

COPY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

WORKING COPY

DEPARTMENT F4

HON. JEFFREY S. BOSTWICK, JUDGE

IN RE THE MATTER OF:)
)
 PETITIONER: TIMOTHY COX)
)
 AND) CASE NO. D517015
)
 RESPONDENT: NADJA COX)
)
)
) LOSC

TRANSCRIPT OF COURT PROCEEDINGS

SAN DIEGO, CALIFORNIA

OCTOBER 22, 2009

APPEARANCES:

FOR THE PETITIONER: JOHN GRIFFITH
 ATTORNEY AT LAW

FOR THE RESPONDENT: NADJA COX
 IN PROPRIA PERSONA

REPORTED BY: DANA SARUK
 CSR NO. 10653
 SAN DIEGO, CALIFORNIA

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THE COURT: ALL RIGHT. THE COX MATTER.

MR. GRIFFITH: GOOD MORNING, YOUR HONOR. JOHN GRIFFITH FOR PETITIONER TIM COX, WHO IS PRESENT. RESPONDENT HAS NOT AGREED TO WAIVE LATE SERVICE. WE WOULD BE WILLING TO WAIVE LATE SERVICE IF RESPONDENT DOES. OUR DECLARATION IS A REBUTTAL DECLARATION THAT GOES TO CREDIBILITY, YOUR HONOR.

THE COURT: SO THAT MEANS I'M GOING TO STRIKE ANYTHING BOTH SIDES ATTEMPT TO OFFER THE COURT TODAY. THAT MEANS YOUR PLEADINGS ARE OUT THAT ARE LATE AS WELL AS HIS.

DO YOU UNDERSTAND THAT, MA'AM?

MS. COX: YES, I DO.

THE COURT: SO YOU EITHER WAIVE FOR BOTH SO I CAN RECEIVE BOTH LATE SETS OR I STRIKE BOTH LATE SETS, BUT IT'S NOT ONE OR THE OTHER.

MS. COX: RIGHT.

THE COURT: SO YOU NEED TO EVALUATE HOW IMPORTANT YOUR PAPERWORK THAT YOU ARE TRYING TO FILE TODAY AND HAVE THE COURT CONSIDER TODAY IS, WEIGH IT AGAINST REALISTICALLY HOW YOU THINK IMPORTANT HIS PAPERWORK IS, BUT IT'S NOT GOING TO BE ONE OR THE OTHER. SO IT'S EITHER ALL IN OR ALL OUT. YOU NEED TO MAKE THAT DECISION RIGHT NOW.

MS. COX: OKAY.

THE COURT: SO IS IT ALL IN OR ALL OUT, MA'AM?

1 THIS IS NECESSITATED BY THE FACT THAT BOTH OF
 2 YOU HAVE NOT FILED YOUR PAPERWORK ON TIME EVEN THOUGH
 3 THIS HEARING WAS SET BACK IN SEPTEMBER, OVER A MONTH AGO,
 4 FOR TODAY. EVEN THOUGH AT THAT TIME -- IN FACT, IT WAS
 5 EARLIER THAN THAT. I THINK I SET -- IT WAS IN AUGUST,
 6 AUGUST 4. I SET THIS EVIDENTIARY HEARING ON AUGUST 4.
 7 SO YOU HAVE BOTH HAVE KNOWN THAT YOU HAD A TRIAL DATE SET
 8 OVER TWO MONTHS AGO FOR YOU TO GET ALL YOUR PAPERWORK
 9 TOGETHER, GET IT ALL FILED AND SERVED WELL IN ADVANCE OF
 10 THE DAY OF THE HEARING. SO THE FACT THAT BOTH OF YOU ARE
 11 COMING IN HERE TODAY AFTER KNOWING ABOUT THIS TRIAL FOR
 12 ALMOST THREE MONTHS, ALMOST THREE MONTHS, YOU KNOW, IS
 13 NOT A BASIS FOR THE COURT TO CONTINUE THIS AGAIN.

14 SO YOUR OPTIONS BASICALLY ARE I WILL CONSIDER
 15 BOTH SETS OF PLEADINGS THAT ARE LATE -- IF YOU BOTH AGREE
 16 WITH THAT, THE COURT CAN DO IT. IF THERE IS AN OBJECTION
 17 BY ONE SIDE, THEY ARE BOTH OUT.

18 MS. COX: THEN I'M GOING TO OBJECT. I WILL
 19 OBJECT TO AND I HAVE NO PROBLEM TO BOTH GOING OUT.

20 MR. GRIFFITH: YOUR HONOR, WITH RESPECT TO MY
 21 CLIENT'S PLEADINGS, HE HAS HAD ONGOING CRIMINAL HEARINGS
 22 GOING ON SINCE AUGUST.

23 THE COURT: WAS IT RESOLVED?

24 MR. GRIFFITH: IT IS RESOLVED. EVERYTHING HAS
 25 BEEN DROPPED. THIS WAS ACTUALLY MY DECLARATION
 26 CONCERNING THE CRIMINAL CHARGES BEING DROPPED.

27 THE COURT: OKAY. DO YOU HAVE A DOCKET OR SOME
 28 PAPERWORK FROM THE CRIMINAL COURT THAT THAT'S BEEN DONE?

1 MR. GRIFFITH: I HAVE AN E-MAIL FROM THE PUBLIC
2 DEFENDER AND A STATEMENT FROM ONE OF THE WITNESSES.

3 THE COURT: SO THAT CASE HAS BEEN DISMISSED?

4 MR. GRIFFITH: YES, YOUR HONOR.

5 THE COURT: OKAY. ALL RIGHT. YOU MAY PROCEED.

6 MS. COX: I HAD FILED A DECLARATION TODAY
7 INFORMING THE COURT OF THE IMPROPER SERVICE OF NOTICE OF
8 LODGMENT --

9 THE COURT: I DON'T WANT TO HEAR WHAT YOU TRIED
10 TO FILE TODAY, SO DON'T TRY TO TELL ME WHAT'S IN YOUR
11 PAPERWORK THAT I JUST EXCLUDED.

12 HERE IS WHAT YOU HAVE TO DO TODAY: YOU WANT TO
13 LOOK AT ME, PROBABLY NOT YOUR NOTES. SO YOU MAY SIT DOWN
14 SO YOU ARE MORE COMFORTABLE.

15 THE CLERK: THEY HAVE NOT BEEN SWORN IN YET.

16 THE COURT: LET'S DO THAT NOW AND I'LL TELL YOU
17 WHAT'S REQUIRED. PLEASE RAISE YOUR RIGHT HANDS TO BE
18 SWORN.

19 THE CLERK: DO YOU AND EACH OF YOU SOLEMNLY
20 STATE THAT THE TESTIMONY YOU SHALL GIVE IN THIS MATTER
21 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
22 TRUTH, SO HELP YOU GOD?

23 MS. COX: YES, I DO.

24 MR. GRIFFITH: YES?

25 MR. COX: YES.

26 THE COURT: THANK YOU. PLEASE BE SEATED.

27 SO YOU FILED A MOTION ON JULY 10, 2009 FOR
28 RESTRAINING ORDERS. A MOTION WAS SET ON AUGUST 4, 2009,

1 BECAUSE ONE OR BOTH OF YOU, I'M NOT SURE WHICH, MAYBE
 2 BOTH, ASKED THE COURT TO SET IT FOR A HEARING AT WHICH
 3 LIVE WITNESS TESTIMONY WOULD BE TAKEN. THE COURT DID
 4 THAT AND THAT HEARING IS SET FOR TODAY, AND IN FACT, A
 5 TRIAL, IF YOU WILL, OR LONG EVIDENTIARY HEARING BEING SET
 6 FOR TODAY.

7 SO THERE IS ONE ISSUE BEFORE THE COURT TODAY,
 8 AND THAT IS WHETHER THE COURT SHOULD GRANT YOUR REQUEST
 9 FOR PERMANENT RESTRAINING ORDERS AGAINST THE RESPONDENT.
 10 EITHER YOU AND/OR THE RESPONDENT ASKED THE COURT TO
 11 ENTERTAIN LIVE WITNESS TESTIMONY, AND LOOKING THROUGH THE
 12 FILE, I DID NOT SEE THAT EITHER ONE OF YOU HAVE EXCHANGED
 13 A LIST AS TO WHO THE LIVE WITNESSES WOULD BE AND A
 14 STATEMENT IN VERY SUMMARY FORM AS TO WHAT THE PROPOSED
 15 TESTIMONY WOULD SHOW, WHICH IS REQUIRED BY THE PROCEDURAL
 16 RULES OF THE COURTS IN THIS STATE, SO I HAVE NO IDEA
 17 WHETHER THERE IS GOING TO BE LIVE WITNESS TESTIMONY OR
 18 NOT.

19 SO YOUR JOB IS SIMPLE TODAY, OR STRAIGHTFORWARD.
 20 I SHOULD SAY NOT SIMPLE BUT STRAIGHTFORWARD. THAT IS
 21 YOUR JOB TODAY IS TO CONVINCING THE COURT THAT YOUR VERSION
 22 OF THE FACTS THAT ARE BEING ALLEGED TO SUPPORT YOUR
 23 REQUEST FOR RESTRAINING ORDERS ARE MORE LIKELY THAN NOT
 24 TO BE TRUE VERSUS HIS VERSION OF THE FACTS. YOU HAVE GOT
 25 TO PROVIDE THE COURT WITH EVIDENCE SHOWING THAT AND THEN
 26 THE COURT WILL MAKE A DECISION. THAT'S WHAT WE ARE ABOUT
 27 TODAY.

28 WHAT I'M NOT GOING TO CONSIDER IS EVIDENCE THAT

1 IS IMPROPERLY BEFORE THE COURT, SUCH AS EVIDENCE
 2 CONTAINED IN DECLARATIONS ATTEMPTED TO BE FILED TODAY
 3 WHICH I'VE JUST EXCLUDED BECAUSE THEY ARE BOTH LATE BASED
 4 ON YOUR OBJECTION, WHICH IS AN APPROPRIATE OBJECTION BY
 5 THE WAY. SO DON'T TRY TO SLIP IT IN THE BACK DOOR. I'VE
 6 BEEN DOING THIS 30-PLUS YEARS. I CAN UNDERSTAND WHEN
 7 PEOPLE TRY TO WORK AROUND MY RULES.

