. The complainant testified that during the trial she was "emotional," "had a heavy feeling," but there was "no way out of it."

8. Emails between the complainant and Applicant make it clear that Applicant was interested in a sexual relationship with complainant. The **complainant** testified that her emails to the Applicant were equally suggestive (though the same are not in evidence). She characterized this as playful or "joking" conduct, but strongly denies that she or the Applicant ever acted upon these suggestions or impulses, although her statements to law enforcement and trial testimony are specifically to the contrary.
9. **Complainant** testified that she initiated the correspondence between herself and the Applicant in early 2013 after her own search to determine where Applicant was incarcerated; and that the Applicant never attempted to contact her. Prison authorities advised her shortly after this letter that contact between victims and perpetrators was unlawful, however, she ultimately obtained permission to correspond with the Applicant and did so on several occasions.
10. **Complainant** testified that she visited Applicant on three or four occasions and that she was not afraid of him. The complainant also testified that "I was afraid to contact him for a long time" and "I ruined him." The Court observed that the complainant was sometimes tearful during this testimony.
11. The **complainant** executed in July 2013 a detailed affidavit, explaining the circumstances of her untruthfulness, the same being part of the record in these proceedings.
12. The **complainant** testified that her affidavit and her testimony in this proceeding was not the product of threats, duress, or promises.
13. The **complainant** admitted that she had sneaked out of her bedroom to meet Applicant on several occasions at night; and that she understood this was not appropriate conduct, but did not believe so at the time it occurred. She further admitted that the age difference of 22 years was disturbing to her parents, but that her father was much older than her mother and in her mind this made the relationship more acceptable.
14. **Former Deputy Sheriff Brenda Kaddatz** testified that she had been a peace officer in the late 1990's and investigated the indecency case. She handled these cases on a regular basis and the Applicant stipulated to her competency as a sex-crime investigator.
15. **Deputy Kaddatz** testified that she was a primary investigator in the case; that she saw no reason to believe that the complainant was untruthful; that there were no "red flags" raised

16. **William Johnston**, the prosecutor in the Indecency case testified that he was a former State and Federal Prosecutor with many years of experience and was appointed in this case to assist with a backlog of cases.
17. **Mr. Johnston** testified that he believed that the complainant was telling the truth prior to and at the trial, that she was cooperative, and that he never attempted to coerce, bully, or suggest answers to the complainant.
18. **Mr. Johnston** testified that he had never been disciplined by the State Bar of Texas. On cross-examination, he testified that he had become involved in an extraordinary series of events which resulted in federal court proceedings against him. No conviction resulted and the Court finds this issue to be irrelevant either to his credibility or these proceedings.
19. The evidence broached the issue of whether **Mr. Johnston** encouraged the complainant to testify that she was touched by Applicant under her clothing. This issue was addressed by the testimony of both the complainant and **Mr. Johnston**. The Court finds this issue to be without relevance.
20. The Court finds that the affidavit and testimony of the complainant are plausible and that her testimony is credible; and that her testimony was tested by careful and professional cross-examination by State's counsel, **Mr. Bennett**.
21. The Court finds that complainant's explanation of why she was untruthful in the course of the investigation and trial is credible.
22. The Court finds that complainant's explanation of her delay in correcting her previous false statements and testimony is credible. Her testimony and/or affidavit reflect that it "took her a long time to find the courage," or testimony to that effect.

23. The Court finds that the Applicant could not have presented evidence of complainant's recantation evidence at the time of his prior application for *habeas* relief.
24. The Court finds that all witnesses who testified in the course of the hearing in this proceeding are credible.
25. The Court finds no misconduct on the part of any trial official.
26. The Court finds that Applicant fled the trial proceedings after he was convicted by the jury. The Court further finds that while flight is often consistent with guilt, it also may be consistent with conviction of an accused based on perjured testimony.
27. The Court finds no misconduct on the part of any witness who testified at the indecency trial except that of the complainant during the trial.
28. The Court finds that the information furnished to law enforcement and the testimony of the complainant was indispensable to the successful prosecution of the Applicant.
29. The Court finds that the conduct of the Applicant with the complainant leading to his arrest and conviction for indecency was reprehensible in nature, but that credible newly discovered evidence demonstrates that the trial testimony upon which his conviction was based was untruthful.

CONCLUSIONS OF LAW

1. Testimony offered by the complainant at trial, necessary to the conviction of Applicant was untruthful.
2. Absent the testimony of the complainant that the offense of Indecency with a Child was committed against her by the Applicant, no conviction would have been, or is now, tenable.

3. Witnesses otherwise necessary for the prosecution of this case remain available, however the credible recantation of the complainant renders further prosecution virtually impossible.
4. Based upon the writ hearing evidence, it appears to the Court that the complainant's recantation testimony is truthful.
5. Had the present testimony of the complainant been offered at trial, it is highly probable that a conviction could have resulted. No rational jury would have returned a conviction.
6. Presentation of the evidence of recantation was not possible at prior post-conviction proceedings.
7. Habeas relief should be granted by the Texas Court of Criminal Appeals and the conviction of the Applicant for Indecency with a Child should be set aside.

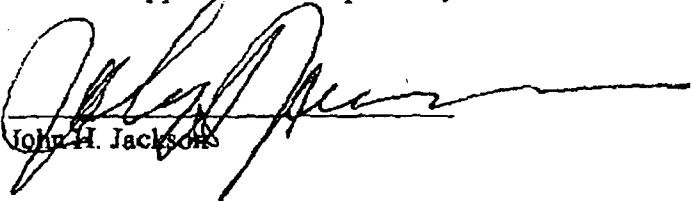
The undersigned is fully aware of the difficulties posed by proceedings of this kind. A result as recommended in this case is sometimes viewed as the undermining of the finality of trial proceedings. Still another difficulty (though one more common to non-lawyers) is the perception that, because the individual seeking relief is not generally worthy of respect as a law-abiding citizen, continued punishment is justified on a theory of general criminality. There is also the ever-present doubt that post-conviction fact-finders are able to determine that the accused is innocent to a complete certainty. These reservations, however, should not preclude a grant of relief based upon proper evidence. After an objective consideration of the testimony elicited and the evidence available in this case, it remains the fact-finder's recommendation that relief be granted.

THESE FINDINGS AND CONCLUSIONS MADE AND ENTERED on the 25th day of February, 2014.


John H. Jackson, Attorney Appointed
To Hear Evidence and Return Findings
And Conclusions

DIRECTIVE TO CLERK

The Clerk of the Court is hereby directed to prepare a record of the post-conviction writ proceedings, (including the transcript of the proceedings and Clerk's Record) held on February 13, 2014, and to certify these Findings and Conclusions to said Court in conformity with its Order of November 27, 2013. The Clerk is also directed to mail or otherwise transmit a copy of these Findings and Conclusions to counsel and to the Applicant who is presently confined in the Hill County Jail.



John H. Jackson

RECOMMENDATIONS BY TRIAL COURT AFTER RECEIPT OF FINDINGS AND CONCLUSIONS OF
LAW BY ATTORNEY APPOINTED TO MAKE FINDINGS UNDER ART. 11.07(d) CCP TO BE AFFIXED
THERETO AND FORWARDED WITH SAME TO COURT OF CRIMINAL APPEALS AT AUSTIN, TEXAS

The Court has now received and read the Findings and Conclusions of the attorney appointed to conduct the post-conviction writ hearing, and forwards same to the Honorable Court of Criminal Appeals sitting at Austin, Texas for its due consideration.

HOWEVER, this Court does note, having read the record at trial on the merits in this cause, and all exhibits admitted, and the record of hearing of February 13, 2014, and all exhibits admitted, and after review of the State's "Motion for the Court to Take Judicial Notice of Portion of Trial Record" filed February 13, 2014, that it should and does enter the following as its called "RECOMMENDATIONS" for due consideration by the said Court of Criminal Appeals.

This Court clearly believes no basis for granting any relief requested by applicant exists, unless the said findings and conclusions of attorney Jackson, as to the credibility of the recantation, is likewise mirrored as the opinion of the said Court of Criminal Appeals, to an extent that the said "new evidence" recantation, when balanced against trial evidence credibility, as then adjudged by the twelve member jury fact finder, in a present sense, "unquestionably establishes the applicant's innocence."

This Court would thus make additional or different findings, and recommendation(s), based, in addition to record and exhibit review above and hereinafter referenced, on the recollection of the undersigned, limited as noted. The undersigned was in office at the time of trial of the cause on its merits, and was then serving as Local Administrative District Judge, but not as the presiding judge in the underlying cause. Said opinions of the undersigned are, to-wit:

1. The person allegedly now "recanting" was, by all reasonable appearances, deemed fully credible when giving her testimony at trial on the merits. This is evidenced by the unanimous verdict of the jury, and current review of her then sworn testimony at trial. The Court would find no obvious reason to disagree with the apparent positive credibility determination of the jury at time of trial and conviction.
2. As above noted, this Court would find no basis existing for granting any relief to applicant unless the Court of Criminal Appeals is of a like opinion as attorney Jackson, as to the present credibility determination of the person allegedly presenting "new evidence" by way of recanting, when balanced against trial evidence credibility, as adjudged by the twelve member jury, and that same would presently "unquestionably establishes the applicant's innocence."
3. The Court would find the applicant did, in fact, flee the jurisdiction of the State of Texas after the testimony was ended on the guilt or innocence phase of the case in chief, and while on bond. The Court seems to recall applicant was ultimately re-apprehended in a northern state of the United States, considerably armed, in a motel room, and the Court was, and is, of the opinion that his actions were dangerous, and likely constituted a felon (previously felony convicted in the State of Louisiana for Armed Robbery in 1985 and felony Simple Escape in 1986) believed by the undersigned to perhaps have been in possession of a firearm at time

of rearrest, and the accomplishment of his re-arrest and return to Texas is believed by the undersigned to have represented a genuine physical risk and fiscal cost to the State of Texas, as well as the state of reapprehension. The evidence is thus clear, that applicant is a multi-time convicted felon, and had established relationship, duly questioned, with Sarah Williams (Perkins), then a teen.

4. Such flight from his trial, is, in and of itself, perhaps suggestive of his actual guilt of the crime alleged, in the opinion of this Court, and would thus give this Court pause, in evaluating the current credibility of the recanting witness. Such flight is the only time in at least the last 21 years of judicial service that this Court is aware of flight happening in Hill County, Texas, in this manner. It is disclosed that the undersigned was in office as the presiding judge of this Court, at the time of the trial of this case on the merits, but did not actually preside as judge in the case. The Court is relying upon its own recollection of the events surrounding the said flight of applicant, as it best currently remembers them, but defers to whatever the appropriate re-arrest and other records may actually reveal.
5. This Court is of the opinion that the Court of Criminal Appeals should duly consider the Findings and Conclusions of attorney John H. Jackson, appointed under Art. 11.07(d), and duly transmits same for that purpose.
6. The Court also notes the State of Texas has also prepared proposed findings and conclusions on February 13, 2014, which the Court of Criminal Appeals may also want to carefully examine, duly filed of record. Additionally, this Court respectfully requests the said Court of Criminal Appeals also consider these called "RECOMMENDATIONS."
7. Additionally, the Court would declare its opinion that Sarah Williams (Perkins) should be investigated for perjury, as her sworn testimony at trial verses at writ hearing, are at diametric opposites; if it is determined she is now excused from criminal responsibility for any false testimony proffered, due to the applicable statute of limitations, this Court would consider that in evaluating witness credibility, and her fairly recent decision to allegedly be now truthful.
8. The Court would find she was not a young juvenile at the time of her trial testimony, but believed to be then about 20 years of age, and significant time had elapsed since the date of the alleged criminal incident (on or about June 10, 1998) and the date of her trial testimony (on or about June 18, 2002.)
9. The Court also notes that not only did Sarah Williams (Perkins) testify at trial, under oath, in conformity with the conviction, but the record and docket sheet shows "after sentencing victim addresses defendant" on May 23, 2003; this confrontation between victim and defendant apparently took place eleven months or so after her trial testimony.
10. This Court would find that her trial testimony is, in part, consistent with her testimony on February 13, 2014, in that she admitted truthfulness in sneaking out of her house, as a child, to meet with applicant, a man then at least in his mid 30's in terms of age, when she was a

TRIAL COURT'S RECOMMENDATIONS, Page Three (3)

teenager, perhaps 14 or 15, or younger. The emails and her own letter to her friend from exhibits admitted at trial, and also recently admitted, are quite suggestive of corroboration of her trial testimony, and do not support the alleged recantation. At least some of same, from applicant to the child, were most sexually explicit, per exhibit(s) admitted, and reveal applicant's intentions, as he met up with the child in secretive fashion. To believe the recantation, one would have to believe applicant and the child would arrange clandestine meetings, having the intentions he expressed in writing, per exhibit(s) admitted, but then further believe he did not go forward in touching the child in an unlawful manner.

