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1 WEST COVINA, CALIFORNIA; THURSDAY, APRIL 20, 2000  
2 9:45 A.M.  
3  
4 (THE FOLLOWING PROCEEDINGS WERE HELD IN  
5 OPEN COURT IN THE PRESENCE OF THE JURY:)  
6  
7 THE COURT: WHENEVER PEOPLE ARE READY, THEY CAN GO  
8 AHEAD.  
9 MR. RACANA: THANK YOU, YOUR HONOR.  
10 IF I MAY JUST MOVE AN EASEL TO GET READY?  
11 THE COURT: SURE.  
12 MR. RACANA: THANK YOU.  
13 CAN EVERYBODY SEE THIS?  
14 OKAY.  
15 MR. LUECK: YOUR HONOR, I HAVEN'T SEEN WHAT WE HAVE  
16 HERE. CAN I JUST TAKE A QUICK PEEK?  
17 THE COURT: SURE.  
18  
19 CLOSING ARGUMENT  
20 BY MR. RACANA:  
21 GOOD MORNING, LADIES AND GENTLEMEN.  
22 THE JURORS: GOOD MORNING.  
23 MR. RACANA: FIRST OFF, I WANT TO THANK YOU FOR YOUR  
24 PATIENCE AND TIME THROUGHOUT THIS TRIAL. DEFENSE COUNSEL AND  
25 I, WE MAY DISAGREE ON A LOT OF THINGS, BUT I'M SURE HE'LL  
26 JOIN ME AND THE COURT WILL JOIN THAT WE APPRECIATE THE TIME  
27 THAT'S BEEN SPENT OF YOU TAKING YOUR PERSONAL LIVES FOR THIS  
28 TRIAL.

1                   HAVING SAID THAT, IT IS AN IMPORTANT DUTY THAT  
2 YOU'RE DOING, AND IT'S IMPORTANT BECAUSE BOTH SIDES REQUIRE A  
3 FAIR TRIAL.

4                   HAVING SAID THAT, I'M GOING TO BE TALKING ABOUT  
5 WHAT THIS CASE IS ABOUT. YOU'VE HEARD A LOT ABOUT THIS  
6 CASTODIO EVENT, BUT WHAT IS THIS CASE ABOUT? THIS CASE IS  
7 ABOUT DOMESTIC VIOLENCE. THE DEFENDANT'S CHARGED WITH 273.5  
8 OF THE PENAL CODE. IT'S TO THE LEFT OF ME RIGHT HERE, AND  
9 THAT IS BATTERY ON A FORMER SPOUSE, MOTHER OR CHILD.

10                   AND THE EVIDENCE THAT I BELIEVE WAS PUT ON THE  
11 WITNESS STAND SHOWED THAT ON OCTOBER 9, 1999, AT 616 GAILLARD  
12 STREET, WAS THAT BECAUSE OF AN ARGUMENT, THE DEFENDANT  
13 GRABBED THE VICTIM, DEBRA CASTODIO -- I'M GOING TO BE CALLING  
14 HER DEBRA BECAUSE THERE'S SO MANY PEOPLE NAMED CASTODIO IN  
15 THIS. NORMALLY I'D SAY MRS. CASTODIO -- GRABBED HER BY THE  
16 ARM FROM THIS ARGUMENT, WENT IN THE HOUSE.

17                   IT ENDED UP IN NICOLE'S ROOM. FROM THERE, WORDS  
18 WERE EXCHANGED, THINGS GOT ESCALATED. AND FROM THERE, THE  
19 VICTIM, DEBRA, SLAPPED THE DEFENDANT ON THE FACE WITH HER  
20 LEFT HAND TO THE RIGHT SIDE OF THE DEFENDANT'S FACE. FROM  
21 THERE, EVERYTHING GOT LOOSE. EVERYTHING REALLY ESCALATED  
22 FROM THERE.

23                   YOU HEARD TESTIMONY THAT SHE WAS THROWN DOWN  
24 PARALLEL TO THE GROUND, BEING CHOKED. SHE COULD NOT SEE A  
25 WHOLE LOT. WHAT SHE DID WAS TRY TO GRAB BEHIND -- BEHIND HER  
26 TO GRAB THE FACE OF THE DEFENDANT, AND THAT'S WHAT CAUSED  
27 SCRATCH MARKS ON THE FACE.

28                   THEN AFTER THAT, SHE WAS THROWN TO THE GROUND

5

1 CAUSING INJURY TO HER KNEE, LEFT KNEE, WHICH CAUSED SWELLING.  
2 AND THEN FROM THERE, SHE WAS THROWN INTO THE LIVING ROOM,  
3 HITTING THE COFFEE TABLE CAUSING THE LEFT BUMP TO THE HEAD.  
4 THAT'S WHAT WE BELIEVE HAPPENED THAT EVENING ON OCTOBER 9,  
5 1999.

6                   NOW, THESE ARE THE ELEMENTS THAT I HAVE TO PROVE.  
7 AND BEFORE I GO IN TO THOSE ELEMENTS, I HAVE TO PROVE THOSE  
8 ELEMENTS BEYOND A REASONABLE DOUBT. AND YOU'VE HEARD THE  
9 TERM "BEYOND A REASONABLE DOUBT" JUST A FEW TIMES, BUT YOU  
10 NEVER ACTUALLY HEARD THE DEFINITION OF IT. SOME OF YOU HAVE  
11 ACTUALLY SAT ON JURY TRIALS.

12                   BURDEN OF PROOF. THERE IS A PREPONDERANCE OF THE  
13 EVIDENCE, AND IN THAT SITUATION, PREPONDERANCE OF THE  
14 EVIDENCE, THE PLAINTIFF HAS THE BURDEN OF PROVE THAT MORE  
15 LIKELY THAN NOT -- IF YOU THINK OF IT LIKE A SCALE, LIKE 51  
16 PERCENT, JUST ENOUGH, AND THEN YOU FIND FOR THE PLAINTIFF.  
17 THAT'S THE BURDEN. IF IT'S A TIE, IT GOES TO THE DEFENSE.

18                   THIS IS NOT A CIVIL CASE. THIS IS INSTEAD A  
19 CRIMINAL CASE. AND IN A CRIMINAL CASE, THE DEFENDANT HAS  
20 RIGHTS, AND THESE RIGHTS MEAN THAT THE DEFENDANT HAS TO BE  
21 PROVEN GUILTY BEYOND A REASONABLE DOUBT.

22                   NOW, WHAT IS BEYOND A REASONABLE DOUBT? NOW,  
23 SOME DEFENSE ATTORNEYS WOULD SAY IT IS -- WELL, IT IS THE  
24 HIGHEST BURDEN THAT THERE IS IN THE SYSTEM, BUT SOME  
25 ATTORNEYS WILL TRY TO -- AND I'VE NEVER HAD A TRIAL WITH THIS  
26 DEFENSE COUNSEL -- BUT THEY'LL TRY TO PUT IT THAT THERE'S  
27 PREPONDERANCE OF THE EVIDENCE. AND THEN HIGHER THAN THAT,

28 IT'S PROBABLE CAUSE. AND THEN STRONGER THAN THAT, IT'S

6

1 STRONG SUSPICION. AND THEN HIGHER THAN THAT IS CLEAR AND  
2 CONVINCING EVIDENCE. AND AT THE PINNACLE, AS IF IN LIKE  
3 MOUNT EVEREST, THERE'S BEYOND A REASONABLE DOUBT.

4 OKAY. SO LET ME READ TO YOU WHAT REASONABLE  
5 DOUBT IS. REASONABLE DOUBT IS AS FOLLOWS:

6 "IT IS NOT MERE POSSIBLE DOUBT, BECAUSE  
7 EVERYTHING RELATING TO HUMAN AFFAIRS IS OPEN  
8 TO SOME POSSIBLE OR IMAGINARY DOUBT.

9 "IT IS THAT STATE OF THE CASE WHICH AFTER  
10 THE ENTIRE COMPARISON AND CONSIDERATION OF ALL  
11 THE EVIDENCE LEAVES THE MINDS OF THE JURORS IN  
12 THAT CONDITION THAT THEY CANNOT SAY THEY FEEL  
13 AN ABIDING CONVICTION OF THE TRUTH OF THE CHARGE."

14 YOU'LL BE GETTING THESE INSTRUCTIONS. IT'S  
15 2.90.

16 NOW, WHAT DOES THAT MEAN, "ABIDING CONVICTION"?  
17 FOR SOME PEOPLE, WHEN YOU THINK OF CONVICTION, YOU THINK OF  
18 MISDEMEANOR CONVICTION OR FELONY CONVICTION. BUT THAT'S NOT  
19 THE KIND OF CONVICTION THAT WE'RE TALKING ABOUT HERE. WE'RE  
20 TALKING ABOUT A BELIEF -- THE QUESTION IS, DID HE DO IT? DID  
21 HE COMMIT DOMESTIC VIOLENCE? DID HE COMMIT A VIOLATION OF  
22 PENAL CODE 273.5?

23 ABIDING CONVICTION COMES FROM THE LATIN TERM  
24 ABODE. THAT MEANS LONG LASTING. THAT MEANS NOT ONLY DO YOU  
25 THINK THAT HE DID IT TODAY OR YOU KNOW HE DID IT TODAY, BUT  
26 NEXT WEEK YOU'RE GOING TO COME TO THE SAME DECISION, AND TWO  
27 WEEKS AFTER THAT. TWO YEARS, COME BACK, SAY, "YOU KNOW WHAT?  
28 HE DID GRAB HER. HE DID CHOKE HER. HE DID KNOCK HER TO THE

7

1 GROUND. HE DID THROW HER INTO THE TABLE."

2 HAVING SAID THAT, THEY SAID "REASONABLE DOUBT."  
3 NOTICE THEY WERE VERY CAREFUL OF THE WORDS THEY USED. IT'S  
4 REASONABLE DOUBT. THEY DIDN'T SAY "BEYOND A SHADOW OF A  
5 DOUBT. NOT A POSSIBLE DOUBT." IT'S A REASONABLE DOUBT.

6 WHEN YOU WERE ASKED TO BE JURORS IN HERE, I ASKED  
7 IF YOU COULD BE FAIR AND IMPARTIAL, BUT REALLY WHAT IT COMES  
8 DOWN TO IS BEING REASONABLE. REASONABLE MINDS DO DIFFER.  
9 THAT'S ALL YOU'RE BEING ASKED TO DO. EVERYBODY CAN BE  
10 REASONABLE. EVERYBODY HAS DOUBTS. BUT IS IT REASONABLE  
11 DOUBTS? THAT'S WHAT I'D ASK YOU. IF YOU HAVE A DOUBT, IS  
12 THAT A DOUBT REASONABLE?

13 EVERYONE CAME HERE TO THIS COURTHOUSE THIS  
14 MORNING. NOW, THERE'S SOME DOUBT THAT YOU MIGHT NOT BE ABLE  
15 TO BE HERE. COULD BE A CAR ACCIDENT, LIGHTENING, SOME FLOOD.  
16 NOW, IS THAT A REASONABLE DOUBT? WELL, YOU'RE ALL HERE, SO  
17 IT'S POSSIBLE THAT IT COULD HAPPEN, BUT THAT'S NOT A  
18 REASONABLE DOUBT.

19 AND I JUST NEED TO HONE THAT, BECAUSE THAT'S THE  
20 BURDEN I HAVE TO PROVE. NOT BEYOND SHADOW OF A DOUBT. NOT  
21 BEYOND ALL POSSIBLE DOUBTS. IT NEEDS TO BE REASONABLE  
22 DOUBT.

23 LET'S GO IN TO THE ACTUAL ELEMENTS THAT I NEED TO  
24 PROVE. I HAVE TO PROVE THESE ELEMENTS BEYOND A REASONABLE

25 DOUBT. FIRST ELEMENT IS "PERSONALLY, WILLFULLY INFLICT  
26 BODILY INJURY UPON A SPOUSE, COHABITANT, PARENT OR CHILD."  
27 IN THIS SITUATION, THERE'S ONE THAT'S MISSING. FORMER SPOUSE  
28 ALSO APPLIES. FORMER SPOUSE OR PARENT OF CHILD.

8

1 THERE'S NO PROBLEM WITH THAT. WE ALREADY HAVE  
2 TESTIMONY THAT DEBRA IS THE FORMER SPOUSE OF THE DEFENDANT,  
3 AND THEY'RE BOTH PARENTS OF NICKY AND AMANDA OR MANDY. SO  
4 THAT'S NOT PROBLEM.

5 "INJURY RESULTED IN A TRAUMATIC CONDITION." LET  
6 ME TALK ABOUT WHAT TRAUMATIC CONDITION IS. TRAUMATIC  
7 CONDITION MEANS WOUND OR EXTERNAL OR INTERNAL INJURY, MINOR  
8 OR SERIOUS. DOESN'T EVEN HAVE TO BE REAL BAD, JUST A MARK  
9 WOULD SUFFICE, CAUSED BY PHYSICAL FORCE. OKAY.

10 FROM THE FACT THAT SHE HAS BRUISES ON THE KNEE  
11 AND SCRAPES ON THE ELBOW AND A BUMP ON THE HEAD AND CUT ON  
12 THE HAND, THAT SUFFICES. SO WE ALREADY HAVE THE PART ABOUT  
13 THAT.

14 THERE'S PARENT AND CHILD AND FORMER SPOUSE. WE  
15 ALREADY KNOW THERE'S TRAUMATIC CONDITION. THAT'S CLEAR. SO  
16 WHAT IT REALLY COMES DOWN TO IS ONE THING. DID THE DEFENDANT  
17 WILLFULLY INFLICT BODILY INJURY? THAT'S IT. THE QUESTION  
18 COMES DOWN TO ONE QUESTION. DID THE DEFENDANT WILLFULLY  
19 INFLICT BODILY INJURY? OKAY.

20 NOW, WHAT DOES WILLFULLY MEAN? WILLFULLY  
21 MEANS -- I HAVE THE INSTRUCTION. FOR YOUR RECORDS, THAT'S  
22 REFERENCE 1.20 OF THE INSTRUCTION.

23 "THE WORD 'WILLFULLY,' WHEN APPLIED TO THE INTENT  
24 TO WHICH AN ACT IS DONE OR OMITTED, MEANS WITH PURPOSE OR  
25 WILLINGNESS TO COMMIT THE ACT OR TO MAKE THE OMISSION IN  
26 QUESTION. THE WORD 'WILLFULLY' DOES NOT REQUIRE ANY INTENT  
27 TO VIOLATE THE LAW OR INJURE ANOTHER OR ACQUIRE ANY  
28 ADVANTAGE."

9

1 THAT'S THE BEST WE CAN DO IN DEFINING WHAT  
2 WILLFUL MEANS. SO LET ME TRY TO EXPLAIN IT IN THESE TERMS:  
3 WILLFUL MEANS IT WAS NOT AN ACCIDENT, THAT WHAT IT REALLY  
4 MEANS IS HE INTENDED TO DO WHAT HE DID.

5 NOW, IF THERE WAS EVIDENCE TO SHOW THERE WAS AN  
6 ARGUMENT AND IT WAS A VERBAL ARGUMENT AND SHE WAS WALKING AND  
7 FALLS DOWN CAUSING INJURIES TO HER KNEE, HEAD, HAND AND  
8 ELBOW, WELL, THEN WE WOULDN'T HAVE A CASE. THERE HAS TO  
9 BE -- THERE WAS NO ACCIDENT. IT WAS INTENTIONAL.

10 NOW, HOW DID I ATTEMPT -- OR HOW DID I PROVE THE  
11 CASE? THREE THINGS -- REALLY COMES DOWN TO ONE, WHETHER  
12 THERE WAS WILLFUL INFLICTION OF BODILY INJURY. WELL, I PUT  
13 ON THREE WITNESSES. I PUT ON WITNESSES WHO WERE THERE THAT  
14 EVENING ON OCTOBER 9, 1999. YOU HEARD THE TESTIMONY OF THE  
15 FIRST PERSON, AND THAT WAS DEBRA WALTERS CASTODIO.

16 NOW, YOU SAW HER, AND SHE TESTIFIED AS TO WHAT  
17 WAS SAID. THERE WAS AN ARGUMENT, AND I'M NOT GOING TO REHASH  
18 WHAT WAS SAID OVER AND OVER AGAIN, BUT THE ARGUMENT STARTED  
19 OUTSIDE, THEN IT WENT INSIDE, THEN THERE WAS A SLAP, THEN  
20 THERE WAS GRABBING BY THE DEFENDANT, THEN SHE WAS PUSHED  
21 DOWN.