8 MS. COX: YES, SIR.

9 THE COURT: SO THEY AREN'T COMING IN.

10 WHAT CAN COME IN, IF BY WAY OF EVIDENCE OR WHAT
 11 YOU CAN COMMENT ON, IS WHAT'S IN THE FILE UNLESS THERE IS
 12 SOME OBJECTION. IF THERE IS AN OBJECTION, I'LL RULE ON
 13 THE OBJECTION.

14 NOW, DO YOU HAVE ANY WITNESSES THAT YOU WANT TO
 15 TESTIFY?

16 MS. COX: I DO HAVE ONE WITNESS TODAY AND THAT'S
 17 CASSIE. SHE IS STAYING WITH ME BECAUSE OF THE VIOLATION
 18 OF THE RESTRAINING ORDER BASED ON --

19 THE COURT: I DON'T WANT HER TO HEAR WHAT'S
 20 GOING ON HERE. HAVE HER STEP OUTSIDE.

21 AND YOU DID NOT NOTICE THE OTHER PARTY OF YOUR
 22 INTENT TO TAKE TESTIMONY FROM THIS PARTICULAR WITNESS, IS
 23 THAT RIGHT, MA'AM?

24 MS. COX: SAY THAT ONE MORE TIME. I'M SORRY.

25 THE COURT: DID YOU PROVIDE NOTICE TO THE OTHER
 26 PARTY OF YOUR INTENT TO TAKE TESTIMONY OF THIS PARTICULAR
 27 WITNESS?

28 MS. COX: IF THEY HAVE NOT RECEIVED IT, THEN I

1 HAVEN'T.

2 THE COURT: WELL, YOU WOULD KNOW IF YOU PREPARED
3 IT OR NOT.

4 MS. COX: EVERYTHING IS PREPARED.

5 THE COURT: SO DID YOU MAKE A LIST SAYING I'M
6 GOING TO CALL SO AND SO AND SO AND SO AND SO AND SO AS
7 WITNESSES AT MY TRIAL ON OCTOBER 22 AND SEND THAT LIST TO
8 HIM?

9 MS. COX: YOUR HONOR, I THOUGHT THAT WAS DONE
10 WITH MY LEGAL ASSISTANT. IF IT'S NOT, THAT'S OKAY.

11 THE COURT: OKAY. WHAT IS IT THAT -- FIRST OF
12 ALL, WHAT'S THE NAME OF THE WITNESS?

13 MS. COX: CASSIE IVERSON.

14 THE COURT: WHAT IS IT THAT MS. IVERSON WOULD
15 STATE OTHER THAN WHAT SHE SAID IN HER WRITTEN
16 DECLARATION?

17 MS. COX: PROBABLY NOTHING DIFFERENT THAN WHAT
18 SHE OBSERVED.

19 THE COURT: IS THERE REALLY A NEED FOR HER TO
20 TESTIFY THEN?

21 MS. COX: NO.

22 THE COURT: SO WE WON'T ENTERTAIN TESTIMONY FROM
23 MS. IVERSON BECAUSE, A, IT'S CUMULATIVE, AND, B, IT
24 WASN'T PROPERLY NOTICED.

25 MR. GRIFFITH: YES, YOUR HONOR.

26 THE COURT: DO YOU HAVE ANY OTHER WITNESSES?

27 MS. COX: NO, SIR.

28 THE COURT: DOES THE PETITIONER HAVE ANY OTHER

1 WITNESSES?

2 MR. GRIFFITH: YES, YOUR HONOR.

3 THE COURT: DID THE PETITIONER PROVIDE A WITNESS
4 LIST TO THE RESPONDENT?

5 MR. GRIFFITH: YES, YOUR HONOR, AND IT WAS
6 PERSONALLY SERVED ON OCTOBER 16.

7 THE COURT: OKAY. AND DO YOU HAVE A COPY OF IT
8 THERE THAT I CAN SEE IT IN THE FILE, ALTHOUGH I MAY HAVE
9 MISSED IT?

10 MR. GRIFFITH: I DON'T HAVE A CONFORMED COPY. I
11 HAVEN'T GOTTEN IT BACK YET, YOUR HONOR.

12 THE COURT: THEN THAT'S PROBABLY WHY I DIDN'T
13 SEE IT.

14 MS. COX: I NEVER RECEIVED A COPY OF THAT.

15 THE COURT: DO YOU HAVE PROOF OF SERVICE?

16 MR. GRIFFITH: YES, YOUR HONOR.

17 THE COURT: WHAT'S YOUR ADDRESS? DON'T TELL ME
18 THAT, I DON'T WANT TO PUT THAT ON THE RECORD. BUT WHAT I
19 WANT YOU TO LOOK AT IS THIS PROOF OF SERVICE AND TELL ME
20 RECOGNIZING THE ADDRESS THERE WHETHER YOU RECEIVE IT OR
21 NOT RECEIVED IT. LOOK AT THE DOCUMENT SO THAT YOU
22 UNDERSTAND WHAT THEY ARE SAYING THEY SERVED ON YOU.

23 MS. COX: NO, I DID NOT RECEIVE IT.

24 THIS IS WHAT WAS DROPPED OFF AT MY DOOR STEP
25 APPARENTLY LAST NIGHT WHEN MY BABYSITTER WAS THERE.

26 THE COURT: THIS WAS PLACED IN THE MAIL OCTOBER
27 16, 2009?

28 MS. COX: NO, SIR. NO, YOUR HONOR.

8

1 THE COURT: I WASN'T ASKING YOU. I WAS ASKING
2 THEM.

3 MR. GRIFFITH: YES, YOUR HONOR.

4 THE COURT: AND YOU ARE STILL AT THE ADDRESS
5 INDICATED?

6 MS. COX: YES, YOUR HONOR.

7 THE COURT: AND DID THIS EVER COME BACK WITH A
8 NOTICE THAT IT WAS UNDELIVERABLE?

9 MR. GRIFFITH: NO, YOUR HONOR.

10 THE COURT: ARE YOU RECEIVING YOUR MAIL AT THIS
11 ADDRESS?

12 MS. COX: YES, YOUR HONOR.

13 THE COURT: THE EVIDENCE SUGGESTS THAT IT WAS
14 SERVED ON YOU, MA'AM.

15 ALL RIGHT. LET'S START THEN.

16 MR. GRIFFITH: OUR WITNESS LIST INDICATES FOUR
17 WITNESSES. I'LL ONLY BE CALLING THE PARTIES TODAY, YOUR
18 HONOR.

19 THE COURT: OKAY.

20 MR. GRIFFITH: MR. COX FOR REBUTTAL TESTIMONY
21 ONLY, YOUR HONOR.

22 THE COURT: ALL RIGHT. YOU WOULD LIKE TO CALL
23 MS. COX FIRST?

24 MR. GRIFFITH: YES, YOUR HONOR.

25 THE COURT: GO AHEAD TAKE YOUR PLACE ON THE
26 WITNESS STAND.

27 THE COURT: YOU CAN INVITE MS. IVERSON BACK IN
28 NOW SINCE SHE WILL NOT BE A WITNESS, IF SHE WISHES.

1 THAT'S OKAY.

2 THE COURT: COUNSEL, YOU MAY BEGIN.

3 NADJA COX,

4 PETITIONER'S WITNESS, HAVING BEEN SWORN, TESTIFIED AS
5 FOLLOWS:

6 DIRECT EXAMINATION

7 BY MR. GRIFFITH:

8 Q. GOOD MORNING, MS. COX.

9 A. GOOD MORNING.

10 Q. MY NAME IS JOHN GRIFFITH. I'M FROM THE MEN'S
11 LEGAL CENTER. I'M TIMOTHY COX'S ATTORNEY. I HAVE A FEW
12 QUESTIONS FOR YOU REGARDING THE RESTRAINING ORDER THAT
13 YOU ARE ASKING THE COURT TO ISSUE TODAY, THE PERMANENT
14 RESTRAINING ORDER.

15 IN YOUR REQUEST FOR THE RESTRAINING ORDER FILED
16 ON JULY 10, 2009, YOU ACCUSE MR. COX OF ENCOURAGING YOUR
17 SON TO, AND I QUOTE, "GO TO THE BALCONY, STEP OFF OF IT
18 AND JUMP." IS THAT TRUE?

19 A. CORRECT.

20 Q. WHICH SON WAS IT?

21 A. JOSEPH.

22 Q. DID YOU ACTUALLY WITNESS THAT INCIDENT?

23 A. MY DAUGHTER WITNESSED IT, I WITNESSED IT, AND
24 HER BROTHER WITNESSED IT, AND CASSIE WITNESSED IT.

25 Q. DID YOU SEE MR. COX COAXING JOSEPH TO JUMP FROM
26 THE BALCONY?

27 A. HE WAS ON THE PHONE WITH HIS DAD AND THEY WERE
28 TALKING.

1 Q. SO JOSEPH WAS ON THE CELL PHONE SPEAKING WITH
2 HIS DAD?

3 A. YES.

4 Q. HOW DID YOU KNOW HE WAS SPEAKING WITH HIS DAD?

5 A. RENE TOLD ME, HIS SISTER.

6 Q. WHERE WAS HIS DAD AT THE TIME?

7 A. I DON'T KNOW WHERE HE WAS AT THE TIME. THEY
8 WERE TALKING ON THE CELL PHONE.

9 Q. HOW DID YOU KNOW THAT MR. COX WAS COAXING JOSEPH
10 TO JUMP OFF THE BALCONY?

11 A. BECAUSE RENE CAME TO ME AND TALKED TO ME ABOUT
12 IT AND TOLD ME.

13 Q. HOW DID RENE KNOW THAT MR. COX WAS COAXING
14 JOSEPH TO JUMP OFF?

15 A. SHE WAS IN THE SAME ROOM WITH HIM.

16 THE COURT: I DIDN'T HEAR THAT.

17 THE WITNESS: SHE WAS IN THE SAME ROOM WITH HIM.
18 BY MR. GRIFFITH:

19 Q. SO COULD SHE HEAR MR. COX ON THE PHONE? DID
20 JOSEPH HAVE THE SPEAKER PHONE ON THE CELL PHONE AT THAT
21 TIME?

22 A. I DON'T KNOW.

23 Q. SO YOU ARE NOT SURE WHETHER OR NOT RENE KNEW
24 WHAT MR. COX WAS SAYING, CORRECT?

25 A. SHE KNEW WHAT HAPPENED.

26 Q. CAN YOU EXPLAIN IN MORE DETAIL HOW MR. COX HAD
27 YOUR CHILD GO TO THE BALCONY, STEP OFF OF IT AND JUMP?

28 A. RENE TOLD ME THAT THEY WERE HAVING A

1 CONVERSATION AND THAT HE WAS BEING ENCOURAGED JUST TO GET
2 OUT OF THE HOUSE. AND SO THE CONVERSATION WENT TO THE
3 BALCONY, WHERE HE JUMPED OFF THE BALCONY. THE
4 ENCOURAGEMENT WAS FOR HIM TO GET OUT OF THE HOUSE.