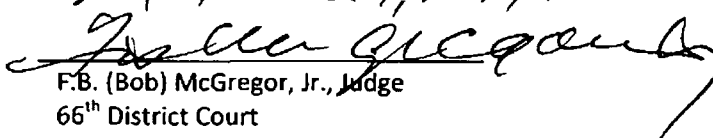
11. This Court would find that some email messages to the alleged child victim were drafted relatively near to the time applicant was apparently establishing or had already established a relationship with another female in Johnson County, and he actually subsequently moved to Cleburne, Texas, all the while apparently making future rendezvous plans with the child victim in this cause, per his email communication, duly admitted.
12. This Court would find that the testimony of February 13, 2014 reveals that in recent months, on four different occasions, the person recanting has made multi-hour trips to see the applicant in the state penitentiary for approximately two hour visits, apparently leaving her husband and children to do so, for long enough periods to accomplish these trips, and apparently did not go to see the applicant in the Hill County Jail recently because she was advised not to see him, per directive of the then counsel for applicant, as the record reveals. The Court of Criminal Appeals may want to consider her conduct in relation to motivation for recantation.
13. The Court would find, after P.S.I. review in this case, that applicant, in addition to the two above noted Louisiana felony prior convictions, is noted to have burglary convictions (two counts) in Hill County, Texas, in 1979, for which it states the defendant received probation. The Court could not identify, from that document, a Hill County cause number related thereto. After retrieving the files from the Hill County District Clerk, the Court has verified convictions of applicant on February 5, 1979 in #26,895 for a burglary committed on December 10, 1978 and in #26,894 for a burglary committed on December 13, 1979, for which he received a sentence of three (3) years in the penitentiary, probated three (3) years, concurrent, on each case. He pleaded guilty to each. The criminal history of applicant is of interest to this Court as it evaluates the relationship of applicant, with the alleged child victim in this cause, and current recantation credibility; applicant had sentence pronounced four times upon him by the time he was seeing this child, for four (4) different felonies, in two different states, being twice her age, approximately, at the time of the alleged conduct.
14. The Court would find, after P.S.I. review in this case, that same references and states "Victim(s) age at time of offense: 11 year old/16 year old (began at 12 years old per the Victim Impact Statement."
15. The Court would find, after P.S.I. review, that the Star Counselor of Bridge Emergency Youth Services apparently was the initiator of the investigation of the applicant, referring matters to the Hill County Sheriff, and alleging "ongoing child molestation in the Blum area". The P.S.I. references Sarah Williams (Perkins) as a victim. Four (4) others are mentioned in a report

RECOMMENDATIONS OF THE TRIAL COURT, Page Four (4)

contained within the P.S.I., which the Court construes to mean additional possible victims of applicant. Applicant is identified as the criminal perpetrator in said report.

16. The P.S.I. would be, in the opinion of the Court, consistent with Sarah Williams (Perkins) trial testimony. The P.S.I. would be inconsistent with her recent recantation.
17. The Court has examined the Star Counselor's notes in 31,367, styled State of Texas vs. Kevin Michael Shea, involving a different alleged victim, that case dismissed without prejudice, after this cause, 31,368, was duly affirmed on appeal, and said 31,367 now apparently limitation barred. Some of those said notes in 31,367, are believed by this Court to likely relate to applicant's conduct as alleged in this cause, 31,368, and are consistent with Sarah Williams (Perkins) testimony at trial in 31,368 and inconsistent with the recantation at issue. For example, on 1-29-99 a notation referenced therein quotes the alleged victim in 31,367, as saying Sarah (believed by the Court to be her friend Sarah Williams) had gotten email from KS (believed by the Court to be Kevin Shea). She quoted the said e-mail as saying something like, "the wolf is running you speak the truth? Maybe not." The Court would find her revelations to the Star Counselor consistent with her trial testimony. Said notes from 4-9-99 states "she (other alleged victim) worried about Sarah."
18. Apparently, Sarah Williams (Perkins) additionally told her DePaul counselor something similar about Kevin Michael Shea, per above counselor's notes of 11-9-1998. The Court would find the child's reports to Deputy Brenda Kaddatz, Attorney William Johnston, the DePaul counselor, the Star Counselor, and perhaps others, including family, were all consistent, and uttered at different times and places, to the reasonable belief of the Court, and not at variance with her trial testimony, and are supportive of the jury verdict, and not supportive of the alleged recantation.
19. This Court would recommend, as a matter of law, that the applicant has not unquestionably established his innocence as a result of new evidence based on the alleged recantation, when balanced against trial evidence of credibility. This Court would not, in effect, undo, or go behind, the jury verdict in this case, post appeal and post prior writ. The Court would find ample evidence exists to support the decision of the said jury as original fact finder herein.

In view of the above, all considered, the Court ORDERS the findings and conclusion of attorney Jackson be duly forwarded to the Court of Criminal Appeals at Austin, Texas, but without recommendation of adoption by the undersigned, and also ORDERS these called RECOMMENDATIONS OF TRIAL COURT be attached thereto.

Signed Feb. 27, 2014,

F.B. (Bob) McGregor, Jr., Judge
66th District Court

APPLICANT

KEVIN M. SHEA

APPLICATION NO. WR-78,954-02

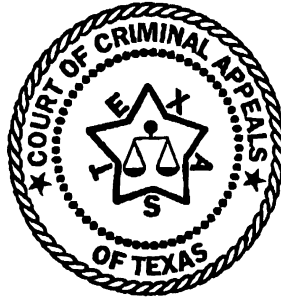
APPLICATION FOR 11.07 WRIT OF HABEAS CORPUS

ACTION TAKEN

DENIED AND DISMISSED WITH WRITTEN ORDER.

1cuen
JUDGE

9-17-14
DATE



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-78,954-02

EX PARTE KEVIN MICHAEL SHEA, Applicant

ON APPLICATION FOR WRIT OF HABEAS CORPUS
CAUSE NUMBER 31,368-B
IN THE 66TH JUDICIAL DISTRICT COURT HILL COUNTY

Per curiam.

ORDER

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of indecency with a child and sentenced to ninety-nine years' imprisonment. The Tenth Court of Appeals affirmed his conviction. *Shea v. State*, 167 S.W. 3d 98 (Tex. App.—Waco 2005).

Applicant claims that the complainant is now recanting the allegations against him and

he is therefore entitled to relief. This Court remanded the application for a live hearing to have the complainant testify. The district court appointed a master to conduct the writ hearing. The master signed findings of fact recommending to this Court that the application be granted. The district judge disagreed, did not adopt the master's findings, and signed his own findings recommending to this Court that the application be denied.

After a thorough independent review of both the trial record and the habeas record in this case, this Court finds that Applicant did not meet his burden to obtain habeas relief.

Applicant's habeas claims based on the recantation of the complainant are denied. His claims of jury charge error and denial of a lesser included offense instruction, which are based on the trial record, are dismissed as subsequent. TEX. CRIM. APP. Art. 11.07 §4.

Filed: September 17, 2014
Do not publish

APPENDIX 9

CCA Scanning Cover Sheet



2561315

CaseNumber: WR-78,954-02

EventDate: 03/31/2014

Style 1: Shea, Kevin Michael

Style 2:

Event code: RR ADD'L VOLUME

EventID: 2561315

Applicant first name: Kevin Michael

Applicant last name: Shea

Offense: 21.11

Offense code: Indecency with a Child

Trial court case number: 31,368-B

Trial court name: 66th District Court

Trial court number: 321090066

County: Hill

Trial court ID: 591

Event map code: GENERIC

Event description: Application for Writ of Habeas Corpus - 11.07

Event description code: WRIT

Remarks: HEARING ON APPLICATION FOR WRIT OF
HABEAS CORPUS FEB 13, 2014 VOL 2 OF 3

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REPORTER'S RECORD
VOLUME 2 OF 3 VOLUMES

TRIAL COURT CAUSE NO. 31,368-B
COURT OF CRIMINAL APPEALS CASE NO. WR-78,954-02

EX PARTE	)	IN THE DISTRICT COURT
	)	
	)	
	)	HILL COUNTY, TEXAS
	)	
	)	
KEVIN MICHAEL SHEA	)	66TH JUDICIAL DISTRICT

RECEIVED IN
COURT OF CRIMINAL APPEALS
MAR 31 2014
Abel Acosta, Clerk

HEARING ON APPLICATION FOR WRIT OF HABEAS CORPUS

On the 13th day of February, 2014, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable John H. Jackson, Hearing Officer presiding, held in Hillsboro, Texas:

Proceedings reported by machine shorthand.

ORIGINAL

1 HEARING OFFICER: Yes, sir.

2 THE APPLICANT: Okay. Thank you.

3 HEARING OFFICER: And for the benefit of
4 both sides, you may see me looking at the screen instead
5 of either you folks or the witness because the acoustics
6 are particularly bad in this courtroom. So if I'm not
7 watching you, it doesn't mean that I'm not paying
8 attention, okay?

9 Ma'am, would you raise your right hand to
10 be sworn?

11 THE WITNESS: Do you want me to stand up?

12 HEARING OFFICER: No.

13 (Witness sworn)

14 HEARING OFFICER: Very well. Mr. Shea,
15 you may proceed when you're ready.

16 **SARAH WILLIAMS PERKINS,**
17 having been first duly sworn, testified as follows:

18 **DIRECT EXAMINATION**

19 **BY THE APPLICANT:**

20 Q Good morning.

21 A Morning.

22 Q Please state your name for the Court.

23 A Sarah Perkins. I guess it would be Sarah
24 Williams Perkins for this.

25 Q What's your current address?

1 HEARING OFFICER: Let me instruct the
2 witness briefly here, sir.

3 Mr. Shea is going to ask you some
4 questions that may involve him. He's asked me if he can
5 ask those questions almost in the context of a lawyer,
6 and he may refer to himself in the third person. So you
7 understand what I'm saying --

8 THE WITNESS: Yes, sir.

9 HEARING OFFICER: -- ma'am? Okay.
10 You may proceed, sir.

11 THE APPLICANT: All right. Thank you.

12 Q (By The Applicant) Are you married or
13 single?

14 A Married.

15 Q What's your husband's name?

16 A Christopher.

17 Q The two of you have any children?

18 A Three. Three boys.

19 Q Three? What are their names and ages?

20 A [REDACTED] is six, [REDACTED] is four, and [REDACTED] is
21 two. He'll be three next month.

22 Q How long have you been married to Chris?

23 A October 25th of 2006.

24 Q Do the five of you live in Blum?

25 A Yes.

1 Q Do you rent or own your own home?

2 A We own it.

3 Q Okay. How long have you owned your home in
4 Blum?

5 A Let's see. We bought that in 2008.

6 Q Where does your husband -- Chris, where does
7 he work?

8 A Where does he work?

9 Q Where does he work? Yes.

10 A He works in Alvarado.

11 Q In Alvarado? Are you currently a stay-at-home
12 mom?

13 A Yes.

14 Q How long have you been a stay-at-home
15 mother?

16 A Since 2008.

17 Q Have you? That was before [REDACTED] was born?

18 A [REDACTED] was one year old.

19 Q One year old?

20 A He was born in 2007.

21 Q Where did you work before [REDACTED] was born?

22 A I worked with First Cash Advance --

23 Q First Cash Advance.

24 A -- in Waco. Well, I was based in Waco.

25 Q What position did you hold?

1 A For the last three years of my employment
2 there, I was an area supervisor for Central Texas.

3 Q And how many locations were you responsible
4 for supervising?

5 A I think at one point it was ten stores from
6 College Station to Killeen, Temple, Corsicana.

7 Q What were some of your supervisory duties?

8 A Running background checks, hiring, firing,
9 training, setting codes on safes.

10 Q So a very responsible position?

11 A Yes.

12 Q Did you leave the company to become the
13 stay-at-home mother?

14 A Yes. I had found -- I had the opportunity to
15 move to Blum and own our own house and sought that
16 opportunity.

17 Q Is Chris now the provider for your family?

18 A Yes.

19 Q Where is Chris today?

20 A He is watching my kids.

21 Q Does he know you're appearing in court
22 today?

23 A Yes.

24 Q Does he know why you're here?

25 A Yes.

1 Q So you've been totally honest with Chris about
2 this hearing?

3 A Yes.

4 Q Is your home located close to your mother's
5 house?

6 A Yes.

7 Q How far away is it? Yes.

8 A I guess if you were to walk, take you maybe 20
9 seconds.

10 Q So it's very close by?

11 A Yes.

12 Q Is that the same home you grew up in for, say,
13 8th through 12th grades?

14 A I would have to say roughly, yes. I don't
15 know exactly when we moved from that rent house in Blum
16 to that trailer, but that sounds about accurate.

17 Q How close is the Blum school from your home?

18 A Well, I'd say like a block. I mean, you just
19 go down the road and you turn the corner and it's right
20 there.

21 Q Okay. And the Blum cemetery, how close is
22 that?

23 A The cemetery is right by the school, so I'd
24 say maybe a two-block walk if you had to.

25 Q And you ever go to this Blum cemetery for any

1 reason?

2 A Yes. I go there many times a week to go
3 running.

4 Q And jogging? Does it hold any disturbing
5 memories for you at the Blum cemetery?

6 A No.

7 Q No? Do you have any disturbing memories when
8 you visit your mother's house?

9 A No.

10 Q Do you have any other family members living in
11 Blum?

12 A Yes.

13 Q And you frequent them? You go to their house
14 to visit?

15 A Not very frequently, but, yes, I do visit when
16 we have a family celebration like a child's birthday or
17 whatnot.

18 Q So there's lots of parties to attend?

19 A Yes.

20 Q Do you and Chris participate in school
21 functions for [REDACTED] and [REDACTED] and --

22 A Yes.

23 Q They're both in school?

24 A Yeah. And sometimes we visit them at lunch.

25 MR. BENNETT: Judge, I fail to see the

1 relevance of this line of questioning.

2 HEARING OFFICER: I -- you know, I'm
3 going to carry your objection, and at this time I'll
4 overrule it because I am -- I will extend some latitude
5 to this pro se party. However, at some point I very
6 well may decide to interrupt the testimony if it
7 continues in this particular manner.

8 MR. BENNETT: Thank you, Your Honor.

9 THE APPLICANT: Your Honor, I'm just
10 trying to develop some credibility here and her state of
11 mind today, currently.

12 HEARING OFFICER: I understand, sir.

13 THE APPLICANT: Okay.

14 HEARING OFFICER: I just want us to move
15 forward as expeditiously as possible.

16 THE APPLICANT: Yes, sir. And I will.

17 Q (By The Applicant) Would you consider your
18 family life as average American, just --

19 A Yes. My family, yes.

20 Q Is it a stable life to raise your three
21 sons?

22 A Yes. I would say so.

23 Q And how old are you?

24 A I am 31. I was born [REDACTED] [REDACTED] [REDACTED].

25 Q Are you in good health?

1 A Yes. I would say so.

2 Q Are you currently taking any prescription
3 medications?

4 A No.

5 Q Are you under any doctor's care at all
6 currently?

7 A No.

8 Q No.

9 A Well, except for, you know, when I went to my
10 bad knee and he just gave me a shot, but other than
11 that, that's the only doctor I've seen.