22                    THEN SHE WAS CHOKED, THEN -- SHE TRIED TO  
23 RETALIATE BY SCRATCHING BACK. THEN SHE WAS KNOCKED TO THE  
24 FLOOR AND INTO THE COFFEE TABLE. THAT'S IT. THAT'S PRETTY  
25 MUCH WHAT HER TESTIMONY IS.  
26                    NOW, YOU HAVE TO EVALUATE THE WEIGHT OF THE  
27 TESTIMONY. IS SHE BELIEVABLE? THAT'S WHAT YOU HAVE TO DO.  
28 AND THERE'S SOME CRITERIA THAT YOU USE TO DETERMINE WHETHER A

10

1 PERSON IS CREDIBLE.  
2                    SHOWING YOU THE CHART SAYING "BELIEVABILITY OF A  
3 WITNESS." YOU, AS THE JURY, MAY CONSIDER Demeanor AND MANNER  
4 OF THE WITNESS; EXISTING BIAS, INTEREST OR MOTIVE; THE  
5 ATTITUDE OF A WITNESS TOWARD THIS ACTION OR THE GIVING OF  
6 TESTIMONY AND ANY PRIOR CONSISTENT OR INCONSISTENT STATEMENT.

7                    NOW, YOU SAW HER ON THE STAND. SHE WAS  
8 OBVIOUSLY EMOTIONALLY UPSET ABOUT THIS SITUATION. IT WAS  
9 OBVIOUS SHE DIDN'T WANT TO BE HERE. IT WAS OBVIOUS SHE  
10 DIDN'T EVEN WANT TO TESTIFY. SHE TESTIFIED AS TO WHAT  
11 HAPPENED, AND THAT IS PRETTY MUCH WHAT IT COMES DOWN TO, IS  
12 HER WORD.

13                    NOW, SHE ALSO TESTIFIED AS TO THAT -- SHE ALSO  
14 TESTIFIED AS TO TALKING TO THE OFFICERS AFTERWARDS. NOW,  
15 THIS -- SHE TESTIFIED THAT THIS HAPPENED -- THAT OFFICERS  
16 CAME OUT TWO MINUTES -- TWO TO FIVE MINUTES AFTER THIS WHOLE  
17 THING WAS GOING ON, SO THIS WAS PRETTY FRESH. OFFICER SHOWS  
18 UP.

19                    AND SHE ALSO TESTIFIED THE INJURIES THAT SHE  
20 SUSTAINED, SHE SUSTAINED -- YOU'LL BE GETTING THESE INSIDE --  
21 SHE SUSTAINED INJURIES TO -- THE BUMP ON THE HEAD. SHE  
22 TESTIFIED THAT BECAUSE SHE WAS THROWN INTO THE COFFEE TABLE,  
23 SHE HAD THE BUMP ON THE LEFT SIDE OF THE FOREHEAD. AND YOU  
24 CAN SEE IN PEOPLE'S 3 AND IN PEOPLE'S 2 DISCOLORATION AND A  
25 BUMP AND A RAISED BRUISE.

26                    YOU'LL GET THIS -- AN OPPORTUNITY, EACH OF YOU,  
27 TO LOOK AT THESE UP CLOSE. I'M JUST SHOWING THESE NOW FOR  
28 ILLUSTRATION.

11

1                    ALSO, SHE TESTIFIED AS TO INJURIES TO HER KNEE  
2 WHEN SHE WAS THROWN TO THE GROUND. HERE ARE THE PICTURES --  
3 I'M SHOWING PEOPLE'S 4 AND PEOPLE'S 5. ON THE LEFT OF ME IN  
4 PEOPLE'S 4 IS BOTH OF THE LEGS. AND I'M POINTING AT THE LEFT  
5 KNEE, RIGHT HERE AND RIGHT HERE (INDICATING), IS JUST A CLOSE  
6 UP OF THE LEFT KNEE. AND THAT'S THE DISCOLORATION AND THAT'S  
7 WHY OFFICER HENDERSON SAW THE LIMP. THAT'S WHAT HE WAS  
8 REFERRING TO.

9                    NOT ONLY THAT, YOU ALSO HAVE -- SHE TALKED ABOUT  
10 INJURIES TO HER ELBOW. WELL, SHE FELL DOWN ON HER LEFT ELBOW  
11 AND GOT A SCRAPE. THAT SCRAPE CAUSED THAT KIND OF CUT ON THE  
12 SKIN.

13                    FOR THE RECORD, I'M SHOWING PEOPLE'S 6 AND  
14 PEOPLE'S 7.

15                    THIS WAS CAUSED WHEN SHE SAID THAT SHE WAS THROWN  
16 DOWN TO THE GROUND. THIS IS WHAT THE OFFICER SAW. THIS IS  
17 WHAT DEBRA SAW, THIS IS WHAT NICOLE SAW, AND THIS IS WHAT  
18 AMANDA SAW.

19 TESTIMONY -- YOU ALSO HEARD TESTIMONY FROM  
20 NICOLE WALTERS CASTODIO. FOR THE MOST PART, IT'S PRETTY  
21 CONSISTENT. OF COURSE, THERE'S NOT GOING TO BE THE SAME KIND  
22 OF DETAIL AS WITH DEBRA CASTODIO. INSTEAD, IT'S GOING TO BE  
23 A LITTLE BIT LESS, BECAUSE SHE WASN'T OUTSIDE, DIDN'T HEAR  
24 THE ARGUMENT.

25 SHE SAYS -- NICOLE, I'M REFERRING TO NICOLE --  
26 NICOLE SAYS SHE DIDN'T SEE THE SLAP, BUT THE MOTHER SAID  
27 STRAIGHT OUT, "YES, I DID SLAP HIM." NOW, IF DEBRA REALLY  
28 WANTED TO STRENGTHEN HER CASE, WHY WOULDN'T SHE SAY THAT SHE

12

1 DIDN'T SLAP HER EX-HUSBAND? BUT SHE DID.

2 NICOLE SAYS SHE DIDN'T. DOES THAT MEAN TO  
3 DISCOUNT ALL OF NICKY'S TESTIMONY? WELL, THINK ABOUT IT IN  
4 THESE TERMS: EVERYBODY SEES THINGS IN DIFFERENT WAYS. NOT  
5 EVERYBODY'S LOOKING AT THINGS THE SAME WAY. WHEN ONE JUROR  
6 LOOKS AT SOMETHING -- THAT'S WHY THEY HAVE -- IN SPORTING  
7 EVENTS, THEY HAVE SLOW MOTION, BECAUSE, YOU KNOW, SOMETIMES  
8 WE JUST DON'T CATCH EVERYTHING.

9 THE ONLY THING I CAN SAY ABOUT THIS SITUATION IS  
10 MAYBE THE FIRST INCIDENT WAS THE SLAP, AND THEN AFTER, THEN  
11 SHE NOTICED THE SCUFFLE, AND THAT WAS THE FIRST THING THAT  
12 SHE SAW. INNOCENT MISRECOLLECTION HAPPENS ALL THE TIME.

13 YOU COULD TAKE, FOR EXAMPLE, SOME OF THE  
14 STRONGEST, GREATEST MOMENTS. TAKE CHILD BIRTH, FOR EXAMPLE.  
15 I'M SURE THAT THE PERCEPTION OF WHAT THE WIFE OR THE MOTHER  
16 REMEMBERS AS OPPOSED TO THE FATHER REMEMBERS IS GOING TO BE  
17 DISTINCTLY DIFFERENT.

18 THAT'S A SITUATION WE COULD HAVE HERE AS WELL.  
19 YOU CAN EVALUATE NICKY'S TESTIMONY AS WELL AGAIN WITH  
20 DEMEANOR, MANNER OF THE WITNESS, BIAS, INTEREST AND MOTIVE  
21 AND ATTITUDE AND PRIOR INCONSISTENT STATEMENT. SHE SAT THERE  
22 ON THE STAND AND YOU HAD AN OPPORTUNITY TO LISTEN TO HER.

23 DID SHE LOOK LIKE THE KIND OF PERSON THAT  
24 APPEARED TO BE AFRAID OF HER MOTHER? NO. SHE WAS VERY  
25 UNCOMFORTABLE ON THE WITNESS STAND. WHY WAS SHE SO  
26 UNCOMFORTABLE ON THE WITNESS STAND? SHE DIDN'T EVEN WANT TO  
27 LOOK AT HER FATHER. YET, SHE SAID, "YOU KNOW WHAT? I LOVE  
28 MY FATHER. I DON'T WANT ANYTHING BAD TO HAPPEN TO HIM, BUT

13

1 I'VE GOT TO DO WHAT I HAVE TO DO, AND I HAVE TO TELL THE  
2 TRUTH."

3 SHE DIDN'T WANT TO BE HERE, AND AS A 15-YEAR-OLD,  
4 YOU KNOW, IT'S DIFFICULT. AND IT WAS DIFFICULT FOR ME TO  
5 CALL HER TO THE STAND. I HOPE THAT THE JURY DOESN'T HOLD IT  
6 AGAINST ME AS THE PROSECUTOR TO CALL CHILDREN TO THE STAND,  
7 BUT I WANT TO MAKE THIS VERY CLEAR. I DIDN'T PUT HER ON THE  
8 WITNESS STAND. I WASN'T THERE ON OCTOBER 9TH, AND I DIDN'T  
9 WITNESS THE BATTERY, THE BEATING THAT THE DEFENDANT DID ON  
10 DEBBIE.

11 UNFORTUNATELY, AND THAT'S A SHAME, TOO, IT'S  
12 UNFORTUNATE THAT NICOLE AND AMANDA HAD TO SEE THIS, BUT THEY  
13 DID. THEY ARE WHAT WE CALL "PERCIPIENT." THAT MEANS THEY  
14 WERE THERE, PERCIPIENT WITNESSES. THEY SAW IT. THAT'S WHY  
15 THEY HAD TO TESTIFY.

16                   THEY WERE ALWAYS CONSISTENT. DEBBIE -- I'M  
17 SORRY -- NICOLE WAS CONSISTENT IN REGARDS TO WHAT CAUSED  
18 THOSE INJURIES, WHICH IS REALLY WHAT THE QUESTION COMES DOWN  
19 TO. WHAT CAUSED THOSE INJURIES?  
20                   NICOLE FURTHER TESTIFIED ABOUT WHAT HAPPENED  
21 AFTERWARDS REGARDING HER RELATIONSHIPS WITH HER MOTHER AND  
22 HER FATHER. SHE SAID, "NO, I DIDN'T -- I WAS NOT THREATENED.  
23 I WAS NOT INFLUENCED BY MY MOTHER ABOUT THE WAY TO TESTIFY."  
24                   IN FACT, WHAT WAS THE INFLUENCE? "JUST MAKE A  
25 LITTLE PRAYER TO GOD AND TELL THE TRUTH." THAT'S REALLY WHAT  
26 IT COMES DOWN TO. BUT SHE WAS ABLE TO COME IN TO DETAIL OF  
27 THREE INCIDENTS BY THE FATHER OF WHERE SHE FELT THREATENED.  
28 AND YOU SAW HER WHEN SHE SAID THAT, AND SHE WAS SCARED ON

14

1 THAT WITNESS STAND WHEN SHE SAID THAT.  
2                   ONE TIME THE DEFENDANT WAS BEING VERY APOLOGETIC,  
3 "I'M SORRY WITH EVERYTHING THAT HAPPENED." THEN IT COMES  
4 DOWN TO THE OTHER END OF THE COIN, WHERE HE SAYS, YOU KNOW,  
5 "YOU BETTER TELL THE TRUTH OR ELSE." OR ELSE WHAT? OR ELSE  
6 WHAT?  
7                   NOW, YOU HEARD THE TESTIMONY OF THE 11-YEAR-OLD,  
8 MANDY. NOW, MANDY WAS A MUCH MORE CONFIDENT WITNESS. DIDN'T  
9 SEEM SCARED AT ALL. SHE TOLD YOU ON THE WITNESS STAND, SWORE  
10 TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE  
11 TRUTH, AND SHE SAID WHAT HAPPENED ON OCTOBER 9, 1999. YEAH,  
12 SHE DIDN'T SEE MUCH, BUT SHE DID SAY THAT SHE -- SAID THAT  
13 THE ARGUMENT WAS ABOUT ABUSE, WHEREAS NICOLE AND DEBBIE  
14 TALKED ABOUT HOW -- THE FRIENDS THAT NICKY IS GOING OUT WITH.  
15 THAT WAS A DIFFERENT STORY.  
16                   DID SHE LOOK LIKE SHE WAS INFLUENCED EITHER WAY  
17 AS TO HOW TO TESTIFY? IF THAT WAS THE CASE, WOULDN'T IT BE  
18 MORE LIKELY THAT THEIR TESTIMONY WOULD BE EXACTLY THE SAME?  
19 IN FACT, NO. THERE WERE ACTUALLY DIFFERENCES OF WHAT ONE  
20 PERCEIVED FROM ONE ANOTHER.  
21                   AMANDA SAID, "OH, YEAH. OH, YEAH. I DID SEE MOM  
22 SLAP DAD."  
23                   NICOLE SAID, "NO."  
24                   NOW, AS THE EVIDENCE HAS ALREADY SHOWN OUT, THE  
25 MOTHER, DEBRA, HAS COMPLETE CUSTODY AND THE DEFENDANT HAS  
26 NONE. SO YOU THINK THAT WITH ALL THAT OPPORTUNITY AND ALL OF  
27 THESE THREATS, BECAUSE OF HOW OVERBEARING AND CONTROLLING THE  
28 MOTHER IS, YOU'D THINK SHE'D HAVE THOSE TWO COACHED TO THE

15

1 POINT WHERE THEY WOULD HAVE EVERY POINT IN TIME DOWN. BUT  
2 THE SIMPLE FACT IS, THAT ISN'T THE CASE. THAT WAS THE THREE  
3 WITNESSES THAT WERE THERE.  
4                   FINALLY, I PUT ON THE FOURTH WITNESS. NOW, THE  
5 QUESTION IS WHY WOULD I HAVE TO PUT OFFICER HENDERSON ONTO  
6 THE STAND? BECAUSE -- BUT HE DIDN'T SEE ANYTHING. WELL,  
7 THERE'S SOME ISSUE ABOUT THE MOTHER INFLUENCING TESTIMONY ON  
8 THE CHILDREN. SO WHAT DO WE DO? WE PUT SOMEBODY THAT'S  
9 IMPARTIAL AND UNBIASED, WHO DOESN'T KNOW ANYBODY. THAT WAS  
10 THE FIRST TIME HE SAW DEBBIE, THE FIRST TIME HE SAW NICKY AND  
11 THE FIRST TIME THAT HE SAW MANDY. OKAY.  
12                   THIS IS THE ONE WHO HAS THE EDUCATION, THE

13 TRAINING AND EXPERIENCE TO DEAL WITH THESE KINDS OF  
14 SITUATIONS. THIS WAS THE ONE WHO WANTS TO MAKE SURE THAT  
15 THEY SEPARATE THE CHILDREN TO NOT -- TO GET A CLEAR STORY, SO  
16 THAT THEY DO NOT JIVE THEIR STORIES, TRY TO MAKE THEM  
17 CONSISTENT. IT'S A GOOD THING THAT OFFICERS COME THERE. WE  
18 SHOULD SLEEP VERY WELL KNOWING THAT WHENEVER 911 CALLS COME,  
19 THEY DO COME SO FAST.

20 THIS IS THE REASON WHY COPS -- OFFICERS GET TO  
21 THE LOCATION SO SOON, BECAUSE THAT'S STILL -- EVERYTHING IS  
22 STILL FRESH IN THEIR MIND. THIS IS WHY OFFICERS SEPARATE  
23 WITNESSES, SO AS NOT TO BE INFLUENCED EITHER WAY BY THEIR  
24 TESTIMONY. AND THIS IS WHY THEY COME, BECAUSE THEY DON'T  
25 WANT TO GIVE THEM TIME TO REFLECT, TO THINK ABOUT THEIR  
26 ANSWERS TO COVER ONE'S SELF OR TO COVER EACH OTHER.