5 NOW, JOSEPH, IN MEDIATION, MADE IT VERY CLEAR
6 AND TOOK PERSONAL RESPONSIBILITY FOR JUMPING OFF THE
7 BALCONY AND FLAT OUT SAID, "THIS WAS MY FAULT, THIS IS MY
8 RESPONSIBILITY. I JUMPED OFF THE BALCONY." BUT HE HAD A
9 CONVERSATION WITH HIS FATHER, OTHERWISE IT WOULDN'T HAVE
10 OCCURRED.

11 Q. BUT IN YOUR REQUEST FOR A RESTRAINING ORDER, YOU
12 STATE, AND I QUOTE, "TOWARDS THE END OF JUNE, TIM HAD MY
13 CHILD GO TO THE BALCONY," "HAD MY CHILD GO TO THE
14 BALCONY, STEP OFF IT AND JUMP."

15 A. HE ENCOURAGED HIM TO GET OUT OF THE HOUSE AND TO
16 GO TO THE BALCONY. THAT'S WHAT RENE TOLD ME. HE IN TURN
17 JUMPED OFF THE BALCONY AND LEFT. THAT'S NOT SOMETHING HE
18 SHOULD BE DOING.

19 Q. SO WHY DID YOU IN YOUR REQUEST FOR A RESTRAINING
20 ORDER SAY, "THAT TIM HAD MY CHILD GO TO THE BALCONY, STEP
21 OFF OF IT AND JUMP," WITH AN EXCLAMATION POINT?

22 A. BECAUSE RENE TOLD ME THAT'S WHAT HE DID. THEY
23 HAD THE CONVERSATION. THEY WERE TALKING ON THE PHONE IN
24 REGARDS TO HE HAD TO GET OUT OF THE HOUSE. HE WAS VERY
25 STRESSED OUT BECAUSE OF JUVENILE HALL AND BEING AFRAID OF
26 GOING. AND THE CONCLUSION WAS WELL, JUST GET OUT OF THE
27 HOUSE. TIM AND I HAD HAD JUST A PRIOR CONVERSATION PRIOR
28 TO THAT IN REGARDS TO JUVENILE HALL, AND TIM FLAT OUT

1 SAID, "IF YOU DO NOT LET HIM GO" -- ACTUALLY, LET ME
2 REPHRASE THAT. "YOU BETTER LET HIM GO, IF YOU KNOW
3 WHAT'S GOOD FOR YOU." AFTER THAT, THAT'S --

4 Q. JUST ANSWER THE QUESTION, PLEASE.

5 BUT YOU SAID -- YOU JUST TOLD ME THAT RENE TOLD
6 YOU THAT JOSEPH TOLD HER THAT HER DAD WAS TELLING HIM TO
7 LEAVE THE HOUSE, NOT THAT HER DAD WAS TELLING HIM TO JUMP
8 OFF OF THE BALCONY. I'M CURIOUS AS TO WHY YOU PUT IN
9 YOUR REQUEST FOR A RETAINING ORDER WITH AN EXCLAMATION
10 POINT --

11 A. BECAUSE RENE TOLD ME --

12 THE COURT: ALL RIGHT. HOLD ON.

13 THE WITNESS: -- THAT DADDY SAID TO HAVE HIM
14 JUMP OFF THE BALCONY.

15 THE COURT: MA'AM, WHEN I SPEAK, YOU GO
16 IMMEDIATELY SILENT. WE CANNOT HAVE TWO PEOPLE TALKING
17 OVER EACH OTHER.

18 THE WITNESS: YES, YOUR HONOR.

19 THE COURT: WHEN I SPEAK, YOU STOP SPEAKING; IS
20 THAT CLEAR?

21 THE WITNESS: YES, YOUR HONOR.

22 THE COURT: I DO NOT WANT TO SAY TO YOU TWICE TO
23 STOP TALKING.

24 THE WITNESS: I UNDERSTAND.

25 THE COURT: DO WE UNDERSTAND EACH OTHER?

26 THE WITNESS: YES, YOUR HONOR.

27 THE COURT: OTHERWISE, I GOING TO TERMINATE THIS
28 EXAMINATION AND RULE IMMEDIATELY.

1 THE WITNESS: YES, YOUR HONOR.

2 THE COURT: ALL RIGHT? AND HEAR NOTHING FURTHER
3 FROM YOU OR HIM.

4 THE WITNESS: YES, YOUR HONOR.

5 THE COURT: GO AHEAD.

6 BY MR. GRIFFITH:

7 Q. ONE MORE QUESTION --

8 THE COURT: COUNSEL, YOU NEED TO WAIT WHILE SHE
9 IS TALKING BECAUSE IT COMPOUNDS THE PROBLEM FOR THE
10 REPORTER.

11 MR. GRIFFITH: YES, YOUR HONOR.

12 THE COURT: THANK YOU.

13 BY MR. GRIFFITH:

14 Q. ONE MORE QUESTION. WAS IT A MISTAKE FOR YOU TO
15 INCLUDE IN YOUR REQUEST FOR A RESTRAINING ORDER THAT YOU
16 FILED ON JULY 10 THAT, AND I QUOTE, "TIM HAD MY CHILD GO
17 TO THE BALCONY, STEP OFF OF IT AND JUMP"? WOULD YOU LIKE
18 TO REDACT THAT STATEMENT?

19 A. NO.

20 Q. DID YOU REPORT THIS INCIDENT TO THE POLICE?

21 A. YES.

22 Q. DO YOU HAVE THE POLICE REPORT?

23 A. I HAVE A POLICE REPORT, YES.

24 Q. DID YOU CALL CHILD PROTECTIVE SERVICES?

25 A. NO.

26 Q. WHY DIDN'T YOU CALL --

27 A. YES.

28 Q. WAS THERE AN INVESTIGATION?

1 A. NO.

2 Q. WERE CRIMINAL CHARGES EVER PRESSED AGAINST
3 MR. COX FOR THAT INCIDENT?

4 A. NO.

5 Q. YOU ALSO NOTE IN YOUR REQUEST FOR THE
6 RESTRAINING ORDER FILED ON JULY 10 THAT WHEN MR. COX
7 DROPS THE CHILDREN OFF AT YOUR PLACE AFTER VISITATION,
8 THAT HE STAYS FOR 30 MINUTES TO AN HOUR, EVEN WHEN YOU
9 ASK HIM TO LEAVE, CORRECT?

10 A. YES.

11 Q. WHAT DOES MR. COX DO AT YOUR HOUSE FOR 30
12 MINUTES TO AN HOUR DURING THESE INCIDENTS?

13 A. HE SITS AND WATCHES TV OR SITS WITH THE KIDS.

14 Q. SO HE COMES IN YOUR HOUSE, DROPS THE KIDS OFF
15 AND PLAYS WITH THE KIDS OR SITS DOWN TO WATCH TV?

16 A. THE ARRANGEMENT WAS HE COMES IN AT A CERTAIN
17 TIME AND THEN HE LEAVES. AND HE CHOOSES NOT TO LEAVE AS
18 AGREED UPON, AS MUTUALLY AGREED UPON.

19 Q. WHAT IS THE ARRANGEMENT AGAIN, SPECIFICALLY?

20 A. WELL, IF I NEED TO BE HOME AT 7:00 AND I AM
21 RUNNING 30 MINUTES LATE, THE KIDS HAVE BEEN FED, THEY ARE
22 GOOD, HE CAN LEAVE.

23 Q. SO YOU HAVE AN ARRAIGNMENT -- GO AHEAD.

24 A. OKAY.

25 Q. SO YOU HAVE AN ARRANGEMENT WITH MR. COX -- OR
26 YOU HAD AN ARRANGEMENT WITH MR. COX BEFORE THE TEMPORARY
27 RESTRAINING ORDER WAS PUT IN PLACE THAT WHILE YOU WERE AT
28 WORK, MR. COX WOULD ACTUALLY COME AND STAY AT YOUR HOUSE

1 AND HANG OUT AT YOUR HOUSE WITH THE KIDS, FEED THEM
2 DINNER, AND THEN WHEN YOU CAME HOME, HE WOULD LEAVE,
3 CORRECT?

4 A. YES.

5 Q. SO YOU WERE OKAY WITH MR. COX COMING IN YOUR
6 HOME AT THAT TIME?

7 A. NO. I WASN'T OKAY WITH IT, BUT THAT WAS THE
8 MUTUAL ARRANGEMENT.

9 Q. WHY DID YOU HAVE THIS ARRANGEMENT IF YOU WEREN'T
10 OKAY WITH IT?

11 A. THAT'S WHY THE RESTRAINING ORDER HAS BEEN FILED.

12 Q. WHEN MR. COX WOULD OVERSTAY HIS WELCOME FOR 30
13 MINUTES TO AN HOUR AT A TIME, WOULD YOU EVER CALL THE
14 POLICE TO HAVE HIM LEAVE?