12 Q In January of 2013, did you write a letter to
13 Kevin Shea?

14 A Yes.

15 Q Was that the first letter you had written to
16 Kevin since the trial in 2002?

17 A Yes.

18 Q Did you have any contact with Kevin between
19 the trial in 2002 and the letter you wrote in January of
20 2013?

21 A No.

22 Q Did Kevin make any contact with you?

23 A No.

24 Q Did any of Kevin's family members or any of
25 his friends try to make contact with you during this

1 time?

2 A No.

3 Q Were you aware of the Texas law forbidding
4 contact between victims and any prisoners?

5 A I wasn't until the prison sent me a letter.

6 Q Did you -- you received that letter from
7 Allred --

8 A Uh-huh. Yes.

9 Q -- the classification department?

10 A Yes.

11 Q You did?

12 THE APPLICANT: Your Honor, I don't
13 believe this is into evidence yet. Everything else I
14 have, every other document, has already been filed, and
15 I'd like to introduce this letter that she received from
16 the classification department into evidence.

17 HEARING OFFICER: I'm sorry?

18 THE APPLICANT: Well, I don't want to
19 stand up and walk around. I would like for Sarah to
20 look at this letter, please, and have it marked into an
21 exhibit. I'm sorry I don't have copies of it.

22 HEARING OFFICER: We'll let opposing
23 counsel take a look, and I think he's done that.

24 MR. BENNETT: Judge, we don't --

25 HEARING OFFICER: Yes. Right.

1 MR. BENNETT: -- have an objection to
2 that being proffered as an exhibit.

3 HEARING OFFICER: Okay. Do you wish to
4 offer this as an exhibit at this time, sir?

5 THE APPLICANT: Yes, Your Honor, I do.

6 HEARING OFFICER: I'm -- I'll just have
7 the court reporter mark it as Applicant's Exhibit 1, and
8 based on the response of counsel, I'll admit it into
9 evidence.

10 THE APPLICANT: Yes. I would ask that
11 the witness look at the letter, please.

12 HEARING OFFICER: If you'd hand it to the
13 witness, please.

14 THE BAILIFF: (Complying).

15 HEARING OFFICER: And you may proceed,
16 Mr. Shea.

17 THE APPLICANT: Thank you.

18 Q (By The Applicant) Is that the letter that you
19 received from the classification department?

20 A Yes.

21 Q Would you please read it?

22 MR. BENNETT: Judge, I object. There's
23 no reason to read the letter.

24 HEARING OFFICER: I think the letter is
25 probably the best evidence of itself. Certainly I'll

1 consider it, and I'll -- I think I've -- I may have had
2 an opportunity to read it. I may not have, but I'll
3 assure you, Mr. Shea, that I will read it and take it
4 into consideration.

5 THE APPLICANT: All right. Thank you,
6 sir. Okay. I ask that it be admitted.

7 HEARING OFFICER: It's admitted.

8 THE APPLICANT: Okay. Thank you.

9 Q (By The Applicant) Now, that permission letter
10 asks that you write a letter of permission to the
11 Allred. Did you do that?

12 A Yes.

13 Q And then in late February, did you receive a
14 letter from Kevin?

15 A Yes.

16 Q What was the tone of the letter?

17 A It was, I guess, cheerier than I expected,
18 happier than I expected.

19 Q In what way? Was Kevin mad or upset with
20 you?

21 A No.

22 Q Was he confused by your letter?

23 A He didn't sound too con -- I mean, he sounded,
24 you know -- I don't know how to describe it.

25 Q Please try --

1 A Glad that -- you know, that I wrote. I guess
2 that's the easiest way to explain it.

3 Q Did you ask for a response back?

4 A Yes, I did.

5 Q And you wanted that response to happen?

6 A Yes. I wanted to have communication.

7 Q Before receiving that letter, when was the
8 last time that you spoke with Kevin?

9 A Before the trial?

10 Q Yes.

11 A The last time I had spoke -- I'm wanting to
12 say that would have been when you called.

13 Q So that was before that you signed the
14 nonprosecution document?

15 A Yes.

16 Q Did you meet with Kevin that night on January
17 19th, 1999?

18 A Yes.

19 Q Did Kevin bring a document to Blum for you to
20 sign?

21 A Yes.

22 Q Was it the nonprosecution document?

23 A Yes.

24 THE APPLICANT: Your Honor, I would ask
25 that the witness view this document, please, for a

1 second. I'd like to ask a question. It's already --
2 okay. I'd like to have it marked as an exhibit, please.

3 HEARING OFFICER: The --

4 THE APPLICANT: It's already in the file.

5 HEARING OFFICER: We'll mark it as
6 Applicant's Exhibit 2, and I'd ask that it be handed to
7 opposing counsel for review.

8 MR. BENNETT: I've reviewed the
9 affidavit. I have no objections.

10 HEARING OFFICER: All right.

11 MR. BENNETT: It was marked as
12 Defendant's Exhibit 4 at trial.

13 HEARING OFFICER: All right. Very well.
14 And there being no objection, it will be admitted into
15 evidence.

16 MR. REYNALDO DE LOS SANTOS: Thank you,
17 Your Honor.

18 THE APPLICANT: Thank you, sir.

19 HEARING OFFICER: All right. I've had an
20 opportunity to review the document. It's been admitted
21 into evidence as Applicant 2.

22 THE APPLICANT: All right. Thank you,
23 sir.

24 Yes, to the witness, please.

25 THE BAILIFF: (Complying).

1 Q (By The Applicant) Sarah, is that the document
2 that you signed?

3 A Yes.

4 Q Is there any other date on that document other
5 than the January 19th, 1999? Is there any other date?

6 A The notary's date.

7 Q That's the only date? Yes. Okay. That's --
8 I'm done with the document.

9 During the trial, in one part of the
10 testimony you said you didn't -- you signed the document
11 because Kevin asked you, that they had the date wrong.
12 Do you recall that?

13 A I recall saying that, but --

14 Q You do?

15 A I do recall saying it, but --

16 Q Was that particular date June 10th, 1998?

17 A That's what I said at trial.

18 Q Is it possible you learned that June 10th,
19 1998 date from the prosecutor, Mr. Johnston, during
20 pretrial preparations?

21 A It's possible, but it's -- I mean, I wouldn't
22 be able to tell you for sure. I could have heard it
23 from my parents. Or I should say my mother and my Aunt
24 Deann, you know, the whole crowd.

25 Q Sarah, did you lie to the Hill County

1 sheriff's deputies when you gave them your statement?

2 A Did I what?

3 Q Did you lie to the Hill County sheriff
4 deputies when you gave them your statement?

5 A Yes.

6 THE APPLICANT: I have the statement in
7 front of me, Your Honor, that she gave, and I would like
8 to introduce it as an exhibit, but I only have this one
9 copy and I would like to ask the questions off of it.

10 HEARING OFFICER: Does opposing counsel
11 have a copy of that statement?

12 MR. BENNETT: May I see it just to be
13 sure we're talking about the same thing?

14 HEARING OFFICER: Right.

15 THE APPLICANT: Yes. I'm sure we are.

16 MR. BENNETT: Judge, it's actually Deputy
17 Kaddatz's typed report of her interview of this witness
18 and not an actual statement of the witness, but we have
19 no objection to it being offered in evidence. I have
20 redacted copies that have some of the names omitted from
21 them, but we have no objection to that.

22 HEARING OFFICER: That -- I'm -- I will
23 presume that that document will be offered, and I will
24 admit the same as Applicant's Exhibit 3.

25 THE APPLICANT: All right. Thank you,

1 sir.

2 Q (By The Applicant) Sarah, I'm going to read
3 one of these sentences off here, and I'd like for you to
4 tell me if it's true or false. That the inappropriate
5 touching started when she was 13 years old and continued
6 until she was 15 years old, is that true or false?

7 A False.

8 Q That Shea touched her two or three times on
9 her breasts on top of her clothes, is that true or
10 false?

11 A False.

12 Q That Shea touched her on her vagina one time
13 on top of her clothes, is that true or false?

14 A False.

15 Q When you signed that document, did you think
16 that would fix everything?

17 A Yes. I was quite happy to sign it.

18 Q Has Kevin ever touched you sexually?

19 A No.

20 Q Did subpoenas begin coming to you to show up
21 for court after that?

22 A After the Hill County, the --

23 Q After you signed the nonprosecution document,
24 did the subpoenas continue to come to you to come to
25 court?

1 A Yeah.

2 Q Did you realize then that Kevin was still
3 being prosecuted?

4 A Yes.

5 Q How did this affect you mentally?

6 A I was unnerving. It was -- I don't know. I
7 guess I was a little more unstable. I don't even know
8 how to begin to explain it, but I was pretty upset.

9 Q Did it cause you to return to DePaul mental
10 hospital in September of 1999?

11 A Yes. One of the reasons, yes.

12 Q You were upset because -- that you lied to the
13 sheriff's deputies and Kevin was still being prosecuted.
14 Is that correct?

15 A Yes.

16 Q This was a heavy burden for you?

17 A Yes.

18 Q Did you tell your family that you had lied?

19 A No. I kept all that to myself until here
20 recently.

21 Q Was there a reason you didn't tell them?

22 A I was embarrassed.

23 Q Were they convinced that Kevin had sexually
24 abused you?

25 A Yes.

1 Q Are they still convinced to this day?

2 A Even though I've tried to -- you know, tried
3 to bring it up, I -- they have closed ears and a closed
4 mind, and they're going to believe what they want to
5 believe.

6 Q Before the trial, did you still feel trapped
7 into your lies? You said you were embarrassed. Were
8 you still trapped into your lies?

9 A Yes. I didn't know how to fix it. I just
10 figured this is it.

11 Q And as the trial approached, was there
12 pressure from your family to testify against Kevin?

13 A Yes. I really -- I don't feel I was really
14 given a choice. Pretty much they just made it -- made
15 me feel as if that is just what I was going to do.

16 Q Why was there no choice?

17 A I was just -- they're my parents. It's my
18 mom, and they -- you know, they told me it was the right
19 thing to do, that, you know, they -- they said that's
20 just what I needed to do. And I guess since I had told
21 so many lies, I -- it was just kind of embarrassing to
22 have to go back on it, and so I was just a coward. So I
23 took the easier way, I guess.

24 Q Did you feel abandoned when Kevin moved to
25 Cleburne in 1997?

1 A Yes.

2 Q And you felt abandoned because Kevin was a
3 close friend?

4 A Yes.

5 Q Is that why you suffered your first breakdown
6 in November of 1998?

7 A Some of it, yes.

8 Q Was that a big part of it or --

9 A Yes.

10 Q When you mentioned Kevin's name in that group
11 session in DePaul, did you know it would get Kevin
12 arrested?

13 A I didn't know it was going to get him
14 arrested.

15 Q Were you trying to get Kevin into trouble?

16 A It's hard to say. I know -- and I said a lot
17 of things out of anger, and I just didn't realize how
18 much trouble he would get into.

19 Q Were you jealous because Kevin moved in with
20 his girlfriend Teresa?

21 A Yes.

22 Q Was that part of why you maybe wanted to get
23 Kevin into some trouble?

24 A Maybe a little bit. It was hard to place my
25 feelings back then. It was a lot of acting out, lashing

1 out.

2 Q You said in your affidavit that things quickly
3 spiraled out of control. Is that true?

4 A Yes.

5 Q That when you told someone at DePaul that it
6 just started spiraling?

7 A Yes.

8 Q After you left DePaul in September of 1999,
9 did the subpoenas continue to show up for you?

10 A Yes.

11 Q Was it difficult on those days you received
12 the subpoena?

13 A Yes. Most of them ended in the trash.

14 Q In what way did it affect you?

15 A It's just a reminder, you know, Look what you
16 did.

17 Q Referring to yourself --

18 A Yes.

19 Q -- as to look what you did?

20 A (Moving head up and down).

21 Q Did you return to DePaul in May of 2000?

22 A Yes, I did.

23 Q And was this continuing prosecution of Kevin
24 part of this reason for your return to DePaul?

25 A Yeah.

1 Q It was tearing you up on the inside
2 emotionally?

3 A Yes.

4 Q Before trial in 2002, did you meet with
5 William Johnston?

6 A Yes, I did.

7 Q Is he a large, tall man?

8 A Yes.

9 Q Yes. Did he seem imposing and overbearing to
10 you?

11 A He was pretty intimidating. I mean, he's
12 pretty big.

13 Q How old were you at that time?

14 A The first time I met him was at the Hill
15 County sheriff's office. And I don't think it was
16 directly right before trial, but it was pretty close.

17 Q When you met with him, were you still
18 conflicted by having to continue lying to everyone?

19 A Yes, and -- but by then, I had kind of -- you
20 know, you kind of -- the lying became more -- easier
21 the -- you know, the more it sat on you, and so you just
22 accept, you know, that that's what they're expecting to
23 hear.

24 Q Do you have a good memory?

25 A I'd say decent. You know, I'm not really good

1 with dates. I wouldn't be able to tell you exact dates
2 on many things or months even.

3 Q When you met with Mr. Johnston before trial,
4 did you remember what statement you had given to the
5 Hill County sheriffs?

6 A Uh-huh. Yeah.

7 Q Did you feel trapped and obligated to continue
8 with those false accusations?

9 A Yes.

10 Q Did you think you would get in trouble if you
11 changed your story?

12 A Yes.

13 Q At one point during your meeting with Mr.
14 Johnston did he ask you a question about touching
15 beneath your clothing?