27 NOW, DEFENSE COUNSEL WAS TALKING ABOUT THIS  
28 POLICE REPORT THAT THEY MADE, AND IN THIS POLICE REPORT, THEY

16

1 WERE TALKING ABOUT THINGS THAT WERE ADDED ON YESTERDAY, AND  
2 TWO DAYS AGO THAT WEREN'T IN THE POLICE REPORT. AND I JUST  
3 HAVE A FEW COMMENTS ON THAT.

4 LET'S SEE. IT CAME OUT THAT -- THE OFFICER  
5 SIMPLY DIDN'T HAVE THE SAME KIND OF TIME THAT WE DO WHEN  
6 WE'RE IN TRIAL TO GO IN TO EVERY SINGLE DETAIL. THERE'S  
7 NOT -- AND AT THAT TIME, THE CHILDREN WERE REALLY UPSET. SO  
8 I QUESTION HOW A PERSON CAN BE COACHED BEING THAT UPSET.

9 AND YOU COULD TAKE EVERYTHING AWAY, BUT IT  
10 DOESN'T CHANGE THE FACT THAT THE STATEMENTS WERE MADE THAT  
11 THERE WAS THE FIGHT. FATHER CAUSED THE FIGHT AND THE WIFE --  
12 SORRY -- AND MANDY CALLED 911.

13 WHICH BRINGS ME TO THE INJURIES THAT THE OFFICER  
14 SAW. THE OFFICER TESTIFIED AS TO THE INJURIES. IN FACT,  
15 HE'S THE ONE WHO TOOK THE PICTURES. HE IS THE ONE WHO  
16 OBSERVED THE FOREHEAD, OBSERVED THE ELBOW, OBSERVED THE KNEE.

17 AM I FORGETTING SOMETHING?

18 AND THE CUT ON THE HAND. OKAY.

19 AND WHEN HE SAW THOSE PICTURES, HE ADMITTED --  
20 AND YOU NOW SAW THOSE PICTURES AS WELL -- THOSE ARE NOT GREAT  
21 PICTURES, BECAUSE YOU KNOW WHAT? THEY SEEMED A LOT WORSE  
22 WHEN I SAW THEM IN PERSON.

23 NOW, AFTER THAT, HE ALSO TOOK PICTURES OF THE  
24 DEFENDANT AND SAW THE SCRATCHES THERE. ALSO, NOTE THAT HE  
25 SAID THAT HE DIDN'T NOTICE THAT THERE WAS ANY ALCOHOL ON THE  
26 PART OF THE DEFENDANT. WE, AS THE PEOPLE, WE HAVE NOT HID  
27 ANYTHING.

28 AND I'LL SHOW YOU THE PICTURES RIGHT NOW OF THE

17

1 OBSERVATIONS THAT OFFICER HENDERSON SHOWED. HE SAID HE SAW  
2 SOME SCRATCHES. I'M SHOWING PEOPLE'S 10 AND 11, SHOWING THE  
3 LEFT AND RIGHT SIDE -- RIGHT AND LEFT SIDE, RESPECTIVELY, OF  
4 THE DEFENDANT'S INJURIES. THESE ARE THE SCRATCHES THAT  
5 THEY'RE REFERRING TO. THIS IS WHAT OFFICER HENDERSON SAW.  
6 THIS IS WHAT OFFICER HENDERSON -- THE PICTURES THAT HE TOOK.

7 HE TESTIFIED THAT THESE PICTURES ADEQUATELY  
8 SHOWED THE INJURIES AT THE TIME ON OCTOBER 9, 1999. HE SAID  
9 THAT THESE CUTS WERE NOT DEEP, THEY WERE NOT BLEEDING, DID

10 NOT REQUIRE STITCHES, DID NOT EVEN REQUIRE BANDAGES.  
11 OH, AND ANOTHER NOTE. NICKY WAS TALKING ABOUT  
12 THE GLARING LOOK THAT SHE SAW ON THAT EVENING. NOW, YOU'VE  
13 SEEN THE DEFENDANT THROUGHOUT THIS WHOLE TRIAL, BUT THAT'S  
14 NOT THE DEFENDANT -- WHAT NICOLE SAW ON THE EVENING OF  
15 OCTOBER 9, 1999. NICKY WAS TALKING ABOUT PEOPLE'S 13, ABOUT  
16 THE GLARING LOOK THAT THE DEFENDANT SOMETIMES GETS. MUCH  
17 MORE BEADY WHEN SHE SAW HIM THAN YOU SEE NOW IN PEOPLE'S 13.  
18 NOW, WHEN THE OFFICER TOOK ALL OF THESE  
19 STATEMENTS, HE CAME TO AN OPINION. HE FORMED AN OPINION, AND  
20 HIS OPINION WAS, YOU KNOW WHAT -- WHAT CAUSED THOSE  
21 INJURIES? WHAT CAUSED THE INJURIES TO THE VICTIM AND WHAT  
22 CAUSED THE INJURIES TO THE DEFENDANT.  
23 AFTER HEARING EVERYTHING THAT HE HAD AT THAT  
24 TIME -- WHICH, MIND YOU, IS LESS THAN WHAT YOU KNOW NOW -- HE  
25 CAME TO THE CONCLUSION, YOU KNOW WHAT? THE DEFENDANT BEAT  
26 THE VICTIM.  
27 AND I ASKED, "WELL, HOW DO YOU SAY THAT?"  
28 IT'S BECAUSE THE INJURIES ARE CONSISTENT. THE

18

1 THING ABOUT THE STRANGLING, THE CUTS ON THE DEFENDANT'S FACE,  
2 THAT INCIDENT ABOUT THE SLAP AND THE SCRATCHING, THE INJURIES  
3 TO THE VICTIM, YOU KNOW WHAT. THAT THING ABOUT WHERE SHE WAS  
4 CHOKED AND BEING PULLED, THAT'S CONSISTENT. THERE'S THAT  
5 BUMP ON THE HEAD. THAT'S CONSISTENT WITH THAT COFFEE TABLE.  
6 THAT CUT ELBOW, THAT'S CONSISTENT ABOUT BEING HIT -- SLAMMED  
7 TO THE GROUND, AND THAT SWELLING OF THE KNEE, THAT'S ALSO  
8 CONSISTENT.

9 WHAT OTHER CONCLUSION IS THERE? THAT IT WAS BY  
10 ACCIDENT? AND MIND YOU, THE DEFENDANT -- I'M SORRY -- LET ME  
11 REPHRASE THAT. MIND YOU, WHEN THE OFFICER WAS THERE, THE  
12 DEFENDANT WASN'T THERE. HE FLED THE SCENE. AND YOU CAN TAKE  
13 THAT IN TO CONSIDERATION OF HOW -- OF WHAT HAPPENED OVER  
14 THERE, BECAUSE IF -- WHEN SOMEBODY GETS INJURED LIKE THAT,  
15 DOES IT SEEM NATURAL -- DOES IT SEEM TO MAKE SENSE THAT IF  
16 SOMEBODY GETS HURT THAT BAD, JUST TO LEAVE? THE OFFICERS  
17 ARRIVED TWO MINUTES LATER.

18 NOW, YOU HEARD MORE EVIDENCE, AND THAT EVIDENCE  
19 WAS -- TALKS ABOUT PRIOR INSTANCES OF DOMESTIC VIOLENCE BY  
20 THE DEFENDANT. AND THERE'S A SPECIFIC INSTRUCTION FOR THAT,  
21 AND FOR YOUR REFERENCE, THAT'S 2.50.02. AGAIN, 2.50.02. AND  
22 THERE'S A LONG INSTRUCTION FOR IT, BUT I'LL JUST READ ONE  
23 PARAGRAPH. AND IT SAYS:

24 "IF YOU FIND THAT THE DEFENDANT COMMITTED A  
25 PRIOR OFFENSE INVOLVING DOMESTIC VIOLENCE, YOU  
26 MAY" -- NOW, THE WORD IS "MAY" -- "BUT YOU ARE  
27 NOT REQUIRED TO INFER THAT THE DEFENDANT HAD A  
28 DISPOSITION TO COMMIT THE SAME OR SIMILAR TYPE

19

1 OFFENSE.  
2 "IF YOU FIND THAT THE DEFENDANT HAD THIS  
3 DISPOSITION, YOU MAY, BUT ARE NOT REQUIRED TO,  
4 INFER THAT HE WAS LIKELY TO COMMIT AND DID  
5 COMMIT THE CRIME FOR WHICH HE'S BEING ACCUSED."  
6 SO WHAT THE PURPOSE OF THAT WAS, THIS IS NOT THE

7 FIRST TIME THIS HAS HAPPENED, THAT SHE'S GOTTEN BEATEN. IT  
8 HAPPENED WHEN SHE WAS PREGNANT 15 YEARS AGO, AND THIS  
9 HAPPENED FIVE YEARS AGO, AT THE TIME THEY WERE GOING THROUGH  
10 A DIVORCE.

11 AGAIN, THESE WERE THINGS THAT WERE SAID ON THE  
12 DATE OF THE ARREST, IMMEDIATELY, TWO MINUTES AFTERWARDS,  
13 AFTER THIS INITIAL OFFENSE. SO WHERE IS THIS TIME TO  
14 FABRICATE THIS STORY? NOW, THAT'S FOR YOU TO DECIDE AND HOW  
15 TO EVALUATE THAT EVIDENCE.

16 NOW, THAT, IN ESSENCE, IS ALL THE EVIDENCE THE  
17 PEOPLE HAVE SHOWN. YES, SHE IS A FORMER SPOUSE. YES, THE  
18 DEFENDANT IS THE FATHER OF THE CHILD. YES, THERE WAS  
19 TRAUMATIC CONDITION. AND HOW WAS THAT CAUSED? BECAUSE OF  
20 THE WILLFUL INFLICTION OF BODILY INJURY ON DEBBIE. WHAT  
21 OTHER CONCLUSION IS THERE?

22 NOW, THE PEOPLE HAVE THE BURDEN. THE DEFENSE,  
23 THEY DON'T HAVE TO PUT ANYTHING ON, AND THAT'S FINE, BECAUSE  
24 IT'S OUR BURDEN. AND THE DEFENSE, IF THEY SO CHOOSE, CAN  
25 GIVE A DEFENSE BY CALLING ON THEIR OWN WITNESSES. NOW, DID  
26 THE DEFENDANT CALL ANY WITNESSES THAT WERE THERE THAT  
27 EVENING? NO, 'CAUSE THERE ARE NO OTHER WITNESSES. OTHER  
28 THAN BOBBY RAE, THE 2-1/2 YEAR OLD, YOU PRETTY MUCH GOT

20

1 EVERYBODY'S STORY. OKAY.

2 INSTEAD, THE DEFENSE GOES LIKE THIS: THE DEFENSE  
3 IS, DEBBIE ATTACKED THE DEFENDANT. THE DEFENDANT DEFENDED  
4 HIMSELF. HE MUST HAVE ACCIDENTALLY FALLEN OUT OF PROTECTING  
5 HIMSELF, AND HAS SINCE THEN PRESSURED NICKY AND MANDY TO LIE  
6 ON THE WITNESS STAND. THAT'S THE DEFENSE.

7 AND, LIKE I SAID, DEFENSE DOESN'T HAVE TO CALL  
8 ANY WITNESSES, BUT THEY DID. AND THE WITNESSES THAT YOU GOT  
9 WERE MR. BIDWELL, TINA VALENTIN, KRYSTAL VALENTIN,  
10 CHERYL CASTODIO AND IRENE CASTODIO. OKAY.

11 I JUST WANT TO MAKE ANOTHER COMMENT. THE COMMENT  
12 IS, NONE OF THEM WERE THERE, AND ONE OF THOSE WITNESSES WAS A  
13 WITNESS THAT YOU DID NOT HEAR WHEN WE INTRODUCED ALL THE  
14 WITNESSES, THE NAMES OF THE WITNESSES. REMEMBER ON THE VERY  
15 FIRST DAY HE SAYS, "PEOPLE GIVE YOUR NAME, INTRODUCE YOURSELF  
16 AND ALL THE WITNESSES"? AND THEN THE DEFENSE ALSO DOES THAT,  
17 TOO, THE NAME AND ALL THE WITNESSES, TOO.

18 NOW, ONE OF THOSE WITNESSES THAT WAS CALLED ON  
19 WAS NOT ON THAT LIST, AND THAT WAS KRYSTAL VALENTIN.

20 NOW, WE HAVE SOME SPECIFIC RULES HERE THAT I HAVE  
21 TO FOLLOW AND THE DEFENSE HAS TO FOLLOW, AND THAT INCLUDES  
22 TIMELY PRODUCTION OF EVIDENCE, 'CAUSE -- SO THAT WE CAN BOTH  
23 EVALUATE THE CASE, SO WE KNOW EVERYTHING TO EVALUATE AND  
24 POSSIBLY SETTLE A CASE.

25 WELL, NEVER GOT TO THAT POINT, BUT, ALSO, YOU  
26 DIDN'T GET ALL THE WHOLE STORY. YOU KNEW ABOUT  
27 KRYSTAL VALENTIN ABOUT THREE MINUTES AFTER I DID. SO LEAVES  
28 ME AT ODDS HOW TO REACT. UNFORTUNATELY, I HAD TO PUT HER ON

21

1 CROSS-EXAMINATION, AND I APOLOGIZED HAVING TO TALK ABOUT AN  
2 INSTANCE WHERE KRYSTAL'S MOM HIT KRYSTAL AND HAVE TO TELL ALL  
3 OF THAT TO YOU.

4 BUT YOU CAN CONSIDER THE WEIGHT OR SIGNIFICANCE  
5 OF ANY CONCEALMENT OR DELAY OF DISCLOSURE. THAT, FOR YOUR  
6 REFERENCE, IS 2.28 OF THE CALJIC OR THE JURY INSTRUCTIONS.  
7 NOW, LET'S GO IN TO WHAT THE DEFENSE IS. OKAY.  
8 YOU HEARD MR. LEES. MR. LEES, THAT WAS THE CO-WORKER OF THE  
9 DEFENDANT, HAS KNOWN THE DEFENDANT FOR ABOUT NINE YEARS OR  
10 SO. THEY WERE CO-WORKERS UP UNTIL THE TIME THAT THE  
11 DEFENDANT WORKED IN NEW JERSEY, I BELIEVE. IT'S DEFINITELY  
12 OUT OF THIS STATE. NO PROBLEM THERE.  
13 WHAT WAS HIS TESTIMONY? HE WASN'T DRINKING.  
14 WELL, OKAY. THAT'S FINE. WASN'T DRINKING AT LEAST UNTIL  
15 8:00 O'CLOCK IS THE ONLY COMMENT THAT I CAN SAY, WAS  
16 8:00 O'CLOCK. NICOLE NEVER SAW HIM UNTIL 9:20 OR 9:10.  
17 THAT'S THE ONLY COMMENT I CAN SAY.  
18 BUT YOU KNOW WHAT? THAT'S CONSISTENT, BECAUSE  
19 THE OFFICER SAID HE DIDN'T NOTICE ANY ALCOHOL EITHER, SO YOU  
20 COULD TAKE THAT EVIDENCE FOR WHAT IT'S WORTH.  
21 NOW, YOU HEARD ABOUT MR. BIDWELL AND LEARNED  
22 ABOUT LAPIDARY SHOWS AND THIS WHOLE THING THAT OCCURRED IN  
23 JANUARY, YEAR 2000. MY QUESTION -- MY QUESTION TO YOU IS  
24 WHAT DOES LAPIDARY SHOWS HAVE TO DO WITH AN ACT OF DOMESTIC  
25 VIOLENCE? IT SHOWS CLEAR ANIMOSITY BETWEEN THE WALTERS  
26 CASTODIO CLAN AND THE CASTODIO CLAN.  
27 THIS WHOLE SITUATION -- YOU HEARD ON EVIDENCE,  
28 MR. BIDWELL SAYS THIS WHOLE THING WASN'T EVEN STARTED BY

22

1 DEBBIE. IT WAS STARTED BY IRENE CASTODIO, THE DEFENDANT'S  
2 GRANDMOTHER, ABOUT THIS WHOLE THING ABOUT THE MIX UP OF  
3 DATES. WELL, IT WAS A MISTAKE.  
4 YOU HEARD ABOUT DEBBIE SAYING, HEY, SHE'S A  
5 SINGLE MOTHER, GOT THREE CHILDREN, ALL OF THEM UNDER THE AGE  
6 OF 18, TRYING TO KEEP SCHEDULES. I RESPECT THAT. IT'S HARD  
7 TO DO. YOU KNOW WHAT? SOMETIMES YOU'RE GOING TO MAKE  
8 MISTAKES ABOUT CALENDARING. EVEN MR. BIDWELL SAID, YOU KNOW  
9 WHAT? PROBABLY A MISTAKE. DIDN'T MEAN TO DO IT.  
10 NOW, YOU HAD THE OTHER WITNESS, THE NEXT WITNESS  
11 WAS TINA VALENTIN. OKAY. WELL, WHAT DID WE GET OUT OF  
12 THAT? WELL, THEY CLEARLY DON'T LIKE EACH OTHER. THEY  
13 CLEARLY DON'T LIKE EACH OTHER. YOU LEARN ABOUT -- THINGS  
14 ABOUT DEBRA, ABOUT HOW TO FILL OUT FORMS FOR CHILD SUPPORT.  
15 HEARD ABOUT HOW TINA GOT CHEATED FROM HAIR COLORING OR HAVING  
16 A HAIR CUT, AND YOU LEARNED ABOUT WAYS TO CHANGE SCHOOL  
17 DISTRICTS.  
18 MY QUESTION TO YOU IS, WHAT DOES THAT HAVE TO DO  
19 WITH DOMESTIC VIOLENCE? HOW DOES THAT EXPLAIN THE INJURIES  
20 THAT DEBBIE RECEIVED? NOTHING. IT DOES NOTHING TO EXPLAIN  
21 THE INJURIES THAT DEBBIE RECEIVED.  
22 NOW, YOU HEARD THIS THING ABOUT NICKY, ABOUT "SHE  
23 IS A LIAR BECAUSE I ASKED HER WHERE MY DAUGHTER WAS AND SHE  
24 SAID SHE WAS AT THE STORE, BUT SHE WAS NOT AT THE STORE."  
25 WELL, WHEN YOU TALK -- WHEN I TALKED TO HER ON  
26 CROSS-EXAMINATION, YOU KNOW WHAT? DID IT REALLY COME OUT AS  
27 A LIE? WHERE WAS THE LIE? I DIDN'T SEE THE LIE. DID YOU  
28 SEE THE LIE? I DIDN'T SEE THE LIE.