15 A. OF COURSE NOT.

16 Q. HOW MANY TIMES WOULD THIS HAPPEN THAT HE WOULD
17 STAY FOR 30 MINUTES TO AN HOUR AFTER HE DROPPED OFF THE
18 KIDS?

19 A. NUMEROUS OCCASIONS.

20 Q. SO IF YOU WERE UNCOMFORTABLE WITH THIS, WHY
21 DIDN'T YOU PUT AN END TO THAT ARRANGEMENT?

22 A. I DID. I TOLD HIM NOT TO CONTINUE.

23 Q. WHY DIDN'T YOU CALL THE POLICE TO HAVE HIM LEAVE
24 AFTER YOU PUT AN END TO THE ARRANGEMENT?

25 A. THAT IS WHY THE RESTRAINING ORDER HAS BEEN
26 FILED.

27 Q. YOU ALSO ACCUSE MR. COX, IN YOUR APPLICATION FOR
28 RESTRAINING ORDER, OF STALKING YOU AND YOU SAY THAT HE

1 ALWAYS KNOWS WHERE YOU ARE; IS THAT CORRECT?

2 A. I STATED THAT, YEAH, THAT'S CORRECT.

3 Q. HOW DO YOU KNOW THAT MR. COX IS STALKING YOU?

4 A. TWO WEEKS PRIOR TO THE RESTRAINING ORDER BEING
5 FILED AND A WEEK AFTER, SOMEWHERE IN THAT CATEGORY, EVERY
6 TIME I WOULD GET HOME, I WOULD GET A PHONE CALL AND THAT
7 WAS DURING THE TIME -- ACTUALLY THAT WAS PRIOR -- I
8 APOLOGIZE. LET ME BACK UP.

9 PRIOR TO THE RESTRAINING ORDER WHEN JOSEPH WAS
10 WITH TIM, THEY WERE PARKING IN THE PARKING LOT AND THEY
11 WOULD STAY THERE. AND THEY WOULD ALWAYS KNOW WHEN I WAS
12 COMING HOME. I CAME HOME AT VARIOUS TIMES FROM WORK
13 DEPENDING HOW LATE I WORKED. AND I WOULD GET THE PHONE
14 CALL IMMEDIATELY WHEN I GOT HOME. HE WAS WATCHING THE
15 HOUSE OR IN THE PARKING LOT.

16 Q. HOW DO YOU KNOW HOW LONG HE WAS PARKED IN THE
17 PARKING LOT?

18 A. I DON'T KNOW HOW LONG.

19 Q. SO YOU ARE MAKING AN INFERENCE, FROM WHAT I'M
20 HEARING, THAT BECAUSE WHEN YOU DROVE HOME FROM WORK, YOU
21 SAW MR. COX WITH HIS SON IN THE TRUCK OUTSIDE YOUR HOUSE,
22 APPARENTLY TO DROP JOSEPH OFF?

23 A. NO.

24 Q. THAT HE WAS STALKING YOU BECAUSE OF THAT?

25 A. HE WASN'T DROPPING JOSEPH OFF.

26 Q. BUT YOU ARE MAKING AN INFERENCE THAT BECAUSE
27 WHEN YOU GOT HOME FROM WORK A FEW TIMES, MR. COX WAS
28 OUTSIDE OF YOUR HOUSE WITH YOUR SON IN HIS TRUCK, THAT HE

1 WAS STALKING YOU. THAT'S THE WORD THAT YOU USED IN YOUR
2 RESTRAINING ORDER REQUEST. IS THAT TRUE?

3 A. WHAT I'LL MAKE CLEAR IS THIS: I WOULD GET PHONE
4 CALLS RIGHT WHEN I GET HOME. HOW WOULD HE KNOW I WOULD
5 BE HOME AT THAT POINT IN TIME? MANY NUMEROUS TIMES I
6 WOULD GET HOME LATER, AND I WOULD ALWAYS GET THAT PHONE
7 CALL FROM HIM RIGHT WHEN I WALK IN THAT DOOR.

8 Q. SO YOUR ACCUSATION THAT MR. COX WAS STALKING YOU
9 WAS BASED ON THE FACT THAT WHEN YOU GOT HOME FROM WORK,
10 HE WOULD CALL YOU RIGHT WHEN YOU GOT HOME?

11 A. IN PART. THE LATTER PART CAME FROM JOSEPH, AND
12 HE INFORMED ME THAT HE AND HIS DAD WOULD SIT IN THE
13 PARKING LOT. AND ON SEVERAL OCCASIONS THEY WERE SITTING
14 IN THE PARKING LOT WHEN CASSIE PULLED UP FROM WORK AND I
15 PULLED UP FROM WORK AND THEY HAVE BEEN THERE.

16 Q. DID MR. COX EVER APPROACH YOU OR SAY ANYTHING TO
17 YOU?

18 A. JUST SITS IN HIS TRUCK.

19 Q. DID HE EVER ACCOST YOU OR THREATEN YOU WHEN HE
20 WAS SITTING IN THE TRUCK WITH HIS SON?

21 A. NO. THERE IS A LOT TO BE SAID WITH ABILITY TO
22 DO SOMETHING BECAUSE YOU CAN, TO MAKE SOMEBODY
23 UNCOMFORTABLE, TO FEEL THREATENED AND INTIMIDATED, AND
24 THAT'S WHAT HE HAS DONE.

25 Q. WHAT WERE YOU WORRIED THAT MR. COX WAS GOING TO
26 DO WHEN YOU FOUND HIM PARKED OUTSIDE OF YOUR HOUSE WITH
27 YOUR SON JOSEPH IN THE TRUCK?

28 A. I DON'T KNOW. BUT WHEN HE WASN'T WITH JOSEPH --

1 Q. YOU ALSO MENTIONED IN THE REQUEST FOR A
2 RESTRAINING ORDER THAT MR. COX AT ONE POINT LIFTED YOU
3 OFF OF THE GROUND BY THE THROAT WITH YOUR FEET HANGING A
4 FOOT-AND-A-HALF OFF THE FLOOR. IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. WHEN DID THAT INCIDENT HAPPEN?

7 A. THAT HAPPENED IN -- ITS BEEN QUITE A LONG TIME.
8 2002, CHRISTMAS EVE.

9 Q. CAN YOU MAKE A MOTION WITH YOUR HANDS SO THE
10 COURT -- AND SHOW US HOW MR. COX WAS HOLDING YOU BY THE
11 THROAT?

12 A. HE HAD HIS HANDS HERE WHERE MY EARRINGS WERE
13 BECAUSE HE PULLED THEM OUT, HIS HANDS WERE UNDER MY
14 THROAT, AND I WAS COMPLETELY LIFTED OFF THE FLOOR AND HE
15 SHOVED ME AGAINST THE COUNTERTOP.

16 Q. CAN YOU SHOW US WITH YOUR HANDS ABOUT YOUR
17 APPROXIMATION OF WHAT A FOOT-AND-A-HALF IS?

18 A. ABOUT THAT FAR OFF THE FLOOR.

19 Q. HOW MUCH DO YOU WEIGH?

20 A. 115 POUNDS.

21 Q. YOU ARE A FITNESS TRAINER, CORRECT?

22 A. CORRECT.

23 Q. DON'T YOU THINK IT WOULD BE RATHER DIFFICULT FOR
24 A MAN THE SIZE OF MR. COX TO -- AND I QUOTE FROM YOUR
25 REQUEST FOR RESTRAINING ORDER -- "TO LIFT YOU
26 ONE-AND-A-HALF FEET OFF THE GROUND WITH YOUR FEET
27 DANGLING"?

28 A. NO, NOT AT ALL.

1 Q. DID YOU CALL THE POLICE THE NIGHT THAT OCCURRED?

2 A. NO, I DID NOT.

3 Q. WHY DIDN'T YOU CALL THE POLICE?

4 A. I WAS TOO AFRAID OF WHAT HE WOULD DO NEXT. I
5 DID CALL MY THERAPIST AND A COUPLE OF FRIENDS.

6 Q. SO MR. COX WASN'T ARRESTED AND WASN'T EVER
7 PROSECUTED FOR THAT INCIDENT?

8 A. NO.

9 Q. YOU ALSO STATED IN YOUR REQUEST THAT CHILD
10 PROTECTIVE SERVICES WAS INVOLVED WITH YOUR FAMILY TWO TO
11 THREE YEARS AGO, CORRECT?

12 A. YES.

13 Q. AND THAT THERE WAS A DOMESTIC VIOLENCE ACTION AT
14 THE TIME AS WELL, CORRECT?

15 A. YES.

16 Q. ISN'T IT TRUE THAT YOU REQUESTED THAT THAT
17 RESTRAINING ORDER BE VACATED IN AUGUST 2007?

18 A. YES.

19 Q. WHY DID YOU REQUEST THAT THE RESTRAINING ORDER
20 BE VACATED?

21 A. BECAUSE HE HAD PROMISED TO GET SOME COUNSELING,
22 AND I ALSO HAD MOVED UP NORTH, BEING FAR ENOUGH AWAY AND
23 DIDN'T THINK THERE WAS A THREAT.

24 Q. SO YOU DIDN'T FEEL AS THOUGH YOU WERE IN DANGER
25 THEN?

26 A. NO. IT WAS 300 MILES AWAY.

27 Q. SINCE AUGUST OF 2007 HAS MR. COX PHYSICALLY
28 ASSAULTED YOU IN A WAY THAT HE DID, I GUESS IN 2002, OR

1 IN ANY WAY THAT LED UP TO THAT LAST RESTRAINING ORDER?

2 A. PHYSICALLY, NO.

3 Q. THE LAST TIME YOU WERE HERE FOR THE HEARING ON
4 SEPTEMBER 2ND, THAT WAS A HEARING FOR CUSTODY AND
5 VISITATION WHERE WE ASKED FOR A CONTINUANCE. IT WAS
6 CONTINUED TO NOVEMBER 4TH. YOU REPRESENTED TO THE COURT
7 THAT MR. COX HAD VIOLATED THE TEMPORARY RESTRAINING ORDER
8 THAT WAS ISSUED ON JULY 10TH, SEVERAL TIMES, AND THAT HE
9 HAD BEEN PUT IN JAIL. DO YOU REMEMBER THAT?