16 A Yes. It was -- it was actually out here --
17 here at the courthouse when he asked me that.

18 Q So you were in this building when this
19 occurred?

20 A Yes. He was preparing me for trial, asking me
21 questions.

22 Q So it felt very official to you?

23 A Yes.

24 Q That he was a man in authority, that he was
25 running the show?

1 A Yeah. He was there to go get him and, you
2 know, do what he could to get it done. And, yeah, he
3 was -- he's good at his job.

4 Q When he asked you this question about touching
5 beneath clothing, what was your answer?

6 A No.

7 Q You were firm with that; you said no?

8 A Yes. I said no.

9 Q And what did he say to you when you said no?

10 A He said, Sarah, I need you to say yes on that
11 one.

12 Q Was there any further discussion about it with
13 Mr. Johnston?

14 A No. Just accepted it.

15 Q Did you feel compelled to do as Mr. Johnston
16 said?

17 A Yes. He was the person in charge. He was
18 going to be asking the questions.

19 Q When the trial started, did you still feel the
20 pressure from your family to testify falsely?

21 A Yes.

22 Q Were they telling you it was the right thing
23 to do?

24 A Yes.

25 Q Did you testify falsely at trial?

1 A Yes, I did.

2 Q Has Kevin ever touched your breasts at all?

3 A No.

4 Q Has Kevin ever touched your vagina?

5 A No.

6 Q Does that include touching on top of your
7 clothing and beneath your clothing?

8 A There was no touching at all, underneath or on
9 top.

10 THE APPLICANT: Yeah. May I have a
11 moment, Your Honor?

12 (Pause in proceedings)

13 Q (By The Applicant) Did Kevin ever touch you
14 sexually in any manner?

15 A No.

16 Q You're firm on that, that Kevin never touched
17 you sexually in any kind of way?

18 A Correct. He never.

19 Q Did you touch Kevin in any kind of way
20 sexually?

21 A No.

22 Q Did you lie to the jury at trial?

23 A Yes.

24 Q After the trial, what was your emotional
25 state?

1 A I guess it would -- I guess I could describe
2 it as a heavy feeling, feeling really bad, you know,
3 that what I've just done to my friend, and I just --
4 there was just no way out of it.

5 Q Would you -- would it be fair to say that you
6 have a guilty conscience over it?

7 A It's very fair to say.

8 Q Did you believe that Kevin would be very angry
9 at you for lying?

10 A Yes. Who wouldn't be?

11 Q Were you afraid to make contact with Kevin
12 after he went to prison?

13 A Yes. For a long time, I was.

14 Q Why?

15 A I lied, you know, and I ruined him. I
16 destroyed his life.

17 Q Did you think he might try to contact you?

18 A I thought he would, but he never did.

19 Q When you finally did write this letter, what
20 was on your mind at that time while you wrote it?

21 A Just please let him write back.

22 Q Did it matter what kind of letter he wrote
23 back to you?

24 A No.

25 Q How did Kevin react when you admitted to the

1 perjury?

2 A Forgiving, really.

3 Q Did you offer to help him by telling the
4 truth?

5 A Yes.

6 Q What did Kevin ask you to do?

7 A He said to -- I could write out a statement
8 and have it notarized, and then we can start the process
9 of hopefully making it right.

10 THE APPLICANT: Your Honor, I have the
11 affidavit that Sarah Williams wrote out, and I'd like to
12 introduce it as an exhibit.

13 MR. BENNETT: Judge, I believe it's
14 already in the record.

15 HEARING OFFICER: All right.

16 MR. BENNETT: We have no objection if
17 it's offered.

18 HEARING OFFICER: I have received a copy
19 of it. If opposing counsel has no objection, it will be
20 admitted and included in the record.

21 MR. BENNETT: No objection.

22 THE APPLICANT: All right. I'm fine with
23 that, sir. Thank you.

24 Yeah, to the witness, please.

25 HEARING OFFICER: You wish the witness to

1 examine the statement?

2 THE APPLICANT: Please.

3 HEARING OFFICER: Yeah. You may hand it
4 to -- why don't we mark that as whatever the next -- 4,
5 Applicant's 4. I think there may be one exhibit that
6 the court reporter has not marked that I've exhibit --
7 that I've admitted as an exhibit.

8 THE APPLICANT: I apologize for not
9 having the copies. They just --

10 HEARING OFFICER: That's not a problem.

11 THE APPLICANT: The County facilities
12 just don't do that.

13 HEARING OFFICER: You may proceed when
14 you're ready, sir.

15 THE APPLICANT: Okay. Thank you, sir.

16 Q (By The Applicant) Is that the affidavit that
17 you wrote?

18 A Yes.

19 Q Did you type out and print this affidavit?

20 A Yes.

21 Q Did you do it freely and voluntarily on your
22 own?

23 A Yes.

24 Q Is everything in that affidavit the truth?

25 A Yes.

1 Q Sarah, did you receive a subpoena to come here
2 today?

3 A No.

4 Q Are you here voluntarily?

5 A Yes.

6 Q Has Kevin threatened you to do this?

7 A No.

8 Q Have you been promised anything in exchange
9 for doing this?

10 A No.

11 Q Have you been to the prison to see Kevin?

12 A Yes.

13 Q How many times have you gone to visit him?

14 A I think four.

15 Q Were they contact visits?

16 A No.

17 Q Were these visits, the noncontact, through a
18 window and talking on a telephone?

19 A Yes. It's like a two-inch glass and a
20 receiver you hold.

21 Q At any time did you and Kevin discuss any of
22 these questions you are being asked today?

23 A No.

24 Q At any time did Kevin tell you what answers to
25 give to any of these questions today?

1 A No.

2 Q How far is the prison from your home?

3 A Three hours, about.

4 Q So it's a long drive?

5 A Yes.

6 Q Have you gone to the Hill County jail to visit
7 Kevin?

8 A No.

9 Q Is there a reason you haven't gone there?

10 A I -- frankly, I've been busy.

11 Q Did my counsel ask you to not come see me at
12 the prison -- at the county jail?

13 A Yes.

14 Q And you agreed with the counsel --

15 A Yeah.

16 Q -- as I did to not come?

17 A Yes. And even if we hadn't discussed that, I
18 wouldn't be able to --

19 MR. BENNETT: Your Honor, I object as
20 nonresponsive.

21 HEARING OFFICER: I'll sustain the
22 objection.

23 Q (By The Applicant) Do you and Kevin still
24 exchange letters?

25 A Yes.

1 Q Do you consider Kevin to be your friend?

2 A I do.

3 Q Do you consider Kevin to be a good friend?

4 A Yes.

5 Q Are you afraid of me?

6 A No.

7 Q Are you scared of me at all?

8 A No.

9 Q Did you testify falsely at my trial, Sarah?

10 A Yes.

11 Q Are you telling the Court the truth, the truth
12 to this Court today?

13 A Yes.

14 THE APPLICANT: I have no further
15 questions, Your Honor.

16 HEARING OFFICER: All right. You may
17 proceed, sir.

18 MR. BENNETT: Your Honor, may I approach?

19 HEARING OFFICER: You may.

20 MR. BENNETT: We filed this morning a
21 motion to take judicial notice of portions of the
22 record. I've got a notebook here for you, which is the
23 motion and the attached testimony. This is for the
24 Court's own use. If the Court needed to refer to any
25 testimony during the hearing --

1 HEARING OFFICER: Uh-huh.

2 MR. BENNETT: -- then that's just for
3 your benefit. I've submitted counsel to -- a copy to
4 opposing counsel. These are excerpts of this witness's
5 trial testimony and of exhibits offered in evidence at
6 trial.

7 HEARING OFFICER: Just for the record,
8 this does appear to be trial testimony and it is
9 something that I think the Rules of Evidence would
10 typically allow me to take judicial notice of.
11 Mr. Shea, do you have any objection to my examining the
12 trial testimony or taking judicial notice of the trial
13 testimony?

14 THE APPLICANT: Oh, no, sir, not at all.

15 HEARING OFFICER: Okay. Very well. The
16 Court will do that.

17 MR. BENNETT: Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 **BY MR. BENNETT:**

20 Q Now, Ms. Perkins, when you talked to Deputy
21 Kaddatz -- is that who you visited, the female deputy at
22 Hill County?

23 A Yes.

24 Q Okay. And you went there because it had been
25 reported to your counselor at The Bridge, who I think

1 was Donna Pickett, that the defendant had touched you
2 inappropriately. Is that right?

3 A I believe the first time I said anything was
4 at DePaul. And I don't know this as a fact, but I think
5 DePaul might have contacted Donna Pickett. But I don't
6 know how those things work.

7 Q Okay.

8 A But, yes, I met with Mrs. Kaddatz.

9 Q Okay. And we've seen your statement, which I
10 believe has been marked as Applicant's Exhibit 3, not
11 this affidavit --

12 A Oh.

13 Q -- but the summary of Deputy Kaddatz's report
14 of her interview with you, correct?

15 A Yes.

16 Q And in that interview, did she force you to
17 say anything?

18 A No. She didn't force me to say anything.

19 Q So she conducted the interview
20 appropriately?

21 A I believe so. It's just that it looks really
22 weird when they put things in their own words, you know.

23 Q Uh-huh. And she reported that you said that
24 the applicant inappropriately touched you when you were
25 13 and continued until you were 15. That's what you

1 told her, right?

2 A I told her that.

3 Q You told her that. You told her he touched
4 you two or three times on your breasts on top of your
5 clothing. You told her that?

6 A I told her that.

7 Q Okay. You told her he touched you on the
8 vagina once on top of your clothing?

9 A I told her that.

10 Q You told her that. Do you understand that it
11 doesn't matter under the law that applied in 1998 or
12 even now whether that touching was under the clothes or
13 not? Do you understand that?

14 A I understand.

15 Q Okay. You told her that you had snuck out of
16 the bedroom window in the middle of the night several
17 times with Mr. Shea. Do you recall that?

18 A Yes.

19 Q Did that happen?

20 A Yes.

21 Q Okay. So you were telling the truth about
22 that?

23 A (Moving head up and down). Yes.

24 Q Mr. Shea is 22 years older than you, give or
25 take. Is that right?

1 A Correct.

2 Q Do you want your sons sneaking out of the
3 windows in the middle of the night with girls --

4 THE APPLICANT: I object, Your Honor.

5 MR. REYNALDO DE LOS SANTOS: Objection.

6 THE APPLICANT: He's making an argument
7 that's definitely beyond this hearing.

8 HEARING OFFICER: Well, and I understand
9 the point counsel has attempted to make, but I'll
10 sustain the objection.

11 Q (By Mr. Bennett) Do you think it's appropriate
12 behavior for you to have been sneaking out in the middle
13 of the night with Mr. Shea?

14 A At the time, I thought it was just fine. I
15 mean, we were --

16 Q I'm asking you what you think now.

17 A Think now? It might have been slightly
18 inappropriate, but --

19 Q Slightly inappropriate to be sneaking out in
20 the middle of the night with a 22 year old -- with
21 someone 22 years older than you?

22 A Yes.

23 Q Slightly inappropriate. Do you recall telling
24 Deputy Kaddatz that you went to over by the Nolan River
25 Bridge one time with Mr. Shea?

1 A Yes.

2 Q Okay. And do you recall telling her how he
3 grabbed you and swung you around and set you down right
4 in front of him?

5 A Yeah.

6 Q You recall that?

7 A Yes.

8 Q And do you recall telling her that he touched
9 you, put his hand on your breasts? Do you recall
10 that?

11 A I told her that.

12 Q You told her that. And he said something to
13 the effect of, You're going to be filling in swimsuits
14 and bras real good. You told her that?

15 A I told her that.

16 Q Yeah. You sure did make up a lot of stuff if
17 it wasn't true.

18 A Yeah. I did. I made it up.

19 Q Uh-huh. And do you recall telling her also
20 about a time when he came to your bedroom window in the
21 middle of the night?

22 A Yes.

23 Q And you said he touched you on the breasts
24 there.

25 A I told her that.

1 Q On the outside of the clothing.

2 A Yes.

3 Q And he told you something about what women
4 breasts do when they're aroused.

5 A Yes.

6 Q Did he tell you that?

7 A No.

8 Q But you told the deputy that he had told you
9 that.

10 A Yes, I did.

11 Q Did you ever get any e-mails from the
12 defendant?

13 A Yes.

14 MR. BENNETT: Your Honor, may I approach?

15 HEARING OFFICER: You may.

16 THE APPLICANT: Your Honor, I'd have to
17 object to the e-mails. They're outside this hearing,
18 too. That has nothing to do with the indecency charge.
19 I think the freedom of speech under the First Amendment,
20 I could write an e-mail to anyone I wanted to.

21 HEARING OFFICER: Your Honor -- Mr. Shea,
22 I'll agree with you that it's a close point, but I'm --
23 I've allowed you a good bit of latitude. I'll allow the
24 opposing counsel some latitude also, and I'll --

25 THE APPLICANT: All right.

1 HEARING OFFICER: -- overrule the
2 objection.

3 THE APPLICANT: All right. Thank you.

4 MR. BENNETT: And, Your Honor, just for
5 the record, before I go forward with this, these e-mails
6 were admitted in evidence at trial. They're part of
7 what we've asked you to take judicial notice of.
8 They're in the record from the trial, and the Court of
9 Appeals addressed whether they were properly admitted.
10 So that -- I think we're here properly on that issue.

11 Q (By Mr. Bennett) Sarah, the first e-mail I'm
12 going to show you is dated Sunday, October 18th. Is
13 that correct, Sunday, October 18th of 1998?

14 A Yes.

15 Q Is that right?

16 A Yes.

17 Q And is this an e-mail that was sent from Kevin
18 Shea to you?

19 A Yes.

20 Q Okay. Now, you recall those e-mails were
21 admitted in evidence at trial, right?

22 A Yes.

23 Q Okay. And the defense attorney, Mr. Mason,
24 asked you if you had done any cutting and pasting or
25 done anything to alter the e-mails, and you insisted

1 that these were accurate copies of the e-mails.