23

1                   IT SHOWED THAT, WELL, MS. VALENTIN REALLY DOESN'T  
2 LIKE NICKY EITHER, BUT WHAT DOES THAT HAVE TO DO WITH  
3 DOMESTIC VIOLENCE? WHAT DOES IT HAVE TO DO WITH DOMESTIC  
4 VIOLENCE?  
5                   NOW, DEFENSE ALSO TALKED ABOUT INSTANCES OF CHILD  
6 ABUSE. THEORY GOES LIKE THIS: THOSE CHILDREN LIED ON THE  
7 STAND BECAUSE OF THREATS AND PRIOR INSTANCES OF CHILD ABUSE  
8 BY DEBBIE.  
9                   NOW, FIRST OF ALL, I JUST WANT TO EXPLAIN  
10 SOMETHING, THAT CORPORAL PUNISHMENT -- THAT'S WHAT IT IS, WE  
11 CALL IT CORPORAL PUNISHMENT -- ON A CHILD IS NOT ILLEGAL.  
12 WHEN I GREW UP, WHEN I WAS CHILD, TIMEOUT ONLY OCCURRED IN  
13 SPORTING EVENTS. TIMEOUTS WERE COMPLETELY FOREIGN TO ME. I  
14 WISH I HAD THAT. UNFORTUNATELY, WE DIDN'T. INSTEAD, WE HAD  
15 SPANKING. SPANKING WAS ALLOWED. THERE'S NOTHING ILLEGAL  
16 ABOUT IT, AS LONG AS IT'S REASONABLE. AS LONG AS IT'S  
17 REASONABLE.  
18                   THAT WAS THE SITUATION. THEY SAID THAT THIS  
19 HAPPENED. YES, THERE WAS A SITUATION WHERE SHE WAS  
20 GRABBING -- THIS IS NICKY SAYING THIS, "WHERE MY MOTHER WAS  
21 GRABBING ME AND WALKED ME TO THE DOOR." COULD IT BE MORE?  
22 MAYBE. PROBABLY COULD HAVE BEEN. OKAY.  
23                   BUT WHO DID SHE TELL THIS TO? WELL, ALL RIGHT.  
24 YOU GOT THIS WITH KRYSTAL, AND YOU KNOW WHAT? KRYSTAL'S A  
25 SWEET GIRL, BUT YOU KNOW WHAT? LET ME TELL YOU SOMETHING. I  
26 DIDN'T KNOW ABOUT THIS. AGAIN, I KNEW ABOUT THIS TWO, THREE  
27 MINUTES BEFORE YOU DID. AND SHE'S SUPPOSED TO REMEMBER  
28 SOMETHING LIKE THIS.

24

1                   AND YOU KNOW WHAT? THIS MUST HAVE BEEN A VERY  
2 STRESSFUL SITUATION FOR NICKY, AND SHE MAY HAVE TOLD KRYSTAL  
3 A WHOLE LOT ABOUT WHAT HAPPENED, BUT THE ONLY THING THAT  
4 KRYSTAL REMEMBERS IS, YES, MOMMY ATTACKED DADDY, AND THAT'S  
5 IT. THESE ARE TEENAGE GIRLS.  
6                   I'M NOT JUST SAYING TEENAGE GIRLS TALK, BUT  
7 PEOPLE TALK. YOU THINK -- YOU'D EXPECT SOMETHING MORE THAN  
8 THAT. NEED I REMIND YOU THAT KRYSTAL IS TINA VALENTIN'S  
9 DAUGHTER, AND TINA REALLY, REALLY DOESN'T LIKE DEBBIE OR  
10 NICKY, AND THAT'S CLEAR.  
11                   NOW, YOU HEARD THIS THING ABOUT A THING WITH  
12 CHERYL, THE AUNT, THROUGH THE E-MAIL. OKAY. TALKING ABOUT  
13 THIS SITUATION WITH CHILD ABUSE STUFF RIGHT NOW. HOW WAS  
14 THIS DONE? NOW, I REALIZE THAT A CASE LIKE THIS COULDN'T  
15 HAPPEN TEN YEARS AGO, 'CAUSE WE DIDN'T HAVE E-MAIL OR AOL  
16 MESSENGER OR THINGS LIKE THAT BACK IN MY DAYS. WE HAD  
17 TELEPHONES.  
18                   WELL, THAT WAS A SITUATION WHERE WE HAD THIS  
19 THING OVER THE E-MAIL, AND WE HAD CHERYL SAYING, "OH, YES,  
20 THIS HAPPENED TO ME AND SHE'S BEATING ME UP." IT GOT FROM  
21 THE WITNESS STAND BY BOTH CHERYL AND NICKY. THEY'RE NOT EVEN  
22 THAT CLOSE. BARRING VISITATION BY THE FATHER, BIRTHDAYS,  
23 CHRISTMAS, THANKSGIVING, THOSE KIND OF THINGS, THAT'S THE  
24 ONLY TIME THEY SEE EACH OTHER.  
25                   WELL, HOW COULD YOU HAVE THAT KIND OF CLOSE  
26 RELATIONSHIP WHERE, "YOU KNOW WHAT, AUNT CHERYL? MOM HIT  
27 ME"? NO. IT WAS NEVER EVEN DONE IN PERSON. IT WAS DONE ON

1 WITH HER COUSINS. INSTEAD IT TALKS ABOUT THESE ACTS OF CHILD  
2 ABUSE.

3 WHAT DOES THIS HAVE TO DO WITH THE FACT THAT --  
4 YOU KNOW WHAT? THIS HAPPENED THE DAY AFTER THE FATHER GOT  
5 ARRESTED. WOULDN'T YOU THINK A LITTLE BIT MORE PRESSING  
6 TOPICS WOULD BE SAID THE DAY AFTER THE FATHER GOT ARRESTED?  
7 "YOU KNOW WHAT? BY THE WAY, MY FATHER GOT ARRESTED  
8 YESTERDAY. BUT YOU KNOW WHAT? MY MOM BEAT ME UP."

9 AND I QUESTION THE ACTIONS BY AUNT CHERYL  
10 AFTERWARDS. WHAT WOULD A NORMAL PERSON DO UNDER THOSE  
11 CIRCUMSTANCES? OH, MY GOODNESS. CHILD ABUSE, CORPORAL  
12 PUNISHMENT. WHAT AM I GOING TO DO? I SHOULD CALL THAT  
13 HOUSE. NOPE, NOT GOING TO DO THAT. I SHOULD CALL 911.  
14 NOPE, NOT GOING TO DO THAT. I SHOULD CALL. LET THE OTHER  
15 FAMILY MEMBERS. NOPE, NOT GOING TO. NOPE, NOT GOING TO DO  
16 THAT EITHER. WHAT I AM GOING TO DO IS CALL THE DEPARTMENT OF  
17 CHILD SERVICES. LET'S START THAT UP.

18 WHAT'S MY COMMENT ABOUT THAT? KIND OF SOUNDS  
19 LIKE RETALIATION TO ME. HOW COINCIDENTAL THAT THE CALL TO  
20 DEPARTMENT OF CHILDREN SERVICE GETS MADE RIGHT AFTER HER  
21 FATHER GETS ARRESTED.

22 FINALLY, YOU HEAR FROM IRENE CASTODIO, THE  
23 DEFENDANT'S GRANDMOTHER. AGAIN, THERE'S ALSO CLEAR  
24 ANIMOSITY.

25 OH, LET ME JUST BACK UP. WITH CHERYL, ANOTHER  
26 THING -- ONLY THING I COULD SAY IS CHERYL HAS GOT THE SAME  
27 LAST NAME AS THE DEFENDANT, DROVE UP TO COURT WITH THE  
28 DEFENDANT'S MOTHER. AFTER THIS TRIAL, SHE'S STILL GOING TO

1 BE MARRIED TO THE DEFENDANT'S BROTHER, AND THAT'S ALL I'M  
2 GOING TO SAY IN REGARDS TO THAT.

3 AS FAR AS IRENE CASTODIO GOES, AGAIN, THERE IS,  
4 YES, CLEAR ANIMOSITY BETWEEN THE TWO OF THEM. NOW, YOU JUST  
5 HEARD TWO VERSIONS. WHO ARE YOU GOING TO BELIEVE? YOU'RE  
6 EITHER GOING TO BELIEVE NICKY OR YOU'RE GOING TO BELIEVE THE  
7 DEFENDANT'S GRANDMOTHER, IRENE.

8 AND I LEAVE THAT UP TO YOU, BECAUSE NEITHER OF  
9 THEM IS CORROBORATED WITH EACH OTHER. THERE'S NO OTHER  
10 EVIDENCE THAT SAYS, YOU KNOW WHAT, POINTING ONE WAY OR THE  
11 OTHER. YOU'RE EITHER GOING TO BELIEVE THE DEFENDANT'S  
12 DAUGHTER OR YOU'RE GOING TO BELIEVE THE DEFENDANT'S MOTHER,  
13 AND THAT'S GOING TO BE FOR YOU TO DECIDE.

14 BUT I WILL TELL YOU THIS. IT'S CLEAR THAT IRENE  
15 IS UPSET, BECAUSE SHE WAS TALKING ABOUT HOW SHE USED TO BE  
16 ABLE TO SEE NICKY AND MANDY, AT LEAST WHEN THERE WAS  
17 VISITATION WITH HER FATHER, BUT THAT HASN'T HAPPENED SINCE  
18 LAST JANUARY. AND CLEARLY SHE'S UPSET ABOUT IT. AND THAT'S  
19 ALL I'M GOING TO SAY ABOUT THAT.

20 SO WHAT DOES THE DEFENSE CASE SHOW? THAT'S ALL  
21 OF THE DEFENSE WITNESSES. WELL, TALKS ABOUT THERE WAS SOME  
22 CORPORAL PUNISHMENT BEFORE OCTOBER 1999, BEFORE THE  
23 INCIDENT. SO WE'LL GIVE YOU THAT. WE FIND OUT THAT DEBRA  
24 REALLY OVERCHARGED FOR HAIR COLOR. WE LEARNED THAT. YOU'VE

25 LEARNED THINGS -- THAT YOU REALLY SHOULD KEEP YOUR CALENDAR  
26 STRAIGHT, ESPECIALLY FOR LAPIDARY SHOWS. THAT'S CLEAR.  
27 THERE'S CLEAR ANIMOSITY WHEN IT COMES TO THE  
28 MOTHER'S SIDE OF THE FAMILY AND THE FATHER'S SIDE OF THE

27

1 FAMILY. THAT'S WHAT WE LEARNED. WELL, THIS EXPLAINS  
2 EVERYTHING -- WELL, THAT EXPLAINS WHY THOSE TWO GOT DIVORCED  
3 IN THE FIRST PLACE, WHY THEY WERE DIVORCED FOR FIVE YEARS.  
4 THIS WAS A TERRIBLE MARRIAGE; THIS WAS A FAILED MARRIAGE.  
5 BUT AT LEAST IT WAS CIVIL UP UNTIL OCTOBER 9, 1999.

6 WHAT HAS THE DEFENSE DONE? REALLY, WHAT HAS THE  
7 DEFENSE DONE? THEY PUT THE VICTIM ON TRIAL, SLANDERING HER  
8 CHARACTER, MUD SLINGING. DON'T -- THE DEFENSE IS DON'T  
9 BELIEVE THE VICTIM BECAUSE SHE'S REALLY, REALLY BAD.

10 YOU KNOW, THAT MIGHT BE SO, BUT IT DOESN'T CHANGE  
11 THE FACT THAT YOU GOT INJURIES TO THE KNEES, YOU GOT INJURIES  
12 TO HER ELBOWS AND YOU GOT INJURIES TO THE TOP OF HER HEAD.  
13 THE QUESTION IS AND WHAT THIS CASE IS ABOUT DID HE COMMIT  
14 WILLFUL INFLICTION OF BODILY INJURIES? THAT'S WHAT IT COMES  
15 DOWN TO.

16 WE SPENT HOURS ON THINGS THAT HAVE NOTHING,  
17 NOTHING TO DO WITH THIS CASE. HOW DOES THAT EXPLAIN THE  
18 INJURIES? YOU'RE -- WHEN YOU GO IN TO THAT JURY ROOM, YOU'RE  
19 GOING TO BE ASKED, HOW DID THOSE INJURIES OCCUR? THAT'S THE  
20 ONLY QUESTION BEFORE YOU.

21 AFTER ALL THE DUST HAS SETTLED AND YOU GO THROUGH  
22 ALL OF THAT STUFF THAT'S PUTTING UP THESE CLOUDS AND SMOKE  
23 SCREENS, YOU'RE GOING -- THERE'S STILL A WOMAN THAT'S GOT  
24 THESE INJURIES. THERE'S STILL A MAN THAT HAS THESE INJURIES.  
25 AND YOU'VE GOT TO COME DOWN TO WHAT CAUSED IT.

26 LET'S EVEN GIVE YOU THE WHOLE THING OF THE  
27 TESTIMONY OF THE CHILDREN. LET'S TAKE THAT ALL OUT. LET'S  
28 TAKE OUT OFFICER HENDERSON. WHAT'S LEFT? EVEN THEN THERE'S

28

1 THE INJURIES, AND YOU'VE GOT THE STATEMENTS. BASED ON THAT,  
2 EVERYTHING'S CONSISTENT. IT COULD NOT BE MADE UP. THERE HAD  
3 TO BE SOME WAY, EVEN IF THERE WAS SOME TYPE OF SELF-DEFENSE,  
4 IT WAS DONE WAY AFTER THE FIRST BLOW. THIS WAS WAY AFTER  
5 THAT.

6 YOU CAN USE REASONABLE FORCE TO DEFEND YOURSELF,  
7 BUT THERE COMES A POINT, YOU KNOW WHAT? ENOUGH IS ENOUGH. I  
8 JUST CAN'T KEEP DOING THIS. IT'S THE OFFICER THAT SAYS, YOU  
9 KNOW WHAT? YOU NEED PARAMEDICS.