10 A. ON SEPTEMBER 2ND?

11 Q. ON SEPTEMBER 2ND.

12 A. I NEVER SAID HE WAS PUT IN JAIL, BUT I DID SAY
13 HE VIOLATED SEVERAL TIMES. THE JUDGE SUGGESTED, WELL,
14 THEN LET THEM ADD UP AND HE CAN GO TO JAIL.

15 Q. IN FACT, ISN'T IT TRUE THAT YOU HAVE ACCUSED
16 MR. COX OF VIOLATING THE RESTRAINING ORDER OVER 20
17 TIMES?

18 A. OVER SEVEN TIMES.

19 Q. NOT OVER 20 TIMES?

20 A. OVER 20 TIMES. BUT FOR PROOF OF THE COURT,
21 WHAT'S RELEVANT TODAY IS SEVEN TIMES.

22 Q. I'M SORRY. I DON'T --

23 THE COURT: I DON'T UNDERSTAND THAT ANSWER. YOU
24 ARE SUGGESTING HE VIOLATED THE ORDER HOW MANY TIMES?

25 THE WITNESS: OVER 20 TIMES.

26 THE COURT: WHAT DOES THE SEVEN TIMES HAVE TO DO
27 WITH IT?

28 THE WITNESS: THE ACTUAL DOCUMENTATION FROM THE

1 POLICE DEPARTMENT, BECAUSE I WAS TOLD THEY COULD NOT COME
2 OVER FOR HIM JUST DRIVING BY; THAT IT WAS A WASTE OF
3 THEIR TIME AND EFFORT AND TO KEEP DOCUMENTATION OF IT,
4 WRITTEN.

5 THE COURT: I UNDERSTAND WHAT YOU ARE SAYING.
6 GO AHEAD.

7 BY MR. GRIFFITH:

8 Q. WHEN WAS THE LAST TIME MR. COX VIOLATED THE
9 RESTRAINING ORDER IN ANY WAY?

10 A. TWO OR THREE WEEKS AGO.

11 Q. WHAT DID HE DO?

12 A. HE DROVE UP IN ONE OF HIS FRIEND'S CARS, I
13 BELIEVE IT WAS A SILVER FOUR-DOOR CAR, DROVE UP THE HILL
14 ON THE SIDE ROAD AND CALLED FOR RENE AND JOSEPH. THEY
15 BOTH WERE THE ONES THAT CALLED ME AND SAID DAD IS HERE,
16 HE IS CALLING US. IT WAS VERY CLEAR AND I CALLED THE
17 POLICE.

18 Q. SO TWO TO THREE WEEKS AGO. THAT WOULD PUT US IN
19 THE BEGINNING OF OCTOBER, CORRECT?

20 A. CORRECT.

21 Q. SO JUST TO CLARIFY, IN THE BEGINNING OF OCTOBER
22 YOU SAY MR. COX SHOWED UP AT YOUR HOUSE?

23 A. NO, I DID NOT.

24 Q. I'M SORRY. WILL YOU REPEAT WHERE HE WAS WHEN HE
25 VIOLATED THE RESTRAINING ORDER?

26 A. JOSEPH WATCHED HIM DRIVE UP THE HILL. HE DID
27 NOT PHYSICALLY SEE HIM AFTER THAT, BUT HEARD HIM AND RENE
28 HEARD HIM. HE YELLED FOR JOSEPH'S NAME.

1 Q. I'M SORRY. THE HILL?

2 A. THERE IS A FORT UP THERE WHERE THE KIDS PLAY.
3 THEIR DAD KNOWS WHERE IT'S AT. HE WAS SOMEWHERE UP
4 THERE. THEY COULDN'T VISUALLY SEE HIM BUT THEY HEARD
5 HIM. THAT'S WHEN THEY CALLED ME AND I CALLED THE
6 POLICE.

7 Q. SO HE WAS CLOSE ENOUGH TO YOUR HOUSE THAT THE
8 KIDS COULD ACTUALLY HEAR HIM CALLING THEIR NAMES?

9 A. THAT'S CORRECT.

10 Q. UP THE HILL, WAS IT APPROXIMATELY ONE OR TWO
11 BLOCKS FROM YOUR HOUSE?

12 A. NO. IT'S RIGHT THERE ON THE BACK SIDE OF THE
13 PROPERTY WHERE THE TENNIS COURTS ARE.

14 Q. CAN YOU APPROXIMATE IN FEET PERHAPS?

15 A. FROM MY APARTMENT, MAYBE 80 FEET.

16 THE COURT: THE NUMBER OF FEET AGAIN, PLEASE.

17 THE WITNESS: 80 FEET.

18 THE COURT: THANK YOU.

19 BY MR. GRIFFITH:

20 Q. CAN YOU PLEASE EXPLAIN TO THE COURT A FEW OF THE
21 OTHER INSTANCES OVER THE PAST SEVERAL MONTHS THAT MR. COX
22 HAD VIOLATED RESTRAINING ORDER? THE ONES I'M
23 SPECIFICALLY CONCERNED WITH ARE THE ONES YOU ACTUALLY
24 REPORTED TO THE POLICE.

25 A. YES. THE FIRST TWO WERE IMMEDIATELY AFTER HE
26 WAS SERVED. I WAS TEXTED TWICE.

27 Q. SO THIS WOULD BE IN JULY?

28 A. JULY 10.

25
1 AND THERE WERE SEVERAL OCCASIONS, THEREAFTER, OF
2 HIM DRIVING BY. AND OF COURSE MORE SPECIFICALLY -- LET
3 ME GET MY NOTES. EVERYTHING IS WRITTEN DOWN.

4 MR. GRIFFITH: SHOULD WE TAKE OUR RECESS, YOUR
5 HONOR, SO SHE CAN GET HER NOTES?

6 THE COURT: NO. BUT YOU CAN STEP DOWN AND GET
7 YOUR NOTES.

8 THE WITNESS: THANK YOU.

9 THE COURT: IF YOU LOOK AT YOUR NOTES, MA'AM, HE
10 IS GOING TO HAVE A RIGHT TO LOOK AT YOUR NOTES. BEFORE
11 YOU DO THAT, YOU MAY WANT TO CONSIDER THAT.

12 THE WITNESS: OKAY.

13 THE COURT: IF YOU USE NOTES, HE GETS TO SEE
14 NOTES. IN ORDER TO PREVENT THAT FROM HAPPENING, YOU
15 DON'T USE YOUR NOTES. IF YOU CAN'T RECALL, YOU CAN'T
16 RECALL.

17 THE WITNESS: NO. I CAN RECALL. I WON'T USE
18 THEM.

19 THE COURT: YOU TAKE THE NOTES AND HAND THEM
20 BACK TO THE BAILIFF SO WE KNOW YOU ARE NOT USING THEM.
21 PUT THEM OVER ON HER TABLE.

22 GO AHEAD.

23 BY MR. GRIFFITH:

24 Q. JUST TAKE US THROUGH FROM JULY 10TH, WHEN THE
25 RESTRAINING ORDER WAS ISSUED, TO THE PRESENT.

26 A. I WON'T HAVE SPECIFIC DATES, BUT IT WILL BE
27 BETWEEN THERE AND THAT DATE.

28 HE CAME UP ONE EVENING -- HE CAME UP TO THE

25

1 POOL. WE WERE ALL INSIDE THE POOL AREA AND I WAS
 2 ACTUALLY SITTING ON THE CHAIR. ALL THREE KIDS AND CASSIE
 3 AT THE TIME WERE SWIMMING. I HAD WATCHED MR. COX COME UP
 4 TOWARDS THE POOL. HE WAS ABOUT 20 FEET AWAY AND CASSIE
 5 JUMPED UP AND RAN AFTER HIM AND THEN I WENT AFTER HER.
 6 HIS TRUCK WAS PARKED RIGHT AT THE DUMPSTER, AND BEFORE WE
 7 COULD GET TO HIM, HE HAD TAKEN OFF AND I CALLED THE
 8 POLICE.

9 Q. OKAY.

10 THE COURT: WHAT DATE?

11 THE WITNESS: THE DATE WAS -- YOU HAVE TO
 12 FORGIVE ME, I DON'T KNOW THE EXACT DATE. IT IS --
 13 YOU SHOULD HAVE COPIES OF IT. EITHER END OF SEPTEMBER OR
 14 VERY FIRST OF AUGUST.

15 BY MR. GRIFFITH:

16 Q. OKAY. SO WAS THAT THE FIRST TIME YOU CALLED THE
 17 POLICE DUE TO A RESTRAINING ORDER VIOLATION?

18 A. NO.

19 Q. WAS IT THE FIRST TIME AFTER THE TEXT MESSAGES IN
 20 JULY?

21 A. THAT WOULD HAVE BEEN MORE THAN THAT.

22 Q. WHEN ELSE DID YOU CALL POLICE? YOU TOLD ME THAT
 23 THERE WERE SEVEN TIMES YOU CALLED THE POLICE.

24 A. CORRECT. THE TEXTS. IN THE BEGINNING I CALLED
 25 THE POLICE SEVERAL TIMES AND THEN THERE WAS TIMES
 26 REGARDING HIM DRIVING BY. THOSE ARE DOCUMENTED AS WELL.

27 Q. OKAY.

28 A. THE POOL INCIDENT. SOMEONE HAD BEEN COMING INTO

1 MY HOUSE OR BREAKING INTO MY HOUSE. AND ON A SUNDAY I
 2 GOT A PHONE CALL FROM MY SON RYAN, AND TIM HAD KNOCKED ON
 3 THE DOOR, APPARENTLY SEVERAL TIMES. HE LOOKED THROUGH
 4 THE PEEPHOLE AND SAW HIS DAD. AND THEN THE KEY TURNED
 5 AND TIM CAME IN THE HOUSE WHILE RYAN WAS THERE. RYAN
 6 PANICKED, RAN TO THE BALCONY AND JUMPED OFF AND GOT HURT
 7 FROM IT, AND WENT AND CALLED THEM. THE POLICE CAME AND I
 8 CAME. THEY BROUGHT THE DOGS, BROUGHT EVERYTHING.