2 A Correct.

3 Q And you still insist that. Is that right?

4 A Yes. Yeah. They were just printed
5 straight --

6 Q Okay. Straight from your computer?

7 A Yes.

8 Q Is that right? All right. Now, in this
9 e-mail, I wanted to ask you, toward the end of the
10 e-mail on the second page, is it true that he told you,
11 Our schedules conflict and you are not available when I
12 am, I just feel that the future that that will change
13 and we will have a chance to be around each other more
14 to see if our relationship can expand? Did he tell you
15 that in that e-mail?

16 A Yeah. Yeah.

17 Q Relationship. So what kind of relationship
18 did you have with Mr. Shea?

19 A I had a friendship.

20 Q A friendship. Well, how does a friendship
21 expand?

22 A I guess the natural way, but, you know, you
23 can go from friends to good friends, close friends, best
24 friends.

25 Q All right. Okay. All right. And then this

1 other e-mail --

2 MR. REYNALDO DE LOS SANTOS: Your Honor,
3 we can't hear. I'm sorry.

4 Q -- this is dated October 21 of 1998. Is that
5 correct?

6 A Yes.

7 Q And is this from Kevin to you?

8 A Yes.

9 Q Okay. And on this one, he said, Homecoming
10 night I plan to be in Blum. Now, you were living in
11 Blum at the time. Is that right?

12 A Correct.

13 Q Okay. Let me know if I can see you somehow.
14 Is that right?

15 A That's right.

16 Q He wanted to come see you around homecoming in
17 Blum.

18 A Yeah.

19 Q Okay. The next e-mail is dated October 23rd
20 of 1998. Is that correct?

21 A Yes.

22 Q Okay. And that, again, is from him to you?

23 A Yes.

24 Q Is that right?

25 A (Moving head up and down).

1 Q And he said in this one, Perhaps I should come
2 to Blum on a night that you are not going to be occupied
3 with an event, maybe the event should be us. Is that
4 what he said?

5 A Yes.

6 Q What is the latest you will see me? Home in
7 time for breakfast, is that good enough? Did he say
8 that?

9 A Yeah.

10 Q Okay. So he wanted to keep you out all night.
11 Is that right?

12 A I guess so.

13 Q Is that how you would interpret that?

14 A Yes.

15 Q Okay. By then, I'll certainly have eaten my
16 fill and satisfied the night's hunger. Is that what he
17 said?

18 A Yes.

19 Q Does that sound inappropriate to you?

20 A It could be taken -- we joked around a lot, so
21 it's --

22 Q Okay. You joked about sex, things like
23 that?

24 A I would say we did. We joked around.

25 Q Okay. This address is a safe haven from all

1 who use this computer, and I would like for you to feel
2 free to put into words all your thoughts you believe
3 would express who you are and what I am to you. He was
4 asking you to tell him what you've meant to him. Is
5 that a fair statement?

6 A Well, we had pretty open communication. We
7 pretty much talked about anything.

8 Q And continuing in this same message, he said,
9 You have gone from girl to young woman, and I think you
10 may need to evaluate our relationship. Did he say
11 that?

12 A Yeah.

13 Q Commenting on how you're developing as a young
14 woman?

15 A I wouldn't say developing, but yeah --

16 Q Okay.

17 A -- it's a fact of life.

18 Q All right. Now, this e-mail here is dated
19 October 24th of 1998. Is that from Mr. Shea to you?

20 A Yes, it is.

21 Q All right. And he's talking about different
22 things in here, and he says, Male hormones will rage.

23 A Yeah. He was apologizing for the previous
24 e-mail.

25 Q Okay. I do hope you know that getting in your

1 pants is not my sole intent. Now, do you understand
2 what getting in a girl's pants means?

3 A Yes. I'm quite aware of that.

4 Q Okay. That's a sexual reference.

5 A I went through high school.

6 Q Is that right?

7 A It's -- yeah.

8 Q Is that a sexual reference?

9 A Yeah.

10 Q Okay. And that was in his e-mail to you?

11 A Yes.

12 Q Okay. Though I will not tell you that the
13 thought does not enter my mind when I think of you. So
14 he's telling you what he thinks about you. He's
15 thinking about wanting to get in your pants. Is that
16 what he's saying?

17 A Yeah. We joke around.

18 Q That's what he said to you.

19 A We joke around.

20 Q You joked around about it, huh?

21 THE APPLICANT: Your Honor, I object.
22 He's putting words into her mouth.

23 HEARING OFFICER: I'll overrule the
24 objection.

25 Q (By Mr. Bennett) He said, I like all of you,

1 Sarah, that includes your pussy. Is that what he
2 said?

3 A Yes.

4 Q Okay. That's a sexual reference. Is that a
5 sexual reference?

6 A Yes.

7 Q Would you interpret it any other way?

8 A No. Just joking around.

9 Q And if it is half as interesting as your
10 brain - I assume he's still referring to your female
11 sexual organ at that point - then I fear my imagination
12 is not good enough to foresee the pleasure that could be
13 derived. Is he thinking about having sex with you? Is
14 that what he's thinking about there?

15 A You would have to ask him.

16 Q Okay. Well, I can't ask him, so I'm asking
17 you what you think. All right. Those e-mails are all
18 true and accurate and he sent them all to you?

19 A Yes.

20 Q And you don't deny that?

21 A No.

22 Q Now, your trial testimony was similar to what
23 you told Deputy Kaddatz. Is that right?

24 A Similar, yes.

25 Q I mean, would it be fair to say that the main

1 difference is when you described the event that happened
2 at the school hill?

3 A That's one of the differences, yes.

4 Q Okay. And in there you testified that he
5 wanted you to lay down and told you to relax. Is that
6 right?

7 A Yes. I said that.

8 Q Would you like me to show you the testimony or
9 do you recall it pretty well?

10 A I recall it pretty well.

11 Q Okay. So y'all are out there in the middle of
12 the night.

13 A Yes.

14 Q You snuck out your bedroom window.

15 A Yes.

16 Q Did that happen?

17 A Yes.

18 Q Okay. So that all happened?

19 A Yeah. Well, I snuck out of my bedroom window.

20 Q That's what I'm asking.

21 A Okay.

22 Q And you went to the school hill?

23 A Yes.

24 Q Okay. Did he tell you to lay down and relax?

25 Do you recall that?

1 A No.

2 Q He didn't tell you that, but you testified to
3 that?

4 A He might have said relax, but I didn't lay
5 down in the grass.

6 Q Okay. You testified that you were wearing
7 shorts and a T-shirt. Do you recall that?

8 A I think. I don't know if that was the
9 instance I was wearing a plaid shirt, but, yeah, I was
10 wearing shorts.

11 MR. BENNETT: Your Honor, may I approach
12 one more time?

13 HEARING OFFICER: (Moving head up and
14 down).

15 Q (By Mr. Bennett) And in your testimony you
16 said -- Mr. Johnston was the prosecutor, right? He
17 said, Can you state whether or not his hand went up
18 under your shorts? Right? Did Mr. Johnston ask you
19 that question?

20 A Yes.

21 Q And you said yes.

22 A I said that. Yes.

23 Q Okay. And can you state whether or not his
24 hands came into contact with your vaginal area? And you
25 said what?

1 A Just for a second. That's what I said.

2 Q And then you said, I got up after that,
3 correct?

4 A Uh-huh. I said that.

5 Q And then he confirmed, But did it touch? I
6 mean, is that what he meant when he asked the question,
7 But did it, you think?

8 A Yeah. He was just trying to make sure we
9 heard correctly.

10 Q Okay. And you said it happened that way.

11 A I said it did, but that was a lie.

12 Q You testified under oath that it happened that
13 way.

14 A Yes.

15 Q You were 20 years old at the time of trial.
16 Is that right?

17 A Yeah. I just turned 20 if it's 2002.

18 Q Okay. Did you understand the meaning of the
19 oath you had taken?

20 A I had -- I don't think I was -- misunderstood,
21 but I guess I didn't realize how much trouble he'd
22 actually get into, but --

23 Q Well, you took an oath to testify to the
24 truth.

25 A Yes, I did.

1 Q And you understood when you were 20 years old
2 what it meant to tell the truth.

3 A Well, yeah. Most people do.

4 Q Okay. And you did?

5 A Yes.

6 Q You were also asked about the affidavit of
7 nonprosecution, weren't you?

8 A Yes, I was.

9 Q Do you recall what you testified about in that
10 affidavit of nonprosecution?

11 A That I met them in Blum, I signed the paper.

12 Q Did you read it before you signed it?

13 A Honestly, I skimmed through it --

14 Q Okay.

15 A -- but I told them that I just -- I didn't
16 really see it.

17 Q Well, did you -- do you recall testifying that
18 you didn't read it when you signed it?

19 A I remember something to that effect. Yes.

20 Q And that was in January of 1999. I can show
21 you the affidavit if you want to see it, but --

22 A Well, yeah, I've seen it. Yeah.

23 Q Okay. So that was right after he was
24 arrested.

25 A Yes.

1 Q Okay. And three years before trial.

2 A Yes.

3 Q Okay. And you didn't do anything else after
4 that to say, Hold on, this has been false, this -- it
5 didn't really happen this way?

6 A No.

7 Q No.

8 A Do you realize what kind of verbal lashing I
9 got for signing that paper after my mom and my Aunt
10 Deann found out?

11 Q Okay.

12 A It was severe.

13 Q Do you remember having a friend named Betsy?

14 A Yes.

15 MR. BENNETT: Your Honor, may I approach?

16 HEARING OFFICER: You may.

17 THE APPLICANT: Your Honor, I must
18 object. That letter has never been introduced into
19 evidence and it was never used at the trial.

20 HEARING OFFICER: I'm sorry. Let me --
21 that's --

22 MR. BENNETT: Judge, I'm simply going to
23 show her a document and ask her if she recognizes it,
24 and then we can go from there and see whether it's
25 admissible or not.

1 HEARING OFFICER: I'm going to allow --

2 THE APPLICANT: It's hearsay.

3 HEARING OFFICER: I'm going to allow

4 counsel to proceed. I don't know whether it's

5 admissible or not yet. I have your objection. If it is

6 admitted, it may have probative value; it may not. But

7 we'll proceed. I'll overrule the objection at this

8 time.

9 Q (By Mr. Bennett) Sarah, I'm handing you a
10 document that's been marked as State's Exhibit 1.

11 A Okay.

12 Q Is that a letter you wrote to Betsy?

13 A Yes.

14 Q Is that a true and accurate copy of that
15 letter?

16 A I would assume so. Yes.

17 Q All right.

18 MR. BENNETT: Your Honor, before I ask
19 her any further questions about it, we want to offer
20 State's Exhibit 1 into evidence.

21 HEARING OFFICER: All right. Mr. Shea,
22 have you seen a copy of it or --

23 THE APPLICANT: Yes, I have.

24 HEARING OFFICER: Okay.

25 THE APPLICANT: Yes, I have.

1 HEARING OFFICER: And you object to the
2 introduction as an exhibit at this time?

3 THE APPLICANT: Yes, Your Honor, I do.

4 HEARING OFFICER: Okay. Could I see the
5 exhibit?

6 MR. BENNETT: Certainly, Judge.

7 HEARING OFFICER: I'm going to find it's
8 an appropriate subject of cross-examination. I will
9 admit the exhibit at this time. Whether it has any
10 probative value with respect to this proceeding is an
11 issue I'll deal with later.

12 MR. BENNETT: Thank you, Your Honor.

13 Q (By Mr. Bennett) Sarah, I'm going to hand you
14 the letter.

15 A Okay.

16 Q Now, who was Betsy?

17 A Betsy was my friend in school.

18 Q Okay. Just a friend from high school,
19 basically?

20 A Yes.

21 Q Okay. And had you known Betsy well?

22 A I hadn't been in school -- hadn't been at Blum
23 for that long, but, yeah, me and -- she was really my --
24 one of my friends, only one of the few friends that I
25 had at the school that I could actually, I guess, talk

1 to, I guess, but --

2 Q So are you familiar with this letter?

3 A Yes.

4 Q Do you remember writing the letter to Betsy?

5 A Yes.

6 Q Were you talking about Kevin in this letter?

7 A Yes.

8 Q Okay. And did you tell her, He does find ways

9 to touch me in the wrong places, but I don't pay

10 attention? Did you say that to Betsy in that letter?

11 A Yes, I did.

12 Q Okay. Thank you. And when do you think you

13 wrote that letter to Betsy?

14 A Oh, I wouldn't recall that.

15 Q It was before trial.

16 A Yes.

17 Q Do you think it was before Kevin had moved to

18 Cleburne?

19 A I'm real bad with dates.

20 Q I understand. If you don't recall -- I mean,

21 it was before trial. We'll just leave it at that.

22 A Yeah, it was before trial.

23 Q Okay. Now, do you recall testifying at trial

24 that you were afraid of Kevin?

25 A Yes.

1 Q But now y'all are good friends?

2 A Yes. I lied about that, too.

3 Q You lied about a lot at trial, apparently. Is
4 that what you're telling us?

5 A Yes.

6 Q All right. So you were asked about the
7 affidavit of nonprosecution --

8 A Yes.

9 Q -- at trial.

10 A Yes.

11 Q And you could have testified at trial that it
12 did not happen just like I said in the affidavit. You
13 had that opportunity, didn't you?

14 A Yes.

15 Q And Mr. Mason, the defense attorney, asked you
16 about that affidavit and about the circumstances where
17 it was signed and things like that.

18 A Yes.

19 Q Is that right? And despite his
20 cross-examination of you, you insisted at trial that you
21 had been touched as you testified.

22 A I -- yeah. I testified to that.

23 Q Right? Do you remember testifying at the
24 punishment phase of the trial?

25 A Yes.

1 Q Was Kevin there?

2 A The punishment phase?

3 Q Yes.

4 A Like towards the end of the trial?

5 Q Yes.

6 A I'm wanting to say no if that was when he

7 wasn't there.