10 THAT'S THE PEOPLE'S CASE. AND, LADIES AND  
11 GENTLEMEN, THANK YOU FOR YOUR TIME. AND I'M SURE THAT -- I'M  
12 CONFIDENT THAT AFTER YOU'VE GONE THROUGH DELIBERATIONS,  
13 YOU'LL COME UP WITH THE ONLY CONCLUSION IS THAT THE DEFENDANT  
14 WILLFULLY INFLICTED BODILY INJURY ON DEBBIE WALTERS CASTODIO  
15 AND FIND THE DEFENDANT GUILTY.

16 THANK YOU.

17 THE COURT: THANK YOU, PEOPLE.

18 MR. LUECK: DO YOU WANT TO TAKE A MORNING BREAK BEFORE  
19 WE DO MY CLOSING?

20 THE COURT: I THINK WE DIDN'T BRING THE JURY IN UNTIL  
21 9:45, SO THEY'VE ONLY BEEN IN --

22 MR. LUECK: LET ME BORROW PEOPLE'S CHART HERE FOR A  
23 COUPLE OF PURPOSES.

24

25 CLOSING ARGUMENT

26 BY MR. LUECK:

27 ONCE AGAIN, LADIES AND GENTLEMEN, GOOD MORNING.

28 THE JURORS: GOOD MORNING.

29

1 MR. LUECK: LET ME JOIN MR. RACANA IN THANKING YOU FOR  
2 YOUR TIME, PATIENCE AND ATTENTION, BECAUSE WITHOUT YOUR  
3 PRESENCE, THIS TRIAL WOULD NOT BE POSSIBLE. I WON'T REPEAT  
4 THE THINGS HE SAID ABOUT THE IMPORTANCE OF YOUR HELP IN THIS  
5 DECISION PROCESS, BUT ONLY ADD MY JOINDER TO HIS REMARKS,  
6 THAT WE DO VERY MUCH APPRECIATE THAT HELP THAT WE GET FROM  
7 YOU AND THE SACRIFICE OF YOUR TIME, AND YOUR OTHER  
8 RESPONSIBILITIES THAT OCCUR OF NECESSITY WHEN YOU LEAVE YOUR  
9 DAILY LIVES AND ARE CALLED BY THE COURT, NOT OF YOUR OWN  
10 VOLITION, AND COME IN HERE AND ARE REQUIRED TO JOIN IN THIS  
11 PROCESS.

12 I'LL BE AS BRIEF AS I CAN, BUT, OF COURSE, I HAVE  
13 ISSUES THAT I NEED TO COVER AS WELL. I'LL DO THOSE AS  
14 EFFICIENTLY AS I CAN.

15 THEY START, FIRST OF ALL, BY TALKING ABOUT A  
16 COUPLE OF CODE -- NOT CODE SECTIONS, EXCUSE ME, BUT A COUPLE  
17 OF JURY INSTRUCTIONS. I'LL REFER TO THEM BY NUMBER, SO THAT  
18 WHEN YOU GO BACK TO THE JURY ROOM, YOU WILL HAVE THOSE  
19 NUMBERS AVAILABLE TO YOU, SO YOU CAN MAKE REFERENCE TO THOSE  
20 SECTIONS.

21 MR. RACANA REFERENCED INSTRUCTION 2.90. 2.90 IS  
22 THE BURDEN OF PROOF. HE TALKED TO YOU AT SOME LENGTH. I  
23 DON'T HAVE FACTUAL DISAGREEMENT WITH HIM AS TO WHAT THAT  
24 SECTION SAYS. I DO CERTAINLY HAVE A LITTLE DIFFERENCE OF  
25 OPINION WITH RESPECT TO THE DIFFERENT EMPHASIS ON WHAT HE  
26 TOLD YOU ABOUT THE CIVIL BURDEN BEING 51 PERCENT.

27 WE DON'T PUT NUMBERS ON IT, BUT SINCE HE HAS DONE  
28 THAT, ALLOW ME TO PUT A PERCENTAGE NUMBER ON THE CONCEPT OF

30

1 BEYOND A REASONABLE DOUBT, SINCE HE DIDN'T DO THAT AND HE DID  
2 PUT A PERCENTAGE NUMBER ON MORE PROBABLE THAN NOT, WHICH IS  
3 THE CIVIL BURDEN.

4 SOMETIMES WE THINK ABOUT JUSTICE BEING A SET OF  
5 SCALES, AND YOU'VE PROBABLY ALL SEEN THE BLIND WOMAN WITH A  
6 SCALE IN HER HAND. AND WE SOMETIMES TALK ABOUT PUTTING  
7 EVIDENCE ON BOTH SIDES OF THAT SCALE AND WEIGHING THE  
8 EVIDENCE, SO THAT IF MORE PROBABLE THAN NOT IS SIMPLY A  
9 SLIGHT TIPPING OF THE SCALES AS TO ONE SIDE, BEYOND A  
10 REASONABLE DOUBT THEN IS A TIPPING ALL THE WAY TO THE BOTTOM,  
11 NOT BEYOND ANY CONCEIVABLE DOUBT, BUT BEYOND A REASONABLE  
12 DOUBT.

13 LADIES AND GENTLEMEN, I BELIEVE ONCE YOU HAVE AN  
14 OPPORTUNITY TO REVIEW ALL OF THE EVIDENCE HERE, ONCE YOU HAVE  
15 AN OPPORTUNITY TO SEE OUR PERSPECTIVE ON IT, YOU WILL SEE  
16 THERE IS NOT ONLY REASONABLE DOUBT, THERE'S A VERY, VERY  
17 SUBSTANTIAL DOUBT. I BELIEVE THE EVIDENCE SHOWS, IN FACT,  
18 THAT THE BURDEN HAS BEEN TIPPED ENTIRELY THE OPPOSITE

19 DIRECTION.  
20 I BELIEVE THAT WHAT MR. CASTODIO DID THAT  
21 EVENING -- ALTHOUGH PERHAPS RUDE, PERHAPS CRUDE, PERHAPS NOT  
22 AT ALL AN APPROPRIATE THING TO BE TALKING ABOUT IN FRONT OF  
23 CHILDREN -- I DON'T BELIEVE THAT WHAT OCCURRED THERE WAS AN  
24 ASSAULT BY HIM AGAINST MRS. CASTODIO.  
25 LET'S TALK ABOUT ONE THING TO START WITH, WITH  
26 RESPECT TO THE DIFFERENT PEOPLE THAT WERE THERE. YOU HAVE  
27 DEBRA CASTODIO, YOU HAVE NICOLE CASTODIO -- NICKY CASTODIO  
28 AND YOU HAVE AMANDA CASTODIO. ALL THREE OF THEM WERE THERE.

31

1 AND IF I CAN APPROACH THE BOARD HERE?  
2 LET ME SHOW YOU FROM EXHIBIT 1. THIS IS A  
3 CONFRONTATION THAT -- THERE'S AN ORAL DISCUSSION OUTSIDE THE  
4 DOOR, OUTSIDE THE PRESENCE OF THE CHILDREN.  
5 MR. RACANA: YOUR HONOR, IF I MAY?  
6 THE COURT: SURE.  
7 MR. LUECK: MRS. CASTODIO WALKS IN -- AND I DON'T  
8 THINK THERE'S ANY DISPUTE AS TO THE FACT THAT NOTHING HAPPENS  
9 OUTSIDE. THEY WALK IN, AND MRS. CASTODIO IS STANDING JUST  
10 INSIDE THE DOORWAY, FACING OUT. MR. CASTODIO IS FACING HER.  
11 AMANDA IS DIRECTLY BEHIND, FACING HER MOTHER'S BACK, AND I  
12 BELIEVE THE TESTIMONY IS THAT NICOLE IS SITTING SLIGHTLY OFF  
13 TO THE SIDE, SO SHE HAS A LITTLE DIFFERENT VIEW OF IT.  
14 NOW, WHAT DOES AMANDA SAY? AND LET ME FOCUS ON  
15 AMANDA, BECAUSE I'M GOING TO TALK A LITTLE LATER ABOUT  
16 DEMEANOR.  
17 I THINK THE DEMEANOR OF DEBRA CASTODIO WAS NOT AT  
18 ALL WHAT I WOULD CONSIDER A BELIEVABLE KIND OF WITNESS.  
19 YOU'VE GOT HER CONSTANTLY CHIMING IN, CONSTANTLY GIVING US  
20 GRATUITOUS REMARKS ABOUT MR. CASTODIO AND ABOUT THE  
21 CIRCUMSTANCES HERE.  
22 NICOLE, I BELIEVE, WAS ALSO VERY LACKING IN A  
23 BELIEVABLE DEMEANOR. I BELIEVE NICOLE WAS PARROTING HER  
24 MOTHER'S VERSIONS OF THE EVENTS. I BELIEVE THAT DEBRA  
25 PROBABLY TRIED TO INFLUENCE AMANDA AS WELL, BUT I THINK MUCH  
26 LESS SUCCESSFULLY.  
27 LET'S LOOK AT AMANDA'S VIEW OF WHAT HAPPENED.  
28 SHE'S LOOKING DIRECTLY AT WHO? HER MOTHER'S BACK. SHE CAN'T

32

1 SEE WHAT HER MOTHER'S DOING WITH HER HANDS. WHAT SHE CAN SEE  
2 IS THAT -- OR WHAT SHE HEARS, FIRST OF ALL, IS MR. CASTODIO,  
3 HER FATHER, SAYING TO HER MOTHER, "YOU ABUSED MY CHILD." WE  
4 DIDN'T HEAR THAT FROM ANYBODY ELSE. WE HEARD THAT FROM  
5 AMANDA, DIDN'T WE?  
6 WHAT DID NICOLE SAY? NICOLE SAID THEY WERE  
7 ARGUING ABOUT HER MOTHER'S NEW CAR. NOW, SHE ADDED THE  
8 BUSINESS ABOUT NICKY'S FRIENDS, BUT THAT WAS ONLY LATER ON.  
9 WHAT DID DEBRA CASTODIO SAY? DEBRA CASTODIO SAID  
10 THAT THE ARGUMENT WAS ABOUT NICKY'S FRIENDS, SO ALL THREE OF  
11 THEM HAVE AN ENTIRELY DIFFERENT VERSION OF WHAT THIS ARGUMENT  
12 WAS ABOUT IN THE FIRST PLACE, DON'T THEY? NOW, I DON'T THINK  
13 THEY CAN ALL BE RIGHT. AND NONE OF THEM SAID IT THE SAME AS  
14 EITHER OF THE OTHER TWO SAID.  
15 LADIES AND GENTLEMEN, I BELIEVE -- AND I BELIEVE

16 YOU SHOULD BELIEVE WHAT AMANDA SAID IT WAS ABOUT. AMANDA  
17 SAID HER FATHER SAID, "YOU ABUSED MY CHILD."  
18 WHAT DID KRYSTAL SAY? NOW, KRYSTAL WE DIDN'T  
19 FIND OUT ABOUT UNTIL VERY LATE, I ACKNOWLEDGE THAT. BUT WHO  
20 IS KRYSTAL? KRYSTAL IS A PERSON WHO WAS NICKY'S BEST FRIEND  
21 FOR A LONG TIME. MOTHERS DIDN'T GET ALONG. THAT'S NOT  
22 UNCOMMON. PEOPLE HAVE THEIR DIFFERENCES.  
23 BUT NICOLE TALKS TO KRYSTAL THE DAY AFTER.  
24 NICOLE SAID COULDN'T HAVE BEEN HER, 'CAUSE HER PARENTS TOLD  
25 US TO STAY APART. WELL, PARENTS TELL KIDS TO STAY AWAY.  
26 THEY'VE BEEN FRIENDS FOR A LONG TIME. DO YOU BELIEVE JUST  
27 BECAUSE PARENTS SAY STAY APART THEY WOULDN'T TALK TO EACH  
28 OTHER? I THINK THEY DID TALK.

33

1 I THINK KRYSTAL'S DEMEANOR WAS CLEAR. IT WAS  
2 CONCISE. SHE LOOKED STRAIGHT AHEAD. SHE WAS NOT HAPPY TO BE  
3 HERE, BUT I SAW SOMEBODY WHO I THINK WAS TESTIFYING HONESTLY  
4 AND TRUTHFULLY. AND KRYSTAL SAID THAT SHE TALKED TO NICOLE.  
5 NOW, MAYBE SHE COULDN'T HAVE TALKED TO HER IF SHE  
6 HAD BEEN AT HER MOTHER'S HOUSE, BUT WHAT OCCURRED IS THAT  
7 KRYSTAL THAT DAY -- IT'S A SUNDAY. SHE'S AT HER FATHER'S  
8 HOUSE. SHE AND HER FATHER -- HER PARENTS ARE SEPARATED. HER  
9 MOTHER DOESN'T GET ALONG WITH MRS. VALENTIN, BUT NO PROBLEM  
10 AT THE FATHER'S HOUSE.  
11 KRYSTAL IS AT HER FATHER'S HOUSE. SHE HAS A  
12 CONVERSATION WITH NICOLE THE DAY AFTER. IN THAT CONVERSATION  
13 SHE SAYS HER MOTHER ATTACKED HER FATHER, AND THAT HER FATHER  
14 JUST PUSHED HER OUT OF THE WAY, SO HE COULD GET AWAY. WE'LL  
15 TALK ABOUT SELF DEFENSE IN JUST A MOMENT. BUT I BELIEVE WHAT  
16 OCCURRED HERE WAS NO MORE THAN THE BARE NECESSITY OF WHAT HE  
17 HAD TO DO TO DEFEND HIMSELF.  
18 NOW, LET'S TALK ABOUT AMANDA, 'CAUSE I THINK  
19 AMANDA, ALTHOUGH I THINK PERHAPS SUBJECTED TO SOME PRESSURE  
20 FROM HER MOTHER, I THINK WHAT SHE SAID TO THE BEST OF HER  
21 ABILITY TO PERCEIVE, I THINK WHAT SHE SAID WAS PROBABLY  
22 TRUE. REMEMBER, SHE'S SITTING AT THE COMPUTER. SHE'S FACING  
23 THAT WAY, THEN SHE BECOMES AWARE OF THE CONFRONTATION BETWEEN  
24 HER MOTHER AND FATHER BETWEEN THE DOORWAY. HER MOTHER HAS  
25 HER BACK TO AMANDA.  
26 NOW, THE FIRST THING THAT SHE NOTICES IS HER  
27 FATHER'S HANDS ON HER MOTHER'S SHOULDERS, A SLAP FROM HER  
28 MOTHER TO HER FATHER, HER MOTHER BEING TURNED AROUND BY THE

34

1 FATHER, DOUBLING OVER, GOING DOWN ONTO THE FLOOR, AND HER  
2 FATHER LEAVING.  
3 NOW, THAT'S ENTIRELY CONSISTENT, I BELIEVE, WITH  
4 WHAT KRYSTAL SAID HAPPENED THAT DAY. THE MOTHER ATTACKED THE  
5 FATHER, SCRATCHING HIM IN THE FACE WHEN HE SAYS TO HER, "YOU  
6 ABUSED MY CHILD." OKAY. AMANDA COULDN'T SEE IT BECAUSE HER  
7 BACK -- MOTHER'S BACK IS TO AMANDA, ISN'T IT? FIRST THING  
8 SHE SEES IS THE FATHER'S HANDS ON THE MOTHER'S SHOULDERS,  
9 TURNING THE MOTHER AROUND, GETTING HER CLAWS AWAY FROM HIS  
10 FACE.  
11 WHAT'S THE MOTHER'S EXPLANATION AS TO HOW THIS  
12 HAPPENED? SHE SAYS, "I REACHED AROUND AND I SCRATCHED HIM

13 FROM BEHIND." NOW, IF HE'S BEHIND HER, CHOKING HER LIKE THIS  
14 (INDICATING) OR WITH THE ARM AROUND AS THE OFFICER SUGGESTED,  
15 THEN HOW IS SHE GOING TO REACH HIS FACE? I DON'T THINK SHE  
16 CAN. I DON'T THINK IT'S AN ANATOMICALLY POSSIBLE THING FOR  
17 HER TO DO UNDER THOSE CIRCUMSTANCES.