9 Q. WAS THIS A DIFFERENT INCIDENT JUMPING OFF OF THE
 10 BALCONY?

11 A. YES, A DIFFERENT INCIDENT.

12 Q. DID THIS INCIDENT OCCUR ON AUGUST 30TH?

13 A. I BELIEVE SO, YES.

14 Q. DO YOU KNOW ABOUT WHAT TIME OF DAY?

15 A. I DON'T HAVE A SPECIFIC TIME. IT WAS IN THE
 16 AFTERNOON.

17 Q. IN THE AFTERNOON? MID AFTERNOON?

18 A. PERHAPS, CLOSE.

19 Q. GO HEAD.

20 A. IN BETWEEN 1:45 AND LIKE 2:00 O'CLOCK.

21 Q. WAS MR. COX ARRESTED AT THAT INCIDENT OR WAS HE
 22 GONE WHEN THE COPS ARRIVED?

23 A. THEY TRIED TO FIND HIM. THEY TRIED TO ARREST
 24 HIM. THEY SAID HE FLED AND EVADED THE POLICE. AND WHEN
 25 THEY FINALLY DID GET AHOLD OF HIM, THEY DID ARREST HIM.

26 Q. OKAY.

27 A. BECAUSE THE D.A. WAS GOING TO ARREST HIM FOR THE
 28 TRO VIOLATION.

20
1 Q. DO YOU REMEMBER WHEN HE WAS ARRESTED?

2 A. I DON'T HAVE A SPECIFIC DATE, NO.

3 Q. WAS THERE ANOTHER INCIDENT THE DAY AFTER AUGUST
4 30TH, ON THAT MONDAY?

5 A. THERE HAD BEEN SOME OTHER INCIDENTS PRIOR TO
6 THAT. TIM WAS ON THE PROPERTY, HE WAS BACK IN THE
7 PARKING LOT, HE WAS REVVING HIS ENGINE. RENE AND JOSEPH
8 WERE TAKING THE TRASH OUT AND JOSEPH HEARD THE TRUCK, SAW
9 THE TRUCK, PANICKED, DROPPED THE TRASH AND BOTH HIM AND
10 RENE RAN BACK TO THE HOUSE. AND THE DETECTIVE THAT CAME
11 OUT AND SAW THAT SAID THERE WAS NO QUESTION THAT THEIR
12 FATHER HAD BEEN THERE, NO QUESTION AT ALL.

13 Q. THE DETECTIVE SAID THAT THERE WAS NO QUESTION
14 THAT MR. COX WAS AT YOUR RESIDENCE REVVING HIS ENGINE?

15 A. IN RESPONSE TO JOSEPH'S BEHAVIOR AND RENE'S
16 BEHAVIOR, THEY SAW HIM, THE POLICE WERE CALLED.

17 Q. THE DETECTIVE TOLD YOU THAT BECAUSE OF THE FEAR
18 THAT THE CHILDREN DISPLAYED, THAT THERE WAS NO QUESTION
19 THAT MR. COX WAS AT YOUR RESIDENCE?

20 A. THAT'S CORRECT.

21 Q. OKAY. WAS THERE ANY OTHER INCIDENTS THAT YOU
22 WANT TO ADDRESS?

23 A. I THINK THAT'S OKAY FOR RIGHT NOW. I'M TRYING
24 TO REMEMBER.

25 Q. DO YOU REMEMBER AN INCIDENT WHERE JOSEPH WAS
26 SICK AND COUGHING UP BLOOD?

27 A. WHAT IS THIS REFERRING TO? WHAT ARE YOU
28 REFERRING TO? DATE OR TIME?

27
1 Q. THIS IS AUGUST 31ST.

2 A. ON JULY 10 WHEN I GOT JOSEPH BACK AND FILED A
3 RESTRAINING ORDER, HE SAID HE RECENTLY ASKED HIS FATHER
4 TO TAKE HIM TO THE DOCTOR BECAUSE HE WAS COMPLAINING
5 ABOUT STOMACH PAINS. I TOOK HIM TO THE DOCTOR ON
6 SATURDAY AND HE WAS HOSPITALIZED FOR THREE DAYS.

7 Q. WAS THERE AN INCIDENT ON AUGUST 31ST WHERE
8 CASSIE CALLED YOU TO TELL YOU ABOUT JOSEPH WAS SICK AND
9 NEEDED TO GO TO THE HOSPITAL?

10 THE COURT: IS THAT A NO? IS THAT A NO?

11 THE WITNESS: NO. HE WASN'T FEELING GOOD AND HE
12 WENT TO SCHOOL AND I HAD A PHONE CALL FROM THE NURSE.

13 THE COURT: OKAY.

14 BY MR. GRIFFITH:

15 Q. WAS THERE A PHONE CALL MADE TO THE POLICE ON
16 AUGUST 31ST REGARDING MR. COX BEING IN YOUR HOUSE?

17 A. THAT WAS THE MORNING THEY WERE TRYING TO ARREST
18 HIM AND HE TOOK HIM OFF FROM HIS HOME FROM THE POLICE,
19 AND THEY WERE TRYING TO APPREHEND HIM.

20 Q. SO HE WASN'T IN YOUR HOUSE ON AUGUST 31ST?

21 A. ARE YOU TALKING ABOUT THE DATE THAT HE WAS BEING
22 ARRESTED OR ARE YOU TALKING ABOUT THE DATE THAT HE WALKED
23 IN THE HOUSE WITH RYAN?

24 Q. I'M TALKING ABOUT THE DAY THAT HE WAS ARRESTED
25 ON AUGUST 31ST?

26 A. IS THAT THE DATE THAT THEY HAVE HIM AS THE
27 ACTUAL LEGITIMATE DAY HE WAS ARRESTED?

28 Q. YES. YOU ARE SAYING HE WAS ARRESTED WHILE

1 DRIVING AND EVADING POLICE, CORRECT?

2 A. THAT MORNING -- THAT EVENING THE POLICE TOLD ME,
3 BASED ON WHAT WAS HAPPENING WITH THE KIDS BECAUSE IT WAS
4 AN OBVIOUS THREAT, THEY WERE GOING TO APPREHEND AND
5 ARREST MR. COX.

6 Q. THIS WAS SUNDAY EVENING ON THE 30TH, CORRECT?

7 A. THAT'S CORRECT. THAT MORNING I WAS CALLED FROM
8 THE POLICE OFFICER TO INFORM ME THAT HE WAS GOING TO BE
9 ARRESTED.

10 Q. THIS IS THE MORNING OF THE 31ST?

11 A. CORRECT. THAT MORNING HE EVADED AND FLED FROM
12 THE POLICE WHEN THEY WERE TRYING TO APPREHEND HIM, AND
13 CASSIE WORKED IN CONJUNCTION WITH THE POLICE DEPARTMENT.

14 Q. SO HE ACTUALLY EVADED POLICE? IS THAT WHAT THEY
15 TOLD YOU, THAT HE EVADED POLICE?

16 A. THE POLICE DEPARTMENT TOLD ME THEY WERE UNABLE
17 TO APPREHEND HIM.

18 Q. BUT HE WASN'T IN YOUR HOUSE ON AUGUST 31ST?

19 A. ON AUGUST 31ST HE WAS ON THE PROPERTY. HE
20 SHOWED UP.

21 Q. WHAT TIME?

22 A. I DON'T KNOW.

23 Q. WAS THIS WHILE HE WAS EVADING POLICE?

24 A. I THINK SO.

25 Q. SO HE EVADED POLICE FROM HIS HOUSE, WENT TO YOUR
26 HOUSE, AND THEN WAS HE CAPTURED AT YOUR HOUSE?

27 A. FROM WHAT I UNDERSTAND, YES.

28 Q. WAS HE CAPTURED INSIDE YOUR HOUSE OR ON THE

1 DRIVING AND EVADING POLICE, CORRECT?

2 A. THAT MORNING -- THAT EVENING THE POLICE TOLD ME,
3 BASED ON WHAT WAS HAPPENING WITH THE KIDS BECAUSE IT WAS
4 AN OBVIOUS THREAT, THEY WERE GOING TO APPREHEND AND
5 ARREST MR. COX.

6 Q. THIS WAS SUNDAY EVENING ON THE 30TH, CORRECT?

7 A. THAT'S CORRECT. THAT MORNING I WAS CALLED FROM
8 THE POLICE OFFICER TO INFORM ME THAT HE WAS GOING TO BE
9 ARRESTED.

10 Q. THIS IS THE MORNING OF THE 31ST?

11 A. CORRECT. THAT MORNING HE EVADED AND FLED FROM
12 THE POLICE WHEN THEY WERE TRYING TO APPREHEND HIM, AND
13 CASSIE WORKED IN CONJUNCTION WITH THE POLICE DEPARTMENT.