8 Q He wasn't there because he left, right?

9 A Yes.

10 Q On his own.

11 A Yes.

12 Q And so the punishment phase was conducted

13 without him even being there.

14 A Uh-huh. Yes.

15 Q And he wasn't arrested until a year later just

16 about. Were you aware of that?

17 A Oh, I know he wasn't here.

18 Q He fled the state. Isn't that true?

19 A Yes.

20 Q Okay. You didn't have any contact with him,

21 though, after that?

22 A No.

23 Q Until January of 2013, you said?

24 A Yes.

25 MR. BENNETT: Your Honor, may I approach

1 one more time?

2 HEARING OFFICER: You may.

3 Q (By Mr. Bennett) During the punishment phase,
4 do you recall Mr. Johnston asking you how this had all
5 affected you?

6 A Yes.

7 Q Okay. Is that your testimony here? I'd just
8 ask you to look at this page. It's Page 11 from the
9 trial record on that particular day.

10 A (Complying).

11 Q Does that appear to be part of your
12 testimony?

13 A Yes.

14 Q Okay. And Mr. Johnston asked you, If you
15 could briefly and responsively to my question, would you
16 describe for the jurors what Kevin Shea's sexual
17 misconduct has done to you emotionally and otherwise,
18 please, ma'am? Is that what he asked you?

19 A Yes.

20 Q And how did you answer that question?

21 A Do you want me to read that?

22 Q I do.

23 A Okay. It has made it hard to react to certain
24 things as a normal person would. You react to
25 everything different, such as trust, or anything you do

1 in your daily life is a little bit different on how you
2 trust people, how you see other people day to day and
3 how you go about your day.

4 Q And Mr. Johnston went on to ask you if you
5 were concerned that this was going to affect your
6 relationships in the future. Is that right?

7 A Yes.

8 Q And how did you respond to that?

9 A Yes, it already has.

10 Q So you testified to the jury during the
11 punishment phase that this sexual misconduct had already
12 affected your relationships with others.

13 A Yeah.

14 Q Is that right?

15 A Yes.

16 Q Okay. But that was a lie, too?

17 A Somewhat. You know, losing --

18 Q Well, wait a second.

19 A Okay.

20 Q It either was or wasn't.

21 A That wasn't true, but I can explain it if you
22 allow me to.

23 Q So you testified, I believe, that after you
24 got in touch with Mr. Shea at prison and he responded
25 back to you after he was given permission by the prison

1 authorities to correspond with you that he seemed
2 cheery?

3 A Well, yeah, he was -- he was glad that I had
4 written him.

5 Q You testified that you were jealous when he
6 moved to Cleburne and moved in with Teresa. Is that
7 right?

8 A Yes.

9 Q Doesn't that suggest kind of a romantic
10 feeling? I mean, jealousy is typically associated with
11 something like that.

12 A Yeah. I mean, I believe that I really liked
13 him.

14 Q Okay.

15 A You know, I was kind of, you know, getting --

16 Q You liked the things he was doing to you?

17 A No. He didn't do anything to me.

18 Q Okay. But that's not what you testified to.

19 A That is correct.

20 Q So if I understand your testimony correctly,
21 you basically say the deputy conducted her interview of
22 you appropriately, you had no issues with that, and you
23 just feel like you were intimidated by Mr. Johnston. Is
24 that a correct summary?

25 A Yes.

1 Q Okay. You visited Mr. Shea four times in
2 prison?

3 A Yes.

4 Q When was the most recent visit?

5 A October.

6 Q You drove three hours to see him, huh?

7 A I think -- I think that was the one that we
8 had an extra hour, I think, but typically the visits
9 are, I think, two.

10 Q Okay. And isn't it true that the only reason
11 you haven't gone to see him at the Hill County jail is
12 because his lawyer told you it was a bad idea?

13 A Well, I have been busy, so even if -- we have
14 discussed like, well, maybe we'll just wait on it, then.
15 I've been busy. I have three kids and a husband.

16 Q I understand that, yet you made four trips to
17 his prison unit last year and you don't think --

18 A Those were a little bit more preplanned.

19 Q -- you don't think you could find time to
20 squeeze in a visit to the Hill County jail? It's not
21 hard to get to, is it?

22 A No, not when -- no. The jail?

23 Q Yeah.

24 A No, the jail is not hard to get to. I haven't
25 been to this new one.

1 Q It's pretty -- it's a little bit more
2 convenient than going to the prison, isn't it?

3 A I would believe so.

4 Q Yeah.

5 A 30 minutes.

6 MR. BENNETT: That's all I have, Judge.

7 HEARING OFFICER: All right. Do you have
8 some redirect, Mr. Shea?

9 THE APPLICANT: Yes, Your Honor, I do.
10 Thank you.

11 HEARING OFFICER: You may proceed.

12 **REDIRECT EXAMINATION**

13 **BY THE APPLICANT:**

14 Q Sarah, on the e-mails that were exchanged
15 between us, we always joked around in various ways on
16 different topics all the time. Is that correct?

17 A Yes.

18 Q So did you ever tell Kevin to stop with the
19 joking around, that it was inappropriate?

20 A No.

21 Q And what was the tone of your e-mails back to
22 Kevin?

23 A I would say just about the same or, I mean,
24 just lighthearted, fun.

25 Q In your affidavit you state that your mother

1 and your father have a large age difference. Is that
2 correct?

3 A Yes.

4 Q A -- is it a real large age difference? About
5 how much is it?

6 A She was 19 when she had me. My father was
7 thirty -- oh, man. He was born in '50-something, and
8 she was born -- no. Holy cow, I don't even know. But,
9 yeah, I think they're like just shy of 20 years. I
10 think it's a little less than 20 years.

11 Q So you didn't feel there was anything wrong
12 with an older man and a younger woman being together at
13 all?

14 A No.

15 Q So if not for that, then you wouldn't be here
16 today.

17 A Right. And I don't think friendships are
18 defined by age either.

19 Q On the letter to Betsy, why did you write that
20 letter?

21 A For attention, I would have to say.

22 Q Were you trying to impress her?

23 A In a way. She started to, I guess, not -- I
24 don't know. I guess I get pretty clingy, and she
25 started to hang out with these other girls that partied

1 with other older men. They'd have parties and they'd
2 get drunk, and they would come to school with hickies on
3 their neck and talk about all the stuff that they would
4 be doing. And, you know, she started getting in with
5 them and so I was kind of the odd one out, and so I
6 guess it was kind of a reach-out to get her attention,
7 like, Hey, you know.

8 Q You were trying to be part of the crowd in the
9 new school?

10 A Yes.

11 Q And that was your way of reaching out to them?
12 You thought you would just make a letter like that and
13 make up something?

14 A Yes.

15 Q Was that the only letter you wrote to any of
16 your friends?

17 A To Betsy? No. I don't think I wrote anything
18 else to my friends --

19 Q So --

20 A -- like that.

21 Q -- you made up everything in that Betsy
22 letter?

23 A Yes, other than us being friends.

24 Q So you considered Kevin your friend?

25 A Yes.

1 Q I have your testimony here where we're talking
2 about the visit up to the school where you were told to
3 relax, and one of your answers here when Mr. Johnston --
4 if I may, I'll read from there. It's -- the question
5 is, And what did you do and what did he do? And he
6 wanted me to lay down and he told me to relax. And did
7 you? Just for a second. What happened? And your
8 answer was, Then I got up and went home. Mr. Johnston
9 asked, Why did you get up and go home? And your answer
10 was, Because he started to touch me. Do you recall
11 saying that?

12 A I said that.

13 Q Yes. Was that the truth, you got up because
14 he started to touch me?

15 A No. I lied.

16 Q So in here later on Mr. Johnston has you
17 saying that he -- that you did --

18 A Yeah. He --

19 Q -- that you did lie?

20 A -- he asked me that. Yeah.

21 Q So perhaps you thought maybe that Kevin was
22 going to touch you and you jumped up?

23 A No.

24 Q On the nonprosecution, were you still scared
25 to change your story? You didn't know what trouble you

1 would get into?

2 A After I signed that, I got in trouble by --
3 with my mom and my Aunt Deann and it just -- it was bad,
4 but, yeah, after that I just pretty much was resigned to
5 my fate, I guess.

6 Q During the time after the trial when Kevin was
7 still a fugitive from June until September of that year,
8 was there any contact whatsoever with Kevin?

9 A No.

10 Q Were you afraid something would happen to you
11 at that -- during that time?

12 A No. I didn't think that you would do -- even
13 want to hurt me. Mad, yes. Hurt me, no.

14 Q Did your family think that something would
15 happen to you?

16 A Yes.

17 Q Were the Texas Rangers around to protect you
18 or surveil your house at that time?

19 A Yeah. They -- I believe they kind of stuck
20 around. They showed up at my work when I worked at
21 Dress Barn, and they asked me questions and if I had
22 seen you, have I heard anything, anything suspicious
23 happening, you know, all the usual questions.

24 Q Was this at your request to the Rangers?

25 A No.

1 Q Did your family request this?

2 A I'm not sure, but I think Mr. Johnston, I
3 think, had that on a roll. I mean, I'm not sure. I'm
4 not positive.

5 Q So you didn't have any choice. They were
6 going to protect you.

7 A No. Things just kind of happened.

8 Q You were just testifying that after the trial
9 that you felt like there would be trust issues with
10 other friends. And do you attribute that to sexual
11 abuse?

12 A No.

13 Q Do you attribute that to the sense of
14 abandonment that you testified to in your affidavit,
15 that there might be trust issues there?

16 A Yes.

17 Q So is that explaining why you said there were
18 trust issues?

19 A Yes.

20 Q So you twisted it very well to sound like
21 sexual abuse?

22 A Yeah.

23 Q At one point when you were a teenager and you
24 and Kevin were friends, did you hope to become more than
25 friends with Kevin at any point?

1 A I think at some point I did. You know, I
2 started to realize that I did like you a little bit
3 more, but, you know, you had moved and --

4 Q And you knew that I was living with my
5 girlfriend Teresa at the time and that probably
6 attributed to your jealousy. Is that fair to say?

7 A Yes.

8 Q The visitation at the jail, do you know what
9 time visitation happens at the jail?

10 A The -- at Allred?

11 Q No. At the Hill County jail.

12 A Yes.

13 Q And what time is that?

14 A 3:00 to 3:30.

15 Q 3:00 to 3:30. What time does your husband go
16 to work each day?

17 A Let's see. Typically he's been leaving
18 anywhere from noon to 1:30 at the latest, and he's gone
19 till about midnight or so.

20 Q And what time do your children get out of
21 school?

22 A 3:20ish.

23 Q So you're going to be very busy at 3:00
24 o'clock in the afternoon --

25 A Yes.

1 Q -- for the visits? When you do come to the
2 prison to visit Kevin, does Chris take care of the
3 kids?

4 A Yes.

5 Q And, typically, what do they do with -- what
6 do they do on those days where you come to the prison?

7 A They just hang out with Chris. They go to the
8 park and play, you know, with Chris, but --

9 Q Have they gone to Crawford to visit his family
10 before on those days?

11 A Yes. Yeah.

12 Q So is it true that your family plans these
13 days out ahead of time, way ahead of time, so they
14 know --

15 A Yes.

16 Q -- if it's --

17 A Yeah. We -- yeah. It's -- it can't just
18 happen on a spur moment. That's a long trip and it's
19 almost an all-day thing.

20 Q So it's very difficult.

21 A Yes.

22 Q If you could, would you have come over to the
23 Hill County jail to visit Kevin?

24 A Yes.

25 THE APPLICANT: I have no further

1 questions, Your Honor.

2 HEARING OFFICER: Okay. Back to opposing
3 counsel.

4 MR. BENNETT: Just briefly, Your Honor.

5 **RECROSS-EXAMINATION**

6 **BY MR. BENNETT:**

7 Q Are you in love with Mr. Shea?

8 A Right now or back then?

9 Q Okay. Either one.

10 A Back then I would say there was a possibility.
11 You know, I was really hurt.

12 Q Uh-huh. What about now?

13 A Right now? I'm in love with my husband.

14 Q Okay.

15 A So --

16 Q Do you recall Mr. Johnston asking you at trial
17 about a comment that Mr. Shea made toward you about your
18 virginity?

19 A Yes.

20 Q Do you recall what Mr. Shea told you about
21 your virginity and losing your virginity?

22 A I mean, I know what I said.

23 Q What did you say?

24 A I said that he wanted to be the one to -- I
25 guess, for me to give it to.

1 Q Okay. So you testified that he told you that,
2 that he wanted to be the one to cause you to lose your
3 virginity. Is that basically what you told the jury?

4 A Yes, I did, and that was a lie.

5 Q Okay. That was just a lie?

6 A (Moving head up and down).

7 Q So your whole testimony was a lie. Is that
8 what you're saying?

9 A No.

10 Q And so when you told the jury that you didn't
11 even read the affidavit of nonprosecution when you
12 signed it, that was a lie, too?

13 A Yes.

14 Q So you read it carefully and signed it?

15 A I didn't sit there and hold it and stand there
16 for ten minutes, no. You know, I pretty much already
17 knew what it was about, and I just skimmed over it, you
18 know, just kind of make sure everything is there and
19 just signed.

20 Q But your trial testimony was you signed it
21 because you were convinced that the date was wrong.
22 June the 10th was the alleged date, not --

23 A That's what I said at trial. Yes.

24 Q That's what you said at trial.

25 A (Moving head up and down).

1 MR. BENNETT: That's all I have, Judge.

2 HEARING OFFICER: Anything further,
3 Mr. Shea?

4 THE APPLICANT: No. No, Your Honor.
5 That's all.

6 HEARING OFFICER: Does anyone believe
7 this witness may be needed further in this hearing?

8 THE APPLICANT: Yes, sir.

9 HEARING OFFICER: All right. Ma'am, you
10 may step down and --

11 THE APPLICANT: She'll be subject to
12 recall, Your Honor?

13 HEARING OFFICER: You will remain under
14 oath. I'll instruct you not to discuss any of your
15 testimony that you've given so far with anyone else
16 except under the direction of counsel, and please don't
17 discuss what your testimony might be if you're called
18 back to the witness chair. And tell me where you live,
19 again.