18 I THINK THE VERSION THAT AMANDA HAS TOLD US,  
19 COUPLED WITH THE ADDITIONAL INFORMATION WE GET FROM KRYSTAL,  
20 IS MOTHER ATTACKING FATHER, FATHER RESPONDING BY TRYING TO  
21 PROTECT HIMSELF, TURNING, GETTING AROUND -- GETTING BEHIND  
22 HER BACK SO THAT SHE CAN'T CLAW HIM IN THE FACE, PUSH HER  
23 DOWN, GET AWAY, IS, IN FACT, WHAT OCCURRED THAT DAY. AND I  
24 BELIEVE THAT'S ENTIRELY CONSISTENT WITH WHAT AMANDA SAID.

25 NOW, IF WHAT AMANDA SAID IS TRUE, THEN -- AND SHE  
26 DIDN'T HEAR ANYTHING ABOUT A CAR ARGUMENT AND SHE DIDN'T HEAR  
27 ANYTHING ABOUT NICKY'S FRIENDS'S ARGUMENT, I THINK EVEN --  
28 JUST ON THAT ONE POINT, THAT I DON'T THINK ALL THREE OF THEM

35

1 ARE TELLING THE TRUTH.

2 I THINK IF AMANDA HAD HEARD A CAR ARGUMENT, I  
3 THINK SHE WOULD HAVE TOLD US. I THINK IF AMANDA HAD HEARD  
4 NICKY'S FRIENDS'S ARGUMENT, SHE WOULD HAVE TOLD US. BUT SHE  
5 DIDN'T. I THINK AMANDA'S TELLING THE TRUTH ABOUT WHAT THE  
6 ARGUMENT WAS ABOUT, AND I THINK NICOLE IS LYING ABOUT IT. I  
7 THINK DEBRA IS LYING ABOUT IT.

8 LET ME TALK ABOUT LYING. WHEN I REFER TO THE  
9 THINGS THAT WERE SAID BY NICOLE, AND ALSO TO SOME EXTENT THE  
10 THINGS THAT WERE SAID BY AMANDA, CHILDREN ARE DEPENDENT ON  
11 THEIR PARENTS, AND NOT JUST FOR THE PHYSICAL NECESSITIES OF  
12 LIFE. THEY ARE DEPENDENT UPON THEIR PARENTS FOR THEIR  
13 PERCEPTION OF REALITY. THEY ARE DEPENDENT ON THEIR PARENTS  
14 REALLY FOR ALMOST EVERYTHING.

15 THIS IS A CHILD WHO HAS BEEN TOTALLY CUT OFF FROM  
16 HER FATHER SINCE JANUARY. THIS IS A CHILD WHO HAS BEEN  
17 TOTALLY CUT OFF FROM ANYTHING REALLY, BUT -- AT LEAST IN  
18 TERMS OF FAMILY SENSE, FROM ANYTHING BUT HER MOTHER.

19 I BELIEVE IT WAS AMANDA THAT TOLD US -- I DON'T  
20 KNOW IF NICKY DID OR NOT -- YOU'LL HAVE TO REFER TO YOUR  
21 NOTES, YOUR RECOLLECTION ON THIS, BUT I THINK IT'S PROBABLY  
22 TRUE WITH BOTH OF THEM. I DON'T BELIEVE THAT AMANDA OR NICKY  
23 BELIEVE THAT THEIR MOTHER WOULD DELIBERATELY LIE TO THEM. I  
24 DON'T THINK MOST CHILDREN WOULD.

25 THERE'S AN INSTRUCTION THERE ABOUT EVALUATING THE  
26 EVIDENCE OF WITNESSES, OF CHILD WITNESSES, BUT I DON'T NEED  
27 TO GO IN TO DETAIL ON THAT. BUT THINK ABOUT IT THIS WAY:  
28 THE MOTHER HAS A VERY CLEAR SELF-SERVING PERCEPTION OF WHAT

36

1 OCCURRED THAT DAY.

2 WHEN SOMETHING HAPPENS THAT'S UPSETTING, IT GOES  
3 OVER IN YOUR MIND AGAIN AND AGAIN AND AGAIN, AND WE TEND TO  
4 EVALUATE THESE THINGS FROM OUR OWN PERSPECTIVE. AND WE SEE  
5 OURSELF IN ANY CONFLICT AS BEING RIGHT, AND I BELIEVE THE  
6 MOTHER PROBABLY BELIEVED SHE WAS RIGHT FOR WHATEVER REASON.  
7 BUT PEOPLE DON'T TEND, I BELIEVE, TO THINK OF THEMSELVES AS  
8 BEING WRONG IN ANY PARTICULAR CONFLICT SITUATION.

9 I BELIEVE THAT THE MOTHER HAS CERTAINLY, IF NOT

10 SAT THEM DOWN AND SAID, "THIS IS WHAT HAPPENED, THIS IS WHAT  
11 HAPPENED AND THIS IS WHAT HAPPENED," I THINK THAT THERE  
12 CERTAINLY HAS BEEN SOME KIND OF DISCUSSION ABOUT WHAT  
13 OCCURRED THAT EVENING.

14 AND I BELIEVE THAT CHILDREN WHEN THEY TALK TO  
15 THEIR PARENTS ARE ADOPTIVE OF THEIR PARENTS'S BELIEFS. THEY  
16 ARE ADOPTIVE OF THEIR PARENTS'S VERSION OF TRUTH. SO WHEN  
17 YOU SAY PROMISE TO TELL THE TRUTH, I BELIEVE THAT COULD VERY  
18 EASILY BE CONFUSED WITH TRUTH AS IT HAS BEEN EXPLAINED TO YOU  
19 BY A PARENT.

20 SO I AM MUCH LESS INCLINED TO BE CRITICAL OF  
21 NICOLE'S VERSION OF THE TRUTH, IN PART BECAUSE SHE'S A CHILD,  
22 IN PART BECAUSE SHE'S SUBJECTED TO HER MOTHER'S VERSION OF  
23 THE TRUTH. AND I THINK THAT THAT IN TIME HAS METAMORPHISED  
24 ITSELF IN TO THE MOTHER'S VERSION OF THE TRUTH AS OPPOSED TO  
25 WHAT REALLY OCCURRED.

26 HOW DO WE DECIDE WHAT REALLY OCCURRED THAT  
27 EVENING? WE HAVE TO DEPEND ON THINGS THAT ALL THESE  
28 DIFFERENT PEOPLE HAVE TOLD US. THAT COMES DOWN TO THE ISSUE

37

1 OF EVALUATION OF PEOPLE'S TESTIMONY, EVALUATION OF -- HOW DO  
2 WE DECIDE WHO IS BEING TRUTHFUL, WHO IS DISTORTING THINGS?

3 ONE OF THE INSTRUCTIONS THAT WE HAVE IS 2.21.2,  
4 AND THAT INSTRUCTION REFERS TO A WITNESS BEING WILLFULLY  
5 FALSE. NOW, ANY TIME WE HAVE A TRIAL WE HAVE DRAMATIC  
6 DIFFERENCES OF TESTIMONY, WIDE VARIETIES OF ISSUES AND  
7 SUBJECTS, BUT LET ME TALK ABOUT A COUPLE OF THINGS WHERE I  
8 BELIEVE THAT NICOLE WAS DELIBERATELY AND WILLFULLY FALSE IN  
9 HER TESTIMONY, AND WHERE DEBRA CASTODIO WAS DELIBERATELY AND  
10 WILLFULLY FALSE IN HER TESTIMONY.

11 MR. RACANA POO-POOED SOME OF THESE THINGS, BUT I  
12 THINK WHEN YOU SEE WHY THE EVIDENCE IS BEFORE YOU, I THINK  
13 YOU'LL NOW UNDERSTAND AND APPRECIATE THE IMPORTANCE.

14 NOW, WE HAVE A COUPLE OF THINGS THAT COULD  
15 DEFINITELY BE PROVEN AS WILLFULLY FALSE. DEBRA CASTODIO ON  
16 FRIDAY, JANUARY 21ST, WAS IN COURT, IN THE FAMILY LAW COURT,  
17 IN THE DIVORCE COURT. THERE WAS AN ARRANGEMENT TO BE MADE  
18 ABOUT VISITATION BETWEEN HIM -- AND REMEMBER, HE'S OFF  
19 WORKING IN JERSEY, JUST THERE FOR A WEEKEND, AND THE COURT IS  
20 GOING TO HAVE A VISITATION ARRANGEMENT.

21 IT'S WRITTEN INTO A CUSTODY ORDER. IT'S WRITTEN  
22 DOWN THERE. AND IT SAYS EVEN THOUGH THIS IS THE ONLY WEEKEND  
23 HE'S THERE, HE CAN'T SPEND TIME ON THAT SATURDAY, THE 22ND OF  
24 JANUARY, WITH HIS CHILDREN BECAUSE THE CHILDREN ARE BUSY IN A  
25 LAPIDARY SHOW.

26 WE FIND OUT LATER THAT THAT'S NOT TRUE. IT  
27 WASN'T SATURDAY, IT WAS THE DAY BEFORE, THURSDAY. MOTHER  
28 SAYS, "WELL, IT'S A MISTAKE. I JUST GOT THE DATES MIXED UP,

38

1 AND THE REASON I WAS WRONG IS BECAUSE WE HAD A FLIER ON THE  
2 REFRIGERATOR AND THE REFRIGERATOR FLIER SAID THAT IT WAS ON A  
3 SATURDAY."

4 WELL, WE KNOW FROM MR. BIDWELL, THE SCHOOL  
5 TEACHER, THAT THAT'S NOT TRUE. THE FLIER WASN'T THERE ON  
6 THAT PREVIOUS DAY, THURSDAY, BECAUSE SHE DIDN'T GET IT TILL A

7 MONTH LATER WHEN SHE GOES TO MR. BIDWELL TO TRY TO CREATE  
8 EVIDENCE THAT THIS WAS AN HONEST MISTAKE, NOT A DELIBERATE  
9 EFFORT ON HER PART TO KEEP THESE CHILDREN AWAY FROM THEIR  
10 FATHER. WHAT IT WAS WAS DELIBERATE DECEPTION.

11 THIS IS WHAT -- WHAT DOES IT TAKE TO GET A SCHOOL  
12 TEACHER TO COME INTO CRIMINAL COURT, TESTIFY AGAINST A  
13 STUDENT, TO CALL HIS STUDENT AND MOTHER A LIAR? WHAT DOES IT  
14 TAKE? I DON'T SEE THIS SCHOOL TEACHER BEING SOME  
15 METTLESOME -- I DON'T THINK HE HAS A MISSION. HE ISN'T  
16 SOMEBODY WITH AN OBJECTIVE, WITH AN AX TO GRIND.

17 THIS IS A SCHOOL TEACHER WHO I THINK WAS  
18 GENUINELY TROUBLED BY THE FACT HE FELT THERE WAS GREAT  
19 INJUSTICE BEING DONE HERE, INJUSTICE AND PERPETRATED BY DEBRA  
20 CASTODIO AND JOINED IN -- PERHAPS BECAUSE OF FEAR, JOINED BY  
21 HER DAUGHTER.

22 THIS ISN'T -- YOU KNOW, MR. BIDWELL HAS NO  
23 ANIMOSITY TOWARDS ANYBODY HERE. MR. BIDWELL IS A SCHOOL  
24 TEACHER WHO THINKS THAT, OTHER THAN THIS INCIDENT, NICOLE IS  
25 A PERFECTLY GOOD STUDENT. YOU KNOW, PERHAPS WITH PROBLEMS  
26 THAT MANY STUDENTS HAVE, BUT NO ANIMOSITY TOWARD HER.  
27 DOESN'T HAVE BAD EXPERIENCES WITH HER, IN OTHER WORDS.

28 BUT HE WAS VERY MUCH OFFENDED BY THE FACT THAT

39

1 DEBRA CASTODIO AND NICOLE COME INTO HIS CLASSROOM AND ASKED  
2 HIM TO GIVE THEM A FLIER THAT SHOWS A DATE FOR A LAPIDARY  
3 SHOW ON A SATURDAY. WHAT DOES HE DO? HE GOES TO HIS  
4 COMPUTER AND HE PRINTS OUT ONE FROM THE YEAR BEFORE THAT WAS  
5 ON A SATURDAY. SO THAT WAY, DEBRA CASTODIO CAN SAY, "WELL, I  
6 MADE AN HONEST MISTAKE. THIS FLIER WAS ON MY REFRIGERATOR ON  
7 THURSDAY, THE 20TH. WHEN I CAME IN TO COURT -- WHEN I CAME  
8 IN TO COURT JANUARY 21ST, I MADE AN HONEST MISTAKE."

9 SHE DIDN'T MAKE AN HONEST MISTAKE. SHE MADE A  
10 DELIBERATE, CALCULATED -- YOU CAN'T SAY IT'S ANYTHING LESS  
11 THAN DELIBERATE DECEPTION. SHE DID IT A MONTH LATER TO GET A  
12 PIECE OF EVIDENCE TO TRY TO SHOW THAT ON JANUARY 21ST SHE WAS  
13 MISTAKEN.

14 SHE WASN'T MISTAKEN. DELIBERATE, CALCULATED  
15 LIAR, AND THAT'S WHAT SHE DID IN THIS COURTROOM. SHE GAVE  
16 YOU A VERSION OF THE TRUTH THAT WAS SIMPLY NOT THE TRUTH. WE  
17 KNOW FOR A WIDE VARIETY OF REASONS. BUT THE FACT THAT SHE'S  
18 A DELIBERATE, CALCULATED LIAR IN THAT ONE RESPECT BRINGS YOU  
19 WITHIN THE PARAMETERS OF 2.21.2. THAT IS, WHEN A PERSON IS  
20 WILLFULLY AND DELIBERATELY FALSE IN ANY RESPECT, YOU SHOULD  
21 DISCOUNT THEIR TESTIMONY, AND YOU MAY TOTALLY DISREGARD IT IF  
22 YOU WISH, AND I BELIEVE YOU SHOULD.

23 NOW, LET'S TALK ABOUT ANOTHER DELIBERATE  
24 DECEPTION. DEBRA CASTODIO SAID THAT -- AND SHE TOLD THIS TO  
25 THE POLICE OFFICER -- THAT THERE ARE TWO PRIOR INCIDENTS OF  
26 DOMESTIC VIOLENCE, THAT ONE OCCURRED 15 YEARS AGO WHEN SHE'S  
27 PREGNANT WITH NICOLE. SHE SAID ANOTHER OCCURRED DURING THE  
28 DIVORCE.

40

1 NOW, WE KNOW FROM HER TESTIMONY THE DIVORCE IS --  
2 THAT THEY SEPARATED IN JUNE OF 1994, AND THAT THE DIVORCE  
3 THEN OCCURRED AFTER THE SEPARATION. THAT'S LATE 1994. HE

4 ALSO -- SHE ALSO TOLD HIM THAT THOSE ARE THE ONLY TWO  
5 INCIDENTS.  
6 NOW, IT'S VERY HARD FOR US TO PROVE A NEGATIVE,  
7 BUT LET'S LOOK AT WHAT WE HAVE THERE. DEBRA CASTODIO NEVER  
8 MADE ANY REPORT TO ANYBODY. SHE NEVER FILED A POLICE  
9 REPORT. SHE DIDN'T MENTION IT IN HER DIVORCE. SHE DIDN'T  
10 TELL ANYBODY, EXCEPT SHE CLAIMS TO HAVE TOLD IRENE AND CHERYL  
11 CASTODIO ABOUT IT.

12 SHE DIDN'T TELL HER FAMILY. SHE DIDN'T TELL  
13 ANYBODY ELSE. SO ALL WE HAVE IS HER WORD THAT THESE TWO  
14 INCIDENTS OCCURRED IN THE FIRST PLACE. BUT WE DO HAVE HER  
15 STATEMENT THAT THESE ARE THE ONLY TWO INCIDENTS THAT  
16 OCCURRED.

17 NOW, IT'S HARD FOR ME TO GO BACK AND SAY THESE  
18 TWO THINGS ARE A LIE. I'M NOT TRYING TO SAY THAT, BUT PROVE  
19 THAT THOSE TWO THINGS ARE A LIE. BUT REMEMBER, SHE SAID  
20 THERE WERE NO WITNESSES. ALL OF SUDDEN, THEN WE HAVE NICOLE  
21 SAYING, "OH, I SAW THE WHOLE THING THAT HAPPENED BACK IN  
22 CHRISTMAS" -- OR RATHER "NEW YEAR'S OF 1993."