14 Q. SO HE ACTUALLY EVADED POLICE? IS THAT WHAT THEY
15 TOLD YOU, THAT HE EVADED POLICE?

16 A. THE POLICE DEPARTMENT TOLD ME THEY WERE UNABLE
17 TO APPREHEND HIM.

18 Q. BUT HE WASN'T IN YOUR HOUSE ON AUGUST 31ST?

19 A. ON AUGUST 31ST HE WAS ON THE PROPERTY. HE
20 SHOWED UP.

21 Q. WHAT TIME?

22 A. I DON'T KNOW.

23 Q. WAS THIS WHILE HE WAS EVADING POLICE?

24 A. I THINK SO.

25 Q. SO HE EVADED POLICE FROM HIS HOUSE, WENT TO YOUR
26 HOUSE, AND THEN WAS HE CAPTURED AT YOUR HOUSE?

27 A. FROM WHAT I UNDERSTAND, YES.

28 Q. WAS HE CAPTURED INSIDE YOUR HOUSE OR ON THE

1 PROPERTY?

2 A. I BELIEVE ON THE PROPERTY.

3 Q. SO HE WASN'T -- HE DIDN'T ACTUALLY GO INTO YOUR
4 HOUSE ON AUGUST 31ST, IS THAT WHAT YOU ARE SAYING?

5 A. THE DAY AFTER, HE WAS ON THE PROPERTY RIGHT IN
6 FRONT OF MY PROPERTY.

7 Q. THE DAY AFTER WHEN?

8 A. THE DAY AFTER HE HAD COME IN THE HOUSE WITH RYAN
9 INSIDE.

10 Q. JUST TO CLARIFY, AUGUST 30TH WAS THE DAY THAT HE
11 CAME INTO THE HOUSE, CORRECT, AND YOU CALLED THE POLICE.
12 THEY CAME WITH DOGS AND EVERYTHING TO TRY TO ARREST HIM.
13 HE EVADED THE POLICE ON THAT DAY. THEN, ON AUGUST 31ST
14 WHEN THE POLICE TRIED TO ARREST HIM AT HIS HOUSE, HE
15 EVADED THE POLICE AND CAME TO YOUR HOUSE AND THEN WAS
16 ARRESTED ON YOUR PROPERTY, BUT NEVER ENTERED YOUR HOUSE
17 ON THAT DAY. IS THAT WHAT YOU ARE SAYING?

18 A. WHAT I SAID WAS ON AUGUST 30TH HE CAME INTO MY
19 HOME. HE LEFT. THE POLICE CAME. I WAS CALLED AND BASED
20 ON THE TRAUMA THAT IT WAS CAUSING MY CHILDREN, THE POLICE
21 OFFICER SAID THAT THEY WERE GOING TO DO EVERYTHING THEY
22 COULD TO MAKE SURE HE GOT ARRESTED BECAUSE THIS WAS A
23 CONTINUING PROBLEM AND THERE WILL BE CONTINUING PROBLEMS
24 REGARDING THIS.

25 Q. UNDERSTOOD.

26 A. THAT EVENING, A POLICE OFFICER INFORMED ME THAT
27 THEY WERE GOING TO ARREST HIM IN THE MORNING. I GOT A
28 PHONE CALL AGAIN THAT MORNING THAT THEY WERE THERE, THEY

1 WERE GOING TO ARREST HIM WHEN HE CAME OUT OF THE HOME.
2 HE WOULDN'T COME OUT. THEY WAITED FOR PROBABLY 45
3 MINUTES TO AN HOUR. AND THEN HE HAD TAKEN OFF FROM THE
4 POLICE DEPARTMENT. HE FLED.

5 Q. FROM THE POLICE DEPARTMENT?

6 A. FROM HIS HOME.

7 Q. HE FLED AND THEY COULDN'T CATCH HIM?

8 A. THAT'S CORRECT.

9 Q. AND THEN HE MADE IT TO YOUR HOUSE, CORRECT?

10 A. I DON'T KNOW WHEN HE MADE TO IT MY HOME. I
11 DON'T KNOW WHAT TIME THAT HAPPENED, BUT I GOT A PHONE
12 CALL THAT HE GOT ARRESTED AT MY HOME OUTSIDE THE
13 PROPERTY.

14 THE COURT: I HAVE A QUESTION HERE. ARE YOU
15 TELLING US THAT THE POLICE SAID THEY WERE GOING TO ARREST
16 HIM BECAUSE THEY WERE TIRED OF GETTING PHONE CALLS ABOUT
17 HIM?

18 THE WITNESS: NO. THEY WERE GOING TO ARREST HIM
19 BECAUSE IT WAS CONTINUOUS TRAUMA THAT IT WAS CAUSING THE
20 CHILDREN AND HIM COMING INTO THE HOME, CONSTANTLY COMING
21 ONTO THE PROPERTY AND THE CONSTANT VIOLATIONS OF THE
22 TRO.

23 THE COURT: HOW DID THEY KNOW ALL THIS?

24 THE WITNESS: BECAUSE THEY WOULD COME TO MY
25 HOUSE REPEATEDLY.

26 THE COURT: OKAY. SO THEY SAID THAT THEY WERE
27 GOING TO ARREST HIM BECAUSE THEY HAVE BEEN OUT THERE
28 REPEATEDLY DEALING WITH THIS PROBLEM?

1 THE WITNESS: WHEN I TOLD THE POLICE OFFICER WAS
2 THERE ANY WAY THEY COULD APPREHEND MR. COX BECAUSE I WAS
3 TIRED OF BEING AFRAID AND MY CHILDREN WERE TIRED OF BEING
4 AFRAID. WE COULDN'T GO OUTSIDE, WE COULDN'T DO ANYTHING
5 BECAUSE HE IS CONSTANTLY STALKING US, HE'S CONSTANTLY ON
6 THE PROPERTY. HE IS NOT RESPECTING THE LAW, HE'S NOT
7 RESPECTING THE TRO. AND I WANTED TO FEEL SAFE. I AM
8 TIRED OF NOT SLEEPING AT NIGHT AND MY KIDS ARE SLEEPING
9 IN MY BED. AND I ASKED HIM IS THERE ANY WAY THAT HE CAN
10 BE APPREHENDED SO THAT I CAN HAVE AT LEAST PIECE OF MIND
11 THAT THIS IS NOT GOING TO CONTINUE. THEY SAID THEY WERE
12 TRYING TO BUILD A CASE WITH THE D.A. THEY WERE TRYING TO
13 ISSUE A WARRANT. IT HADN'T BEEN ISSUED BECAUSE IT WAS
14 STILL SITTING AT THE D.A.'S OFFICE.

15 THE COURT: OKAY. I UNDERSTAND. THANK YOU.
16 BY MR. GRIFFITH:

17 Q. THANK YOU, MS. COX.

18 DO YOU KNOW CASSIE IVERSON?

19 A. YES.

20 Q. HOW DO YOU KNOW MS. IVERSON?

21 A. FROM WORK, L.A. FITNESS.

22 Q. DO YOU KNOW HER IN ANY OTHER WAY OTHER THAN FROM
23 WORK?

24 A. NO.

25 Q. SHE DOESN'T LIVE WITH YOU?

26 A. SHE STAYS WITH ME BECAUSE OF WHAT'S GOING ON
27 WITH THIS FAMILY. IT WAS RECOMMENDED VERY STRONGLY BY
28 FRIENDS AND THE DOCTOR.

1 Q. HOW LONG HAVE YOU KNOWN HER?

2 A. ABOUT A YEAR AND A HALF.

3 Q. OKAY. IS MS. IVERSON YOUR GIRLFRIEND?

4 A. NO.

5 Q. SHE IS NOT? SHE HAS BEEN -- HOW LONG HAS SHE
6 BEEN LIVING WITH YOU?

7 A. SHE HAS NOT BEEN LIVING ME. SHE HAS BEEN
8 STAYING WITH ME FOR THE LAST COUPLE OF MONTHS SINCE THIS
9 STARTED.

10 Q. OKAY. NO FURTHER QUESTIONS, YOUR HONOR.

11 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YOU
12 MAY STEP DOWN.

13 THE COURT: ANY OTHER WITNESSES?

14 MR. GRIFFITH: YES, YOUR HONOR. I CALL MY
15 CLIENT, TIMOTHY COX, TO THE STAND.

16 THE COURT: HE IS BEING CALLED IN WHAT CAPACITY?

17 MR. GRIFFITH: AS A REBUTTAL WITNESS, YOUR
18 HONOR.

19 THE COURT: REBUTTAL OF WHAT?

20 MR. GRIFFITH: REBUTTAL TO MS. COX'S TESTIMONY
21 AND CREDIBILITY, YOUR HONOR, AS WELL AS CREDIBILITY --
22 REBUTTAL TO THE CREDIBILITY OF DECLARATIONS FILED BY MS.
23 CASSIE IVERSON.

24 THE COURT: YOU'VE JUST LIMITED THE SCOPE OF
25 YOUR EXAMINATION.

26 MR. GRIFFITH: YES, YOUR HONOR. THERE ARE
27 RELEVANT ISSUES THAT I'LL BRING UP WITH RESPECT TO --

28 THE COURT: NOT WITH THIS WITNESS. IF HE IS A

1 REBUTTAL, IT'S LIMITED TO REBUTTAL.

2 MR. GRIFFITH: YES, YOUR HONOR.

3 THE COURT: OKAY.

4 MR. GRIFFITH: MAY I PROCEED?

5 THE COURT: YOU MAY.

6 TIMOTHY COX,
7 PETITIONER'S WITNESS, HAVING BEEN SWORN, TESTIFIED AS
8 FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. GRIFFITH:

11 Q. MR. COX, HAVE YOU EVER BEEN PHYSICALLY VIOLENT
12 WITH MS. COX?

13 A. ONLY -- THERE IS ONE INCIDENT ON CHRISTMAS EVE
14 2002-3, AS SHE STATED. IT WASN'T AS HORRIFIC AS SHE
15 CLAIMS IT WAS.

16 ON THAT PARTICULAR DAY I WAS ACTUALLY GOING TO
17 CALL THE HOSPITAL AND HAVE HER PUT IN THE HOSPITAL
18 BECAUSE OF HER PAST ABUSING, CUTTING, AND THINGS THAT WE
19 WERE DEALING WITH HER WAS SO OUT OF CONTROL. AND I HAD
20 MADE A PHONE CALL TO THE PASTORS AND SHE HAD PICKED UP
21 THE PHONE AND LISTENED IN ON IT. WHEN I CAME IN THE
22 HOUSE, SHE GOT RIGHT IN MY FACE AND SAID NO, YOU CAN'T DO
23 THAT TO ME.