20 THE WITNESS: I live in Blum.

21 HEARING OFFICER: Blum? How far is that
22 from here?

23 THE WITNESS: I think it takes about 30
24 minutes --

25 HEARING OFFICER: Okay.

1 THE WITNESS: -- to just come.

2 HEARING OFFICER: Do you need to return
3 to your job or your children or --

4 THE WITNESS: No. I made sure my kids
5 are taken care of.

6 HEARING OFFICER: Okay.

7 THE WITNESS: I just have to be back by,
8 I guess, 6:00.

9 HEARING OFFICER: Why don't you stick
10 around here in the courthouse then --

11 THE WITNESS: Yes, sir.

12 HEARING OFFICER: -- for a little while,
13 and we'll give you further instructions about whether we
14 need you further or whether you can be released a little
15 bit later. And I'll ask you to go outside the
16 courtroom. Thank you.

17 THE WITNESS: Thank you. Yes, sir.

18 HEARING OFFICER: Mr. Shea, do you have
19 any other testimony you'd like to offer at this time?

20 THE APPLICANT: Yes, Your Honor. May I
21 request a short break, please?

22 HEARING OFFICER: Certainly. We'll take
23 about a 15-, 20-minute recess.

24 THE APPLICANT: All right. Thank you,
25 Your Honor.

1 (Recess from 10:45 a.m. to 11:07 a.m.)

2 HEARING OFFICER: We will go back on the
3 record in this post-conviction writ case, State -- Ex
4 Parte Shea. I think I had asked Mr. Shea did he wish to
5 offer additional testimony or evidence at this time.
6 And do you have other evidence you'd like to present,
7 Mr. Shea?

8 THE APPLICANT: Not at this time, Your
9 Honor.

10 HEARING OFFICER: All right. Does
11 opposing counsel wish to present testimony or evidence
12 at this time?

13 MR. BENNETT: Yes, Your Honor. We would
14 call Brenda Kaddatz, who was the investigating officer
15 in this case.

16 HEARING OFFICER: Very well. Call
17 Ms. Kaddatz, please.

18 THE BAILIFF: (Complying).

19 HEARING OFFICER: Come forward, ma'am,
20 and be sworn. Would you raise your right hand, please?

21 (Witness sworn)

22 HEARING OFFICER: Have your seat in the
23 witness chair, please.

24 And counsel may proceed when the witness
25 is seated.

1 MR. BENNETT: Thank you, Your Honor.

2 BRENDA KADDATZ,

3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BENNETT:

6 Q Good morning. Would you please state your
7 name for the record?

8 A Brenda Kaddatz.

9 Q And, Ms. Kaddatz, I want to turn your
10 attention back to the 1998, 1999 time frame. How were
11 you employed back then?

12 A I was a deputy sheriff with the Hill County
13 sheriff's office.

14 Q And what were some of your duties?

15 A I was an investigator, crimes against persons.

16 Q Okay. Did that include crimes against
17 children?

18 A Yes, children, women, sexual assaults, of that
19 nature.

20 Q Could you estimate about how many of those
21 kinds of cases you would have in your caseload in a
22 given year?

23 A I would easily say 25, 30, maybe more a year.

24 Q At that time, were you a certified peace
25 officer?

1 A Yes, I was.

2 Q Okay. And did you receive training in
3 investigating crimes against children, sex crimes, that
4 sort of thing?

5 A Yes, I did. I went to several classes at the
6 Heart of Texas Council of Governments, and just wherever
7 they were holding the class, I went there. Went to
8 Austin a couple of times.

9 Q Certainly. But you had training and
10 experience in investigating these kinds of crimes?

11 A Yes, sir.

12 THE APPLICANT: Your Honor, I'll concede
13 to her being an expert at this or --

14 HEARING OFFICER: Okay.

15 Q (By Mr. Bennett) And did you interview child
16 victims several times?

17 A Yes, I did.

18 Q Over a hundred?

19 A How many? Is that what you --

20 Q Over a hundred? Yeah.

21 A Over a hundred?

22 Q Over 50? Just a guess. A bunch?

23 A I would say over a hundred.

24 Q Okay. Now, we're here today on the case
25 against Kevin Michael Shea. You're familiar generally

1 with the allegations. Is that correct?

2 A Yes, sir.

3 Q Okay. And were you one of the deputies that
4 assisted in this investigation?

5 A Yes, I was.

6 Q Okay. And one of the things that you did here
7 was to interview the victim in the case. Is that
8 right?

9 A Yes, I did.

10 Q And her name back then was Sarah Williams?

11 A Yes, sir.

12 Q Okay. And could you state whether or not that
13 you conducted an interview in November of 1998 with
14 her?

15 A Yes, I did. I did.

16 Q And where would that have taken place?

17 A At the sheriff's office in the interview room.

18 Q Okay.

19 A And it would just be she and I --

20 Q All right.

21 A -- in the room.

22 Q And when you conduct those interviews of a
23 child victim, do you try to avoid suggestive questioning
24 or is that part of the training that you had?

25 A Yes. I mainly just try to let them tell me

1 what happened.

2 Q So it would be fairly open-ended questions?

3 A Yes.

4 Q And you're trying to avoid suggesting answers
5 and things like that?

6 A Yes, sir.

7 Q Okay. And you would have conducted this
8 interview in that way as well?

9 A Yes, sir.

10 Q All right. And particularly with this case,
11 do you recall how the Hill County sheriff's department
12 became involved in it?

13 A I can't think of her name. Donna -- can I
14 look at my papers for a second?

15 MR. BENNETT: Your Honor, may she refer
16 to her report to refresh her recollection?

17 HEARING OFFICER: You may.

18 Q (By Mr. Bennett) And I do believe that this
19 was previously offered in evidence as Applicant's
20 Exhibit Number 2.

21 THE APPLICANT: Yes, sir. Yes.

22 A And I'm sorry --

23 Q (By Mr. Bennett) Number 3, I should say.

24 HEARING OFFICER: I'll take notice of
25 that.

1 THE APPLICANT: Okay. I have no
2 objection.

3 HEARING OFFICER: Okay.

4 A Okay. It was Donna Pickett. I couldn't
5 remember her name.

6 Q (By Mr. Bennett) Okay. And where was Donna
7 Pickett employed?

8 A The Bridge out of Fort Worth.

9 Q And what does The Bridge, what do they do?

10 A Counseling for any children --

11 Q Okay.

12 A -- that may be having problems. In this
13 instance, I believe that Sarah was seeing her because
14 she was having problems because her parents had gotten a
15 divorce.

16 Q Okay.

17 A And while they were -- she was there talking
18 to her, I think she came forward and told her --

19 Q Okay. So --

20 A -- about Mr. Shea.

21 Q -- based on your review of the information,
22 she made an outcry to Donna Pickett and then Ms. Pickett
23 or someone from that agency in turn contacted the
24 sheriff's department?

25 A Yes. Ms. Pickett --

1 Q Okay.

2 A -- did call the sheriff's office and make the
3 report.

4 Q And the outcry to Ms. Pickett involved
5 Mr. Shea touching her in the wrong places. Is that
6 right?

7 A That's correct.

8 Q Okay. And that would be indecency with a
9 child at least according to the face of it.

10 A Yes, sir.

11 Q So did you conduct this interview on
12 October -- I'm sorry, November 13th around 10:00 in the
13 morning? Is that right?

14 A Yes, sir.

15 Q Okay. And did you get some background
16 information to get started and that sort of thing?

17 A Yes. I spoke with her mother first, and then
18 I spoke with Sarah.

19 Q And during the course of that interview, did
20 Sarah tell you that Mr. Shea had touched her two or
21 three times on the breasts?

22 A Yes, sir.

23 Q Okay. And she was 13 to 15, something like
24 that, in terms of her age at that time?

25 A Yes. Yes.

1 Q Did she also tell you that he had touched her
2 on the vagina once on top of her clothing, on the
3 outside of her clothing?

4 A Yes, sir.

5 Q And as you understand the law, is that
6 indecency with a child?

7 A Yes.

8 Q Did Sarah tell you that they had snuck out
9 of -- she had snuck out of her bedroom window in the
10 middle of the night with him several times?

11 A Yes.

12 Q Did she also tell you that she had never seen
13 or touched his penis as part of the interview?

14 A Right.

15 Q Okay. But when someone is making up
16 allegations or making up a story, wouldn't it be normal
17 for them to really exaggerate the allegations in your
18 experience?

19 A Yes, sir.

20 Q And so contact with his sexual organ would
21 probably be a part of those allegations --

22 A Yes, sir.

23 Q -- if they were trying to make it up.

24 A Yes, sir.

25 Q But she didn't do that in this case.

1 A No.

2 Q She talked about four very specific instances
3 and didn't exaggerate or elaborate on them beyond that.
4 Is that right?

5 A Correct.

6 Q Okay. And she told you about an incident when
7 they went to the school hill in the middle of the night.
8 Was that part of the interview?

9 A Yes, sir.

10 Q And she told you on that occasion he touched
11 her vagina on top of her clothing?

12 A Yes, sir.

13 Q Okay. She told you about another occasion
14 when they went to the Nolan River Bridge?

15 A Yes.

16 Q And she talked about how he touched her
17 breasts on that occasion?

18 A Yes, sir.

19 Q Okay. And then he told you -- she told you
20 about another time when he came to her bedroom window in
21 the middle of the night. Is that correct?

22 A Yes.

23 Q And that he touched her on the breasts on that
24 occasion as well?

25 A Yes, sir.

1 Q And talked about breasts being aroused and
2 that sort of thing?

3 A Uh-huh. Yes, sir.

4 Q Did he also talk -- she tell you that he also
5 talked nasty to her at times, like wanting to have sex
6 with her and things like that?

7 A Yes, sir. I remember her saying he wanted to
8 have sex with her and have a baby.

9 Q Okay.

10 A Have her have his baby.

11 Q All right. And then, finally, did she also
12 mention that he had messed with her cousin that was his
13 niece at one point as well, make an allegation --

14 THE APPLICANT: Your Honor, I object.
15 That's outside the record. That's extraneous.

16 MR. BENNETT: Judge, it's in the
17 interview.

18 HEARING OFFICER: I'm going to allow it.
19 I'll overrule the objection. I'll assure Mr. Shea that
20 I'll accord that probative value that I think it
21 deserves. Let's proceed.

22 THE APPLICANT: All right. Thank you.

23 Q (By Mr. Bennett) Did she make that
24 allegation?

25 A Yes, sir.

1 Q Okay. All right. Now, during the course of
2 this interview, based on your training and experience,
3 did you see anything to suggest to you that she was
4 telling you anything other than the truth?

5 A No, sir.

6 Q Okay. Did you find her to be credible and
7 base -- the way she presented herself and the way she
8 explained what had happened?

9 A Yes, sir.

10 Q Okay. You didn't see any red flags or
11 anything like that that would cause you to have
12 questions or concerns?

13 A No, sir, I did not.

14 Q All right. Now, a couple of months before
15 trial Bill Johnston was appointed as special prosecutor
16 in this case. Do you remember when he came to work on
17 the case?

18 A Yes, sir.

19 Q And were you involved at some point in
20 preparations where there was a meeting between you and
21 Mr. Johnston and Sarah about preparing for trial and her
22 testimony?

23 A Yes, sir. Yes, sir. To tell you the truth, I
24 can't specifically remember that day, but what I do know
25 is that in the past when Bill Johnston was the

1 prosecutor, he would come to my office, we would have
2 the victim, and it would be me and Bill and the victim
3 in my office.

4 Q And that was the usual course of proceeding?

5 A Yes.

6 Q Okay. And did you do that few or many
7 times?

8 A Many times.

9 Q Okay. And part of that was finding out the
10 victim's story and her testimony and also preparing for
11 trial. Is that correct?

12 A That's correct.

13 Q Okay. In all those times, have you ever heard
14 Bill Johnston tell a witness to do anything other than
15 tell the truth on the stand?

16 A No, sir.

17 Q Okay. Has he ever told a witness to lie in
18 your presence?

19 A Not in my presence.

20 Q Okay. Do you feel like that -- in his
21 interactions with Sarah in this case that he just wanted
22 her to testify consistently with what she had told you
23 in the interview?

24 A Yes.

25 Q And you never saw anything to suggest

1 otherwise?