23 WELL, ACCORDING TO DEBBIE CASTODIO'S STATEMENT TO  
24 THE POLICE OFFICER, THAT'S AN EVENT THAT NEVER EVEN  
25 OCCURRED. NOW, IF IT'S NOT ONE OF THE ONLY TWO INCIDENTS  
26 THAT SHE SAID TO THE POLICE OCCURRED, THEN WE HAVE NOW A  
27 FABRICATION OUT OF THE MOUTH OF NICOLE BEING INCIDENT TO  
28 AN INCIDENT WHICH, ACCORDING TO DEBRA CASTODIO, OCCURRED ON

41

1 OCTOBER 9TH, AND THAT NICOLE NEVER EVEN HEARD. I THINK THAT  
2 IS CERTAINLY AN INCIDENT OF -- INCIDENT OF DELIBERATE  
3 DECEPTION.

4 NOW, LET'S TALK ABOUT -- I'M VERY CLOSE TO BEING  
5 DONE. BUT I THINK THERE ARE A NUMBER OF OTHER THINGS WE HAVE  
6 HERE.

7 REPUTATION TESTIMONY. YOU MAY BE INCLINED TO  
8 DISCOUNT CHERYL AND IRENE CASTODIO. WE'VE GOT AN AUNT AND  
9 THE DEFENDANT'S MOTHER. YOU KNOW, THEY CERTAINLY HAVE A  
10 BIAS. DOESN'T MEAN WHAT THEY SAY IS TRUE.

11 I THINK IT IS TRUE. I DON'T THINK THEY OVER  
12 STATE THEIR CASE IN ANY RESPECT. I THINK IF THEY WERE TO BE  
13 LIARS, I THINK THEY COULD SAY A WHOLE LOT MORE THAN THEY  
14 HAVE. I DON'T BELIEVE THEY'RE LIARS. I THINK THEIR  
15 DEMEANORS ARE SUCH THAT WE GOT HONEST AND TRUTHFUL STATEMENTS  
16 FROM THEM.

17 WITH RESPECT TO TINA VALENTIN, TINA VALENTIN, THE  
18 MOTHER OF KRYSTAL, THE MOTHER HAS THREE INSTANCES OF SPECIFIC  
19 THINGS THAT HAPPENED BETWEEN HER AND DEBRA CASTODIO. LET'S  
20 TALK ABOUT THOSE JUST VERY BRIEFLY.

21 SHE SAYS SHE WAS OVERCHARGED FOR A HAIRCUT. YOU  
22 SAY, WHAT'S THE IMPORTANCE OF THAT? WELL, JUST LOOK AT IT  
23 VERY QUICKLY. TINA SAYS THAT DEBRA SAID SHE WAS GOING TO  
24 CHARGE HER \$20, THEN CHARGES HER 30. THEN DEBRA COMES IN AND  
25 SAYS, WELL, \$30 WAS HALF PRICE FOR A HAIRCUT, NOT HAIR COLOR,  
26 FOR A HAIRCUT.

27 NOW, I DON'T KNOW WHO CUTS YOUR HAIR, BUT, YOU  
28 KNOW, I CERTAINLY DON'T PAY TWICE \$30. I DON'T PAY \$30. I

42

1 BELIEVE THAT THAT'S NOT A HUGE ISSUE IN THIS CASE, BUT I  
2 THINK IT IS IN THE INSTANCE WHERE THIS IS ONE OF A NUMBER OF  
3 THINGS THAT WE WERE ABLE TO GIVE YOU THAT ARE SPECIFIC  
4 INSTANCES OF THINGS THAT ARE SOMETHING LESS THAN HONEST.

5 NOW, THERE ARE OTHER THINGS THAT I THINK ARE MORE  
6 IMPORTANT THAN THAT, SO LET ME MOVE ON TO THOSE. AND I THINK  
7 THE MOST IMPORTANT ONE FROM MY PERSPECTIVE IS THAT WHILE  
8 SHE'S GETTING HER HAIRCUT, THE DISCUSSION IS BETWEEN  
9 DEBRA CASTODIO AND TINA ABOUT GETTING CHILD SUPPORT. "GOING  
10 TO COURT YOU CAN GET A LOT MORE MONEY IF YOU'LL LIE ABOUT,  
11 YOU KNOW, WHAT YOU'RE DOING HERE."

12 TINA HAS A VERY CLEAR IMPRESSION AND  
13 UNDERSTANDING THAT DEBRA CASTODIO WAS GIVING HER, BASICALLY,  
14 FREE LEGAL ADVICE ABOUT HOW TO GO IN TO COURT AND LIE AND GET  
15 YOUR WAY AND GET WHAT YOU WANT, GET A HIGHER SUPPORT ORDER BY  
16 LYING ABOUT THE CIRCUMSTANCES, BECAUSE THEY DON'T CHECK.

17 NOW, I THINK SHE WAS BRAGGING ABOUT HER ABILITY  
18 TO DECEIVE THE COURT. REMEMBER, DEBRA CASTODIO AT HOLIDAYS  
19 TAUGHT THE KIDS, YOU KNOW, LITTLE SKITS, LITTLE PLAYS, TAUGHT  
20 THEM HOW TO BE LITTLE ACTRESSES. I BELIEVE SHE'S -- YOU  
21 KNOW, SHE FANCIES HERSELF AN ACTRESS. I BELIEVE SHE BELIEVES  
22 SHE CAN COME IN HERE, TURN ON THE TEARS AND MAKE YOU BELIEVE  
23 SHE'S THE VICTIM AND GET HER WAY IN THIS CASE.

24 I BELIEVE SHE BELIEVES SHE HAS THE ABILITY TO  
25 DECEIVE YOU, TO DECEIVE THE COURT, TO DECEIVE THE POLICE. I  
26 THINK THAT'S WHAT SHE TRIED TO DO. THAT'S WHAT SHE'S TRYING  
27 TO DO.

28 BUT I DON'T BELIEVE THAT'S THE TRUTH. I BELIEVE

43

1 THE TRUTH IS HERE, THAT THE TRUE VICTIM IS MR. CASTODIO, WHO,  
2 ALTHOUGH PROBABLY NOT -- SHOULDN'T SAY PROBABLY. I SHOULD  
3 SAY CERTAINLY NOT ARTFUL IN THE WAY HE APPROACHED THE  
4 PROBLEM, WAS UPSET ABOUT THE MOTHER, DEBRA CASTODIO, HITTING  
5 THE DAUGHTER.

6 NOW, WHETHER -- YOU KNOW, HE'S NOT THERE DURING  
7 THE TIMES WHEN THE DAUGHTER IS BEING HIT BY THE MOTHER. I  
8 DON'T KNOW HOW BAD THIS IS, YOU KNOW. WE DON'T HAVE THAT  
9 EVIDENCE. BUT I THINK FROM AMANDA WE KNOW THAT HE IS UPSET  
10 BECAUSE HE PERCEIVES THE SITUATION AS BEING SUCH THAT THE  
11 MOTHER IS BEATING THE DAUGHTER INAPPROPRIATELY.

12 AMANDA SAYS THAT THE ARGUMENT WAS -- EVERYTHING  
13 FLARES UP WHEN THE FATHER SAYS, "YOU ABUSE MY CHILD." OKAY.  
14 FATHER HAS INFORMATION COMING IN FROM DIFFERENT SOURCES, YOU  
15 KNOW. YOU DON'T HAVE HIM TELLING YOU; BUT YOU HAVE -- YOU  
16 KNOW, THAT CHERYL KNOWS ABOUT THE STUFF. ONLY LATER WE KNOW  
17 THAT HE'S -- I THINK NICKY EVEN SAID, "I DIDN'T TELL HER. I  
18 TOLD MY FATHER. I DIDN'T TELL HER."

19 WELL, BE THAT AS IT MAY, SHE DOESN'T DENY THAT  
20 SHE WAS COMPLAINING ABOUT BEING BEATEN BY HER MOTHER.  
21 IRENE CASTODIO SAID THERE WERE TWO COMPLAINTS THAT CAME TO  
22 HER ON TWO DIFFERENT OCCASIONS. KRYSTAL SAYS THAT NICKY  
23 COMPLAINED OF BEING BEATEN BETWEEN FIVE AND TEN TIMES TO HER,  
24 AND THAT SHE SAW BRUISES, AND SHE WAS AWARE OF THE FACT THAT  
25 NICKY WAS UPSET ABOUT HER MOTHER HITTING HER.

26 SO I THINK THAT MR. CASTODIO WAS UPSET ABOUT WHAT  
27 HE PERCEIVED AS BEING ABUSE BY DEBRA CASTODIO ON NICKY, THAT

28 HE CONFRONTED HER WITH THAT, AND THAT IN RESPONSE TO THAT, HE

44

1 WAS ATTACKED BY DEBRA CASTODIO.

2 NOW, LET ME CALL YOUR ATTENTION TO THE  
3 SELF-DEFENSE INSTRUCTION. I HAVE TO GO BACK TO MY NOTES  
4 HERE, REFRESH MY MEMORY. 5.50, IT SAYS, "PERSON HAS THE  
5 RIGHT TO DEFEND THEMSELVES IN A REASONABLE MANNER." YOU  
6 CAN'T OVERREACT. YOU CAN'T DO A LOT MORE. I THINK DEBRA  
7 WOULD LIKE YOU TO BELIEVE THAT HE OVERREACTED IF, IN FACT, IT  
8 WAS SELF-DEFENSE. I DON'T THINK HE DID.

9 I THINK AMANDA'S VERSION OF WHAT HAPPENED IS VERY  
10 DIFFERENT. IF YOU GO OVER CROSS-EXAMINATION OF THE POLICE  
11 OFFICER, WHAT AMANDA TOLD THE POLICE OFFICER AT THE TIME SHE  
12 WAS INTERVIEWED IS VERY DIFFERENT FROM WHAT NICOLE SAID,  
13 DIFFERENT FROM WHAT HER MOTHER SAID, VERY, VERY DIFFERENT  
14 FROM WHAT HER MOTHER SAID.

15 NICOLE -- I'M SORRY -- AMANDA SAYS THAT SHE SEES  
16 HER GRABBED BY THE SHOULDERS, SOME SHAKING, TURNING HER  
17 AROUND, PUSHED HER DOWN, AND THEN HE LEAVES. HE DOES NO MORE  
18 THAN WHAT IS NECESSARY, NECESSARY TO STOP THE ATTACK AND GET  
19 OUT OF THERE.

20 IS THAT FLIGHT FROM THE SCENE? I DON'T THINK  
21 SO. THAT'S GETTING AWAY FROM THE SITUATION THAT HAS A  
22 POTENTIAL OF ESCALATING FURTHER. HE GOT OUT OF THERE AS  
23 QUICKLY AS HE COULD. ONLY THING HE COULD HAVE DONE UNDER  
24 THOSE CIRCUMSTANCES.

25 LADIES AND GENTLEMEN, THANK YOU FOR YOUR TIME AND  
26 ATTENTION. I THINK I HAVE NOT ONLY DOUBT, BUT OVERWHELMING  
27 DOUBT OF GUILT OF MR. CASTODIO IN THIS PARTICULAR INSTANCE.  
28 THANK YOU ONCE AGAIN.

45

1 THE COURT: THANK YOU, MR. LUECK.

2 I'M GOING TO EXCUSE YOU THEN, LADIES AND  
3 GENTLEMEN, UNTIL 11:20, AND WE'LL HAVE THE FINAL CLOSING  
4 ARGUMENT FROM THE DISTRICT ATTORNEY. AND I BELIEVE  
5 JUDGE ELSWICK FROM ACROSS THE HALLWAY WILL COME OVER, READ  
6 THE JURY INSTRUCTIONS TO YOU. DEPENDING ON HER SCHEDULE, I  
7 MAY HAVE HER READ THE JURY INSTRUCTIONS BEFORE THE FINAL  
8 CLOSING ARGUMENT, ALTHOUGH I PREFER NOT TO DO IT THAT WAY.

9 CONTINUE TO NOT DISCUSS THE CASE. LEAVE YOUR  
10 NOTE PADS ON THE CHAIRS. SEE YOU AT 11:20.

11

12 (AT 11:05 A.M. A RECESS WAS TAKEN  
13 UNTIL 11:20 A.M.)

14

15 THE COURT: OKAY. WELCOME BACK, EVERYBODY.

16 EVERYBODY'S HERE ON THE TRIAL MATTER.

17 AND, COUNSEL, YOU CAN RESUME -- BEGIN THE  
18 REBUTTAL ARGUMENT.

19 MR. RACANA: THANK YOU, YOUR HONOR.

20

21 REBUTTAL ARGUMENT

22 BY MR RACANA:

23 LADIES AND GENTLEMEN, I'LL BE BRIEF. I PROMISE.  
24 IT'S NOT GOING TO BE NEARLY AS LONG AS THE FIRST ARGUMENT. I

25 JUST WANT TO TOUCH ON A FEW POINTS.  
26 POINT NO. ONE, THAT YOU HEARD THE DEFENSE  
27 COUNSEL'S ARGUMENT, AND HE'S, YOU KNOW, BASICALLY, "I BELIEVE  
28 THIS. I BELIEVE THAT. I BELIEVE THIS. I BELIEVE THAT."

46

1 THE SIMPLE FACT IS, IS THAT DEFENSE COUNSEL'S NOT  
2 A JUROR. I'M NOT A JUROR. IT DOESN'T MATTER WHAT I  
3 BELIEVE. IT DOESN'T MATTER WHAT DEFENSE COUNSEL BELIEVES,  
4 DOESN'T EVEN MATTER WHAT THE JUDGE BELIEVES. YOU ARE THE  
5 SOLE JUDGES OF THE TESTIMONY. YOU ARE THE TRIERS OF FACT.  
6 YOU ARE THE ONE. IT'S YOUR EVALUATION OF THE TESTIMONY AND  
7 OF THE EVIDENCE AND OF THE PICTURES.

8 NOW, LET'S TALK ABOUT THESE THINGS, ABOUT  
9 MISTAKES AND LIES. DEFENSE COUNSEL WENT IN TO THIS WHOLE  
10 THING ABOUT MR. BIDWELL THINKING THAT IT WAS A CERTAIN  
11 DATE -- I'M SORRY -- DEBRA THINKING IT WAS A DIFFERENT DATE  
12 FOR THIS LAPIDARY SHOW, AND THEN IT DIDN'T HAPPEN. BUT YOU  
13 KNOW WHAT? IT HAPPENS ALL THE TIME.

14 LET'S GIVE YOU AN EXAMPLE. SOMETIMES IT JUST  
15 DOESN'T HAPPEN. YOU SAY THINGS ARE GOING TO HAPPEN, AND IT  
16 DOESN'T HAPPEN. WHEN I STARTED OUT THIS TRIAL, I MENTIONED A  
17 BUNCH OF WITNESSES. I CALLED EVERYONE EXCEPT FOR  
18 OFFICER RANDAZO.

19 DEFENSE COUNSEL ROLLED OFF AND NAMED A LIST OF  
20 WITNESSES AND INCLUDED NAMES AND TERRY VUKAVICH (PHONETIC  
21 SPELLING), OKAY, SAID THAT THEY WERE GOING TO TESTIFY. YOU  
22 NEVER SAW THEM ON THE WITNESS STAND. HOW ARE YOU GOING TO  
23 EVALUATE THAT? ARE YOU SAYING THAT I WILLFULLY LIED BECAUSE  
24 I PUT OFFICER RANDAZO ON THE LIST OR DEFENSE COUNSEL  
25 INTENTIONALLY LIED BECAUSE HE SAID TERRY VUKAVICH WAS GOING  
26 TO TESTIFY?

27 DOESN'T EVEN COME CLOSE, BECAUSE INSTEAD YOU GET  
28 KRYSTAL, WHICH WE DIDN'T EVEN KNOW ABOUT. I'M NOT SAYING

47

1 THAT THEY'RE MAKING WILLFUL LIES OR WILLFUL  
2 MISREPRESENTATIONS. WE GO WITH WHAT WE GET SOMETIMES.  
3 PEOPLE MAKE MISTAKES AND THINGS DON'T WORK OUT THE WAY THEY  
4 ARE.