24 Q. DID YOU LIFT HER UP BY HER THROAT AND DANGLE HER
25 FROM THE FLOOR ONE-AND-A-HALF FEET?

26 A. NO.

27 Q. WHAT WAS THE NATURE OF THE CONTACT? WAS IT IN
28 SELF-DEFENSE?

1 A. I GOT HER BY THE SIDE OF HER HEAD AND HAD HER
2 EARRING IN MY FINGERS AND I YELLED AT HER, "I CAN'T TAKE
3 THIS ANYMORE. IT'S TOO MUCH." AND I LET HER GO AND THEN
4 I LEFT AND WENT AND SAT IN THE CAR AND CALLED THE PASTOR
5 AND SAID THIS IS WHAT'S HAPPENED.

6 Q. OKAY. HAVE YOU EVER STALKED MS. COX?

7 A. NO.

8 Q. DO YOU REMEMBER WHEN YOU WERE ARRESTED FOR
9 VIOLATION OF THE RESTRAINING ORDER CURRENTLY IN PLACE?

10 A. YES.

11 Q. WHAT WAS THE DATE?

12 A. THAT WAS ON THE 31ST OF AUGUST.

13 Q. CAN YOU PLEASE EXPLAIN TO THE COURT THE
14 CIRCUMSTANCES SURROUNDING THAT INCIDENT?

15 A. I WAS ON MY WAY TO WORK AND I GOT A PHONE CALL
16 FROM CASSIE ON JOSEPH'S PHONE SAYING THAT JOSEPH IS HOME,
17 SPITTING UP BLOOD. "I CAN'T GET AHOLD OF NADJA. I HAVE
18 TO TAKE HIM TO THE HOSPITAL."

19 SO I SAID, "OKAY. GET HIM TO THE HOSPITAL.
20 I'LL JUST MEET YOU DOWN AT CHILDREN'S AND SIGN THE
21 PAPERWORK."

22 I GOT DOWN TO -- TURNED AROUND ON THE 56 AND GOT
23 DOWN TO MIRAMAR WAY, AND SHE CALLED ME AGAIN AND SAID,
24 "JOSEPH DOESN'T WANT ME TO CALL 911, HE WANTS YOU TO COME
25 GET HIM. I CAN'T GET HIM OUT OF THE BATHROOM."

26 I TRIED TO GET HER -- "JUST CALL 911, GET HIM TO
27 THE HOSPITAL."

28 SHE SAYS, "NO, I CAN'T DO IT."

1 I HAD A CHOICE TO MAKE BETWEEN EITHER THINKING
2 THIS IS A SET-UP OR POSSIBLY JOSEPH COULD BE DEAD BEFORE
3 SOMEBODY ACTUALLY GOT THERE IF SHE DIDN'T HAVE THE BRAINS
4 TO CALL 911.

5 SO I TURNED AROUND, WENT UP THERE, KNOCKED ON
6 THE DOOR AND NOBODY ANSWERED. AND I JUST WENT "DANG,"
7 WENT DOWN THE STAIRS, HERE COME THE POLICE WITH GUNS. I
8 WAS ARRESTED.

9 Q. THAT WAS ON AUGUST 31ST?

10 A. 31ST.

11 THE COURT: SO I DIDN'T FOLLOW THIS. FIRST OF
12 ALL, I WILL NEED YOU TO SPEAK DIRECTLY IN THE MIC. FINE.

13 SO AUGUST 31ST YOU WENT OVER TO THE RESPONDENT'S
14 HOME, CORRECT?

15 THE WITNESS: YES.

16 THE COURT: YOU KNEW THERE WAS A RESTRAINING
17 ORDER IN PLACE AT THAT TIME?

18 THE WITNESS: YES.

19 THE COURT: YOU WENT OVER TO HER HOME FOR WHAT
20 PURPOSE?

21 THE WITNESS: THE CALL FROM CASSIE SAID JOSEPH
22 WAS SPITTING UP BLOOD. THE LAST TIME HE DID THAT, HE
23 LIVED IN THE SAME NEIGHBORHOOD THAT HE WAS 10 MINUTES
24 FROM CHILDREN'S. WHEN THEY CAME AND GOT HIM, BY THE TIME
25 HE GOT TO THE HOSPITAL, HE HAD LOST SO MUCH BLOOD, HE
26 LOST HIS VISION.

27 THE COURT: LET'S GO BACK TO WHAT I WAS ASKING.
28 YOU WENT OVER TO THE HOME ON AUGUST 31ST DESPITE THE FACT

1 THERE WAS A RESTRAINING ORDER IN PLACE KEEPING YOU AWAY
2 FROM THE HOME FOR WHAT REASON?

3 THE WITNESS: I THOUGHT MY SON'S LIFE WAS IN
4 DANGER. IF SHE WOULD HAVE CALLED 911, I JUST COULD HAVE
5 GONE TO CHILDREN'S, SIGNED THE PAPERWORK AND NOT HAD AN
6 ISSUE. BUT SHE WOULDN'T DO IT. SO I HAD A CHOICE TO
7 MAKE BETWEEN EITHER GOING AND MAKING SURE THAT MY SON IS
8 OKAY OR GOING TO JAIL. I KNEW THAT AND THAT WAS MY
9 CONSCIOUS DECISION TO MAKE, AND I CHOSE TO TAKE THAT
10 CHANCE.

11 THE COURT: SO YOU HEARD ABOUT THIS PROBLEM WITH
12 JOSEPH FROM WHOM?

13 THE WITNESS: CASSIE.

14 THE COURT: IS THAT MS. IVERSON?

15 THE WITNESS: YES.

16 THE COURT: SHE PHONED YOU?

17 THE WITNESS: YES.

18 THE COURT: WHAT DID SHE SAY?

19 THE WITNESS: SHE SAID JOSEPH WAS SPITTING UP
20 BLOOD. I CAN'T GET AHOLD OF NADJA. I HAVE TO GET JOSEPH
21 TO THE HOSPITAL.

22 THE COURT: THEN YOU WENT OVER TO THE HOUSE?

23 THE WITNESS: NO. I SAID, "GET HIM TO THE
24 HOSPITAL. JUST GET HIM THERE. CALL 911. I DON'T CARE,
25 GET HIM THERE."

26 THE COURT: WHAT DID MS. IVERSON SAY?

27 THE WITNESS: SHE SAID OKAY. I TURNED AROUND ON
28 THE 56. I DROVE RIGHT PAST THE APARTMENT, RIGHT PAST IT,

1 GOT ON RANCHO PENASQUITOS TO THE 15 AND HEADED DOWN TO
2 CHILDREN'S.

3 THE COURT: THEN WHAT HAPPENED?

4 THE WITNESS: I GOT TO MIRAMAR WAY, SHE CALLED
5 ME.

6 THE COURT: SHE WHO?

7 THE WITNESS: CASSIE IVERSON CALLED ME AND SAID,
8 "I CAN'T" -- "JOSEPH DOESN'T WANT ME TO CALL 911; HE'S
9 TOO STRESSED OUT. I CAN'T GET HIM OUT OF THE BATHROOM.
10 I CAN'T CALL 911, HE DOESN'T WANT ME TO DO IT."

11 I SAID, "JUST CALL. YOU ARE THE ADULT THERE,
12 CALL. JUST CALL. THEY'LL COME GET HIM."

13 AND SHE FINALLY HUNG UP THE PHONE AND SAID, "I
14 CAN'T CALL 911."

15 THE COURT: THEN WHAT DID YOU DO?

16 THE WITNESS: I TOOK THE EXIT OFF OF MIRAMAR WAY
17 AND TURNED RIGHT BACK AROUND AND HEADED RIGHT UP TO THE
18 HOUSE. IF SHE WASN'T GOING TO DO IT --

19 THE COURT: THE QUESTION WAS WHAT DID YOU DO?

20 THE WITNESS: I TURNED AROUND AND WENT UP THERE
21 AND KNOCKED ON THE DOOR WHEN I GOT THERE. NOBODY
22 ANSWERED.

23 THE COURT: THEN WHAT?

24 THE WITNESS: THEN I JUST -- I KNEW RIGHT THEN
25 AND THERE IT WAS A TOTAL SET-UP. I WAS LIKE -- WALKED
26 DOWN THE STAIRS. AND AS SOON AS I GOT TO THE BASE OF THE
27 STAIRS, THE POLICE WERE THERE.

28 THE COURT: THE STAIRS OUTSIDE OF THE APARTMENT?

1 THE WITNESS: OUTSIDE OF THE APARTMENT.

2 THE COURT: LEADING UP TO A SECOND STORY
3 APARTMENT OR SOMETHING?

4 THE WITNESS: YES.

5 THE COURT: AND THE POLICE CAME AND ARRESTED
6 YOU?

7 THE WITNESS: YES.

8 THE COURT: BECAUSE YOU WERE WITHIN 100 YARDS OF
9 THE RESIDENCE?

10 THE WITNESS: YES.

11 THE COURT: DID YOU EVER FIND OUT WHAT HAPPENED
12 WITH JOSEPH?

13 THE WITNESS: THEY WERE IN SCHOOL.

14 THE COURT: SO HE IN FACT WAS NEVER ILL ON THAT
15 DAY?

16 THE WITNESS: THAT IS CORRECT.

17 THE COURT: OKAY.

18 BY MR. GRIFFITH:

19 Q. WAS THERE AN ALLEGATION FROM THE DAY BEFORE
20 THAT, THE DAY BEFORE YOU WERE ARRESTED ON AUGUST 31ST,
21 THIS WOULD BE AUGUST 30TH, WITH RESPECT TO THE VIOLATION
22 OF THE RESTRAINING ORDER?

23 A. YES. THE ALLEGATION SAID THAT I BROKE INTO THE
24 HOUSE AND STOLE MEDICATION FROM THEM, WHICH ALSO ISN'T
25 TRUE.

26 Q. THIS WAS ONE OF THE 13 CRIMINAL CHARGES THAT
27 WERE FILED AGAINST YOU?

28 A. YES.

1 Q. DID YOU ACTUALLY GO OVER TO THE HOUSE ON AUGUST
2 30TH?

3 A. NO.

4 Q. ONCE YOU WERE RELEASED, WERE YOU EVER PUT BACK
5 INTO CUSTODY