2 A No, sir.

3 MR. BENNETT: Your Honor, that's all I
4 have. I'll pass the witness.

5 HEARING OFFICER: All right. Mr. Shea,
6 do you wish to cross-examine?

7 THE APPLICANT: May I have a moment to
8 confer with my standby counsel, please?

9 HEARING OFFICER: Yes, sir.

10 THE APPLICANT: Okay. Thank you.

11 (Pause in proceedings)

12 THE APPLICANT: Your Honor, I have no
13 questions for this witness.

14 HEARING OFFICER: May this witness be
15 excused at this time?

16 THE APPLICANT: Yes, Your Honor.

17 HEARING OFFICER: Do you wish to recall
18 this witness, sir?

19 MR. BENNETT: No. That's fine.

20 HEARING OFFICER: Okay. You're excused,
21 ma'am. Thank you.

22 THE WITNESS: Okay.

23 HEARING OFFICER: Mr. Shea, do you wish
24 to -- I mean, excuse me, I'm going to --

25 MR. BENNETT: Can I call another witness,

1 Your Honor?

2 HEARING OFFICER: Yes, sir, you may go --
3 you may proceed.

4 MR. BENNETT: Your Honor, at this time
5 the State calls William Johnston.

6 HEARING OFFICER: Okay. Come forward,
7 sir, and be sworn.

8 THE WITNESS: Hello, sir.

9 (Witness sworn)

10 HEARING OFFICER: You have your seat in
11 the witness chair, and counsel may proceed when the
12 witness is seated.

13 WILLIAM W. JOHNSTON,
14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 **BY MR. BENNETT:**

17 Q Good morning, Mr. Johnston.

18 A Good morning.

19 Q Would you please state your name for the
20 record?

21 A My name is William W. Johnston.

22 Q How are you currently employed?

23 A I'm an attorney in Waco, Texas.

24 Q All right. Is criminal defense a substantial
25 part of your practice?

1 A Yes, sir.

2 Q Okay. How long have you been involved in
3 criminal law --

4 A Since --

5 Q -- either as a prosecutor or a defense
6 attorney?

7 A January -- about January 1983 I was an
8 assistant district attorney in McLennan County, and
9 that's about --

10 Q So about 30 years?

11 A Yes, sir.

12 Q Okay. And have you worked predominantly in
13 criminal law throughout that time period?

14 A Yes, sir. I worked as a prosecutor in
15 McLennan County briefly, a police legal adviser, and was
16 in civil practice for a couple of years with a firm in
17 Waco, Haley & Davis, known as at that time. And then I
18 was with the U.S. Attorneys' Office for nearly 14 years
19 in the Western District of Texas as a prosecutor, and
20 now in this line of work, mostly defense-related work,
21 so, yes, sir.

22 Q And you were appointed as special prosecutor
23 for the trial of Kevin Michael Shea. Is that right?

24 A Yes, sir.

25 Q And that appointment was in April of 2002. Do

1 you recall that?

2 A I don't recall the exact time.

3 Q But you wouldn't question that if that's what
4 the Court's records show?

5 A Yes, sir.

6 Q Okay.

7 A I wouldn't question that.

8 Q And that was actually a couple of months
9 before y'all ended up going to trial, as it turns out.

10 A It seems like there was some time leading up
11 to trial that I had to prepare.

12 Q All right. Okay. And Mr. Shea was indicted
13 for indecency with a child. Is that what you recall?

14 A I believe that's correct.

15 Q Okay.

16 A I believe that was handled by the district
17 attorney at that time.

18 Q Okay. Dan Dent got the indictment or the
19 grand jury presented the indictment, obviously, but that
20 was the substance of the allegations?

21 A Yes, sir.

22 Q Okay. And the victim was Sarah Williams?

23 A Yes, sir.

24 Q Now, are you familiar with the law, Section
25 21.11 of the Penal Code, governing indecency with a

1 child?

2 A Fairly well.

3 Q And what's required to prove that sort of
4 crime?

5 A Fairly well.

6 Q Okay. And the statute defines sexual contact.
7 Is that correct?

8 A Yes.

9 Q Okay. And were you familiar that the improper
10 sexual contact could occur whether it was outside the
11 clothing or under the clothing, either way?

12 A Yes. And I believe I was familiar with that
13 for the case, but I did a little research during that
14 time, spoke with my wife, who's board certified in
15 criminal law, and was aware that was the case.

16 Q Okay. And the statute has been amended since
17 then to expressly make that the law, but the common law
18 had been that way for years.

19 A Yes. There are some cases dating back maybe
20 to the '70s or early '80s, I believe.

21 Q Okay. And so you understand one of the
22 allegations is that you really wanted Sarah to testify
23 that he had touched her underneath the clothing. Is
24 that right?

25 A I think I read that.

1 Q Okay. But legally that doesn't make any
2 difference to the outcome of the case. Is that a fair
3 statement?

4 A Correct. That doesn't have a bearing on the
5 elements of the offense.

6 Q All right. Let me talk to you about this
7 particular case. Do you recall an occasion when you
8 came to Brenda Kaddatz's office at the sheriff's
9 department to meet with Sarah?

10 A Yes.

11 Q Okay. And could you tell us generally how
12 that meeting started off?

13 A Well, as I recall, I received the appointment
14 from Judge McGregor, and at some point I received the
15 district attorney's file. And so I read the file and
16 obviously came to know that there were one or more
17 victims that had given statements and had had reports of
18 interview by the sheriff's office, and so to prepare for
19 trial, I want to make sure and meet the victim or
20 victims and let them tell me what happened.

21 Q All right.

22 A And so I believe I did that at Brenda Kaddatz'
23 office at the sheriff's office.

24 Q Okay. And how would a meeting typically go
25 with a victim in her office?

1 A The victim was already familiar with Brenda
2 Kaddatz but probably hadn't met me at that point, so
3 I -- Brenda, as I recall in this event, was at her desk
4 and there were a couple of chairs in front of her desk
5 or angles in front of her desk. And she may have
6 introduced me to the victim or possibly introduced
7 myself, and then Brenda may have introduced some topics.
8 And at some point, as I recall, I let the victim know I
9 had read what she had to say, but I wanted her to tell
10 me what happened.

11 Q Okay. And so in conducting that meeting and
12 discussion with the victim, were you directing the
13 conversation or were you trying to be very open-ended
14 and just kind of let her tell her story?

15 A I wanted to know what happened, and I let her
16 tell me what happened. I didn't -- in other words, much
17 as a witness on direct, it wasn't my purpose to tell her
18 something because of the import of what she had to say,
19 not what I had to say. So I just asked her what
20 happened.

21 Q Did you suggest that she say things
22 differently or anything like that?

23 A No, sir.

24 Q Okay. Did you tell her anything other than
25 that she needed to tell the jury exactly what

1 happened?

2 A Oh, I don't know if I put it quite that way.
3 I think I asked her what happened, and she would narrate
4 for a period of time and I would say, What else? And if
5 there was a specific point, I would say, Tell me more
6 about that, but I didn't -- I mean, just was asking
7 questions, is -- was the method.

8 Q Okay. Was there a moment when she told you
9 that Kevin Shea had never touched her underneath her
10 clothing and you said, No, you really have got to say he
11 did touch you under your clothing?

12 A No, sir.

13 Q That never happened?

14 A No.

15 Q Did you try to conduct that interview in a way
16 that would make you intimidating to her or overbearing
17 or anything like that?

18 A No. This was a victim of a sex crime who
19 needed to be treated with respect and deference. She
20 was about the age maybe of my daughter, so I saw her
21 sort of in that way and wanted her to be able to tell
22 her story. I was -- it was important for me to be
23 polite and respectful, which I was.

24 Q All right. Do you recall at trial that
25 Mr. Shea left before the case was done?

1 A Yes, sir.

2 Q And that was when the jury was deliberating
3 guilt-innocence. Is that right?

4 A Seems like to me, as I recall - and it was
5 right in this room - it was after the argument and the
6 jury had been given the first main charge, and I believe
7 at that -- as I recall at least, at that recess Mr. Shea
8 disappeared. As I recall, that's the timing.

9 Q Okay. And the trial continued with his -- in
10 his absence?

11 A Well, as I recall, when the -- when it came
12 time to convene court and -- you know, the judge or
13 someone asked, you know, We need the defendant, and
14 everyone expected him to come in, and then maybe the
15 lawyer said, Let me see what I can do. The lawyer left
16 for a period of time and came back, and then the
17 bailiffs or -- and the deputies started looking and --
18 but -- so, in other words, it took a while to see where
19 he was and if he was coming back, and then the trial
20 continued.

21 Q All right. And Judge Dohoney was the one --

22 A I'm sorry. Judge Dohoney.

23 Q -- that presided over the trial. Is that
24 right?

25 A Forgive me. Robert Dohoney. Forgive me.

1 Yes.

2 Q Okay. And he actually conducted a hearing to
3 satisfy himself that the defendant had voluntarily
4 absented himself from the courtroom. Is that right?

5 A I recall that.

6 Q Because that's required by state law.

7 A Yes.

8 Q All right. Now, in Sarah's trial testimony,
9 she testified about two instances when the defendant
10 touched her breasts over her clothing. Is that right?

11 A I believe so, and I would, you know, defer to
12 the trial transcript because I haven't reviewed it
13 before coming here.

14 Q All right. Do you recall that one of the
15 occasions was there by her bedroom window?

16 A I do recall an incident where maybe she was
17 invited or lured out of her bedroom at night, as I
18 recall.

19 Q Okay. And another one was over by the Nolan
20 River Bridge?

21 A I believe something about that location. Yes.

22 Q Okay. And was there generally testimony that
23 they went out in the middle of the night, I mean, that
24 she would sneak out in the middle of the night,
25 testimony to that effect?

1 A Yes. It was a case where an older man had a,
2 you know, fixation on her and was able to manipulate her
3 to get her to disobey her parents and leave her home.

4 Q And you offered explicit e-mails in evidence,
5 too, that he had sent to her. Is that right?

6 A That's correct. There were e-mails and
7 contact that was corroborative of her story.

8 Q And he was 22 years older than her at that
9 time. Well, he still is.

10 A Right. It seems like he was in his -- about
11 40. I don't remember. I'm sorry.

12 Q If I told you he was in his mid 30s and she
13 was, you know, 14, 15, in that range, would that sound
14 about right?

15 A Yes.

16 Q Okay. And based on your review of those
17 e-mails, did they seem consistent with the allegations
18 that she had made?

19 A Very much so.

20 Q And just indicative of his intent --

21 A Yes.

22 Q -- in that particular case?

23 A Yes.

24 Q And highly inappropriate for someone to be
25 sending to a child of her age.

1 A Completely. He was -- the e-mails and the
2 conduct was -- you know, the specialists would call it
3 grooming, but I think it was beyond that. I think it
4 was actually a romantic interest he had in her and I
5 think she -- that -- I think she responded. I think she
6 may have thought she was in love with him and may still.
7 I don't know.

8 Q But the bottom line is, when you called her to
9 testify, the point that you made with her was that she
10 just needed to say what happened and you never insisted
11 that she say anything other than the truth?

12 A Yes, sir. I asked her to tell her story to
13 the jury just as she had told the story earlier to the
14 deputy, to me in the deputy's office. Whether or not
15 the prior DA heard the story, I don't know, but was --
16 requested of her to tell what happened.

17 Q Okay. And based on your recollection, her
18 testimony at trial was consistent with what she had
19 talked to you in the interview process --

20 A Yes.

21 Q -- when you met with her, was consistent with
22 what she had told Deputy Kaddatz --

23 A Yes, sir.

24 Q -- in her interview there, and apparently
25 consistent with what she had previously told the

1 Mr. Shea, you may proceed when you're
2 ready.

3 THE APPLICANT: All right. Thank you,
4 sir.

5 SARAH WILLIAMS PERKINS,
6 having been previously duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY THE APPLICANT:

9 Q Sarah, is it true that you fooled everyone
10 back in 1998, '99, and 2002 at the trial? Do you
11 believe that you fooled everyone with your testimony?

12 A I believe I have.

13 Q You fooled Brenda Kaddatz, the very first
14 deputy that you spoke with? Did you fool her?

15 A I'm going to say yes, but I remember as we
16 were leaving that day she looked right at me and she's
17 like, Were you infatuated with him? You know, I guess
18 that's just -- maybe she was trying to get an idea, but,
19 yes, I stuck to it.

20 Q Are you in love with Kevin Shea?

21 A No.

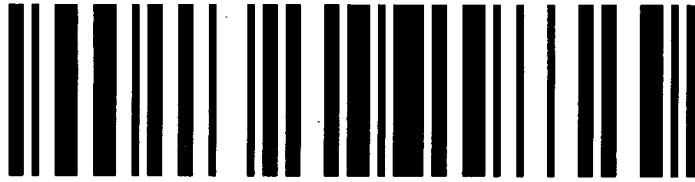
22 THE APPLICANT: I have nothing further,
23 Your Honor.

24 HEARING OFFICER: Okay.

25 MR. BENNETT: I have no questions of this

APPENDIX 10

CCA Scanning Cover Sheet



2561316

CaseNumber: WR-78,954-02

EventDate: 03/31/2014

Style 1: Shea, Kevin Michael

Style 2:

Event code: RR ADD'L VOLUME

EventID: 2561316

Applicant first name: Kevin Michael

Applicant last name: Shea

Offense: 21.11

Offense code: Indecency with a Child

Trial court case number: 31,368-B

Trial court name: 66th District Court

Trial court number: 321090066

County: Hill

Trial court ID: 591

Event map code: GENERIC

Event description: Application for Writ of Habeas Corpus - 11.07

Event description code: WRIT

Remarks: EXHIBIT INDEX VOL 3 OF 3

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REPORTER'S RECORD
VOLUME 3 OF 3 VOLUMES

TRIAL COURT CAUSE NO. 31,368-B
COURT OF CRIMINAL APPEALS CASE NO. WR-78,954-02

EX PARTE	)	IN THE DISTRICT COURT
	)	
	)	
	)	HILL COUNTY, TEXAS
	)	
	)	
KEVIN MICHAEL SHEA	)	66TH JUDICIAL DISTRICT

RECEIVED IN
COURT OF CRIMINAL APPEALS

MAR 31 2014

Abel Acosta, Clerk

EXHIBIT INDEX

ORIGINAL

Hi! Betsy,

Whats up? Everything is alright up here except mom thinks that something bad is happening between me and a 35 year old man. I know something bad is going to happen but Nobody knows that I know. But I want to keep it between friends. He does find ways to touch me in the wrong places but I don't pay attention because if he does anything bad then I will tell someone. My mom was going to put a restraining order on him and ~~and~~ keep the police on the phone line. Mom just don't trust him. ~~but~~ Me and Kevin will still ~~talk to each~~ other secretly though. And I am sneaking out at night when he gives me the word. Mom just don't believe that we are only friends. Tell Jesse, ~~and~~ Vero, Cesar, your Mom, your Dad, and your sisters and brothers (Hi) for me Okay!

Your friend,

Sarah W.

EXHIBIT

C