5 I JUST GO BACK TO THE POINT WHAT DOES THAT HAVE  
6 TO DO WITH THIS CASE? SO YOU KNOW WHAT? HERE'S WHAT WE'RE  
7 GOING TO DO. I'M GOING TO GO AHEAD, AND LET'S ASSUME  
8 EVERYTHING THE DEFENSE CASE SAYS. WE'LL ASSUME THAT THERE  
9 WAS SOME ACTS OF CHILD CORPORAL PUNISHMENT BEFORE.

10 LET'S ASSUME WAY BACK BEFORE THIS THING ABOUT  
11 HAIR COLOR, CHILD SUPPORT -- WHAT WAS THE OTHER THING? --  
12 CHILD SUPPORT AND THE OTHER THINGS WITH VALENTIN,  
13 TINA VALENTIN. LET'S TALK ABOUT THAT AS WELL. LET'S TALK  
14 ABOUT THE WHOLE THING, ABOUT THE E-MAIL WITH CHERYL. LET'S  
15 PUT THAT ALL IN THERE.

16 I'LL GO WITH WHAT AMANDA SAYS, THAT THIS ARGUMENT  
17 WAS ONLY AN -- ONLY ABOUT CHILD ABUSE. LET'S GO AHEAD AND DO  
18 THAT. WELL, HOW DOES THAT EFFECT WHAT HAPPENED ON OCTOBER 9,  
19 1999?

20 NOW, BY DOING THAT, HE TALKED ABOUT SAYING IF  
21 YOU'RE MATERIALLY FALSE -- I'M SORRY -- IF YOU WERE WILLFULLY

22 FALSE ABOUT SOME THINGS, THEN YOU ARE TO BE DISCREDITED ON  
23 OTHERS. WELL, THAT'S KIND OF TRUE, BECAUSE DEFENSE COUNSEL  
24 HASN'T GIVEN EVERYTHING THAT WAS SAID. IN FACT, HE SAID --  
25 BASICALLY, HE SAID IN OTHER RESPECTS. SO IF YOU'RE WILLFULLY  
26 FALSE ABOUT SOMETHING THAT HAPPENED IN JANUARY, THEN YOU MUST  
27 BE FALSE ON OCTOBER 9, 1999.

28 BUT HERE'S WHAT WILLFULLY FALSE DEALS WITH:

48

1 "WILLFULLY FALSE, A WITNESS WHO IS WILLFULLY FALSE IN ONE  
2 MATERIAL PART IS TO BE DISTRUSTED IN OTHERS." I'M  
3 HIGHLIGHTING THE WORD "MATERIAL." MATERIAL, THAT MEANS KEY,  
4 THAT MEANS WHAT THIS CASE IS ABOUT.

5 IF YOU LOOK AT THE VERY FRONT OF WHAT THIS CASE  
6 IS ABOUT AND ITS ELEMENTS, IT DEALS WITH THE DEFENDANT  
7 WILLFULLY, DELIBERATELY INFLECTING INJURY ON PARENT OR CHILD,  
8 RESULTING IN A TRAUMATIC CONDITION. THERE'S NOTHING ON HERE  
9 ABOUT ANYTHING TO DO WITH THE LAPIDARY SHOW, HAS NOTHING TO  
10 DO WITH ANYTHING ABOUT HAIR COLORING OR CHILD SUPPORT OR  
11 THINGS ABOUT DRIVING TO THE STORE WHEN AT A FRIENDS. IT HAS  
12 NOTHING TO DO WITH ANYTHING ABOUT CHILD ABUSE.

13 EVEN -- THE JUDGE EVEN TOLD YOU THE INSTRUCTION  
14 THAT DEALT WITH CORPORAL PUNISHMENT HAS NOTHING TO DO WITH  
15 THIS CASE. IT'S NOT EVEN A DEFENSE TO THIS CASE. HOW IS  
16 THAT ANY JUSTIFICATION? YOU TAKE THAT ALL AWAY, IT STILL  
17 HOLDS THE CASE TOGETHER. THAT HAS NOTHING TO DO WITH THIS  
18 CASE.

19 EVEN THEN IT DOESN'T CHANGE AMANDA'S TESTIMONY.  
20 AMANDA'S TESTIMONY WAS STILL CONSISTENT WITH WHAT SHE SAID IN  
21 THE POLICE REPORT. IT'S AS SIMPLE AS THAT. THAT WAS THE  
22 TESTIMONY THAT YOU HEARD, THAT THE OFFICER HEARD.

23 AND HE ALSO SAID THAT -- HE TALKED ABOUT AMANDA  
24 CALLING, THE 911 TAPE, AND THAT'S THE IMPORTANT TAPE. AND I  
25 WANTED TO SAY, AMANDA CALLED 911. YOU KNOW WHO DIDN'T CALLED  
26 911? DEBRA DIDN'T CALL 911.

27 YOU KNOW, I WAS THINKING ABOUT THIS CASE. YOU  
28 KNOW WHAT? EVEN THOUGH THOSE KIDS WERE PRESENT WHEN THAT

49

1 HUSBAND BEAT THE WIFE, THERE WAS SOMETHING GOOD ABOUT IT,  
2 SOMEBODY WAS THERE. BECAUSE YOU KNOW WHAT? THIS WASN'T THE  
3 FIRST TIME THIS HAPPENED. FIFTEEN YEARS AGO, DID SHE CALL  
4 911? NO. THIS HAPPENED FIVE YEARS AGO, DID SHE CALL 911  
5 THEN? NO.

6 HOW ABOUT OCTOBER 9, 1999, WHEN HE CHOKED HER,  
7 THREW HER TO THE GROUND AND CHOKED HER, THREW HER TO THE  
8 GROUND, INTO THE COFFEE TABLE, DID SHE CALL 911 THEN? NO.  
9 YOU KNOW, GOOD THING AMANDA WAS THERE. SHE HAD FORESIGHT TO  
10 CALL 911, BECAUSE DEBRA WAS NEVER GOING TO DO THAT. IF THAT  
11 WAS THE CASE, WE WOULDN'T HAVE THIS CASE TODAY.

12 ASSUMING ALL OF THAT IS TRUE, THAT DOESN'T CHANGE  
13 THE TESTIMONY OF THE CHILDREN ON HOW HE REACTED WHEN THEY  
14 WERE TALKING ABOUT THEIR THREATS OF THEIR FATHER. HE WAS SO  
15 APOLOGETIC IN THE BEGINNING, THEN LATER ON, WHOA, WHOA, IN  
16 THE TRUCK "DAD'S SCARING ME."

17 DID THAT LOOK LIKE THEY WERE LYING ON THE STAND  
18 WHEN THEY SAID THAT? THAT DOESN'T CHANGE THE FACT --

19 ASSUMING EVERYTHING IS TRUE, WHAT THE DEFENSE SAYS DOESN'T  
20 CHANGE THE FACT THAT THE CHILDREN WERE UPSET ON OCTOBER 9,  
21 1999.

22 WHEN THE OFFICER SPOKE TO THEM, IT WAS TWO  
23 MINUTES AFTER THE CALL WAS MADE, SEPARATED THEM, AND WHAT DID  
24 THEY SAY? "OH, IT -- DADDY THREW MOMMY TO THE GROUND."

25 AMANDA'S OWN TESTIMONY -- DEBBIE ON THAT DAY, ON  
26 OCTOBER 9, I'M NOT EVEN TALKING ABOUT HERE ON THE WITNESS  
27 STAND -- "I CALLED 911, BECAUSE DADDY PUT MOMMY TO THE  
28 GROUND," NOT THE OTHER WAY AROUND, NOT BECAUSE -- THAT SHE

50

1 WAS BEING ATTACKED.

2 AND ASSUMING EVERYTHING THAT THE DEFENSE  
3 COUNSEL'S ARGUING IS TRUE, IT DOESN'T CHANGE THAT THERE'S  
4 STILL INJURIES ON THE FOREHEAD, DOESN'T CHANGE THE FACT THAT  
5 THERE'S INJURIES TO THE ELBOW, THE KNEE AND HER HAND.

6 SO WHAT CAUSED ALL OF THIS? THIS WHOLE CASE --  
7 THE MATERIAL PARTS OF THIS CASE IS HOW DID SHE GET THOSE  
8 INJURIES? THAT'S IT. IT DOESN'T MATTER WHAT DEFENSE COUNSEL  
9 BELIEVES. IT MATTERS WHAT YOU HEAR ON THE TESTIMONY.

10 NOW, DEFENSE COUNSEL WAS TALKING ABOUT HOW ABOUT  
11 DEBRA AND HER TESTIMONY AND NICOLE AND HER TESTIMONY AND  
12 AMANDA AND HER TESTIMONY? BUT YOU KNOW WHAT? DIDN'T MAKE A  
13 SINGLE COMMENT, A SINGLE COMMENT ABOUT THE OFFICER'S,  
14 OFFICER HENDERSON. AND YOU KNOW WHY? BECAUSE HE HAS NO  
15 STAKE IN THIS. HE DOESN'T EVEN KNOW ANYBODY. HE'S JUST  
16 DOING HIS JOB.

17 SIX MONTHS AGO HE WAS CUTTING BOTH WAYS. THERE  
18 WAS NO ALCOHOL THAT HE COULD SEE, BUT HE DID SEE THOSE  
19 INJURIES. HE GOT THE STATEMENTS FROM ALL OF THE CHILDREN AND  
20 DEBRA WHEN HE WAS THERE. THE DEFENDANT WASN'T THERE. FROM  
21 HIS EXPERIENCE, TRAINING AND THE DOZEN OR SO DOMESTIC CALLS,  
22 NOT TO MENTION ALL THE OTHER CALLS THAT HE'S DONE, HE COMES  
23 UP TO ONLY ONE CONCLUSION. YEAH, HE BEAT HER.

24 THIS IS NOT A POPULARITY CONTEST. THIS IS NOT A  
25 QUESTION ABOUT THE VICTIM -- I DON'T LIKE THIS VICTIM,  
26 BECAUSE SHE'S DONE THIS THING ABOUT THIS LAPIDARY SHOW. EVEN  
27 THEN, DOES THAT GIVE A JUSTIFICATION TO DO THE THINGS THAT  
28 THE DEFENDANT DID ON OCTOBER 9, 1999?

51

1 NOW, I DO CALL DEBRA THE VICTIM, BUT SHE'S NOT  
2 THE ONLY VICTIM HERE. ALL RIGHT. THERE'S STILL NICOLE AND  
3 THERE'S STILL AMANDA. WHEN ALL IS SAID AND DONE, NO MATTER  
4 WHAT HAPPENS THERE'S STILL GOING TO BE THE CHILDREN, AND  
5 THEY'RE STILL GOING TO HAVE TO LIVE WITH THIS.

6 THEY'RE GOING TO TRUST -- I TRUST THAT THE SYSTEM  
7 IS GOING TO BE WORKING, BECAUSE THEY DID EVERYTHING THAT THEY  
8 DID. THEY MADE THE STATEMENTS. THEY CALLED THE POLICE.  
9 THEY TESTIFIED ON THE WITNESS STAND. WHAT MORE IS THERE LEFT  
10 TO PROVE? WHAT MORE IS THERE LEFT TO PROVE?

11 LADIES AND GENTLEMEN, THANK YOU FOR YOUR TIME.  
12 AFTER YOU'VE DELIBERATED, I'M CONFIDENT THAT THE ONLY  
13 CONCLUSION THAT CAUSED THOSE INJURIES IS THAT THE DEFENDANT  
14 WILLFULLY INFLICTED BODILY INJURY ON DEBBIE CASTODIO.

15 THANK YOU.

16 THE COURT: OKAY. THANK YOU BOTH COUNSEL.  
17 IN A MOMENT, WE'RE GOING TO HAVE JUDGE ELSWICK,  
18 WHO IS STANDING BY, COME AND READ THE JURY INSTRUCTIONS TO  
19 YOU. AT THAT POINT, YOU'LL BE EXCUSED UNTIL 1:30 AND REPORT  
20 BACK HERE AT THAT TIME. THE BAILIFF WILL TAKE YOU INTO THE  
21 JURY ROOM, AND YOU'LL HAVE THE JURY INSTRUCTIONS WITH YOU IN  
22 THE JURY ROOM ALONG WITH THE EXHIBITS THAT HAVE BEEN  
23 INTRODUCED IN TO EVIDENCE.  
24 THE FIRST THING YOU SHOULD DO WOULD BE TO PICK A  
25 FOREPERSON AND THEN BEGIN YOUR DELIBERATIONS. THE BASIC  
26 SCHEDULE WILL BE 1:30 TO A POINT THAT'S CONVENIENT TO YOU  
27 BETWEEN 4:30 AND 5:00 TO STOP, AND THEN FROM 9:00 TO 12:00  
28 AND 1:30 TO 4:30 OR 5:00, WITH MORNING AND AFTERNOON BREAKS

52

1 AT A POINT THAT'S CONVENIENT FOR YOU FOR 15 TO 20 MINUTES.  
2 AS FAR AS THE TWO ALTERNATES, I'LL GIVE YOU THE  
3 OPTION NOW AS TO -- SINCE THE ORDERS ARE THAT ALL 12 JURORS  
4 THAT ARE HERE NOW WILL BE BACK AT 1:30, IF YOU WANT TO COME  
5 BACK AND STAND BY, YOU CAN. IF YOU WANT TO BE PUT ON CALL,  
6 WHERE YOU'RE NOT HERE BUT YOU CAN BE HERE WITHIN HALF-HOUR OF  
7 THE TIME THAT WE CALL YOU AT A NUMBER YOU'LL LEAVE WITH THE  
8 CLERK, AND YOU CAN DO THAT.  
9 DO YOU KNOW WHAT YOU'D LIKE TO DO, SIR?  
10 A JUROR: I'VE GOT TO GO BACK TO WORK.  
11 THE COURT: AND, MA'AM?  
12 A JUROR: I'D LIKE TO COME BACK.  
13 THE COURT: WHEN JUDGE ELSWICK IS DONE READING THE  
14 JURY INSTRUCTIONS, IF YOU'LL LEAVE YOUR NUMBER WITH THE CLERK  
15 WHERE SHE CAN GET HOLD OF YOU. AND YOU CAN COME BACK AT  
16 1:30.  
17 ONLY OTHER ADMONITION I'LL GIVE YOU, OTHER THAN  
18 TO FOLLOW THE JURY INSTRUCTIONS, DON'T DISCUSS THE CASE  
19 EXCEPT WHEN ALL 12 OF YOU ARE IN THE JURY ROOM, NOT ON  
20 BREAKS, AT LUNCH, BUT ONLY WHEN EVERYBODY IS TOGETHER IN THE  
21 JURY ROOM.  
22 COUNSEL STIPULATE TO EXCUSE THE COURT REPORTER  
23 FROM TAKING DOWN JURY INSTRUCTIONS?  
24 MR. RACANA: PEOPLE STIPULATE.  
25 MR. LUECK: SO STIPULATED, YOUR HONOR.  
26 I WOULD LIKE TO HAVE A PRINTED COPY OF THE ONES  
27 ACTUALLY READ, HOWEVER.  
28 THE COURT: JUDGE ELSWICK WILL READ THE PRINTED COPY.

53

1 THE PRINTED COPY IS KEPT IN THE FILE.  
2  
3 (AT 12:20 P.M. LUNCH RECESS WAS TAKEN  
4 UNTIL 1:30 P.M.)  
5 (THE FOREGOING PROCEEDINGS WERE CONCLUDED.)  
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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 HON. R. BRUCE MINTO, JUDGE DIVISION 7  
4

5 PEOPLE OF THE STATE OF CALIFORNIA, )  
6 )  
7 ) PLAINTIFF, ) CASE NO. 9JM12084  
8 )  
9 ) VS. ) REPORTER'S  
10 ) ) CERTIFICATE  
11 )  
12 ) LIONEL WAYNE CASTODIO, )  
13 )  
14 ) DEFENDANT. )  
15 )  
16 )  
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10 STATE OF CALIFORNIA )  
11 ) ) SS.  
12 ) COUNTY OF LOS ANGELES )  
13 )

14 I, MELINDA DELGADO, OFFICIAL REPORTER OF THE SUPERIOR  
15 COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS  
16 ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1  
17 THROUGH 53, COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT  
18 OF THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER ON  
19 APRIL 20, 2000.

20 DATED THIS 21ST DAY OF JULY, 2000.  
21  
22  
23  
24

\_\_\_\_\_  
OFFICIAL COURT REPORTER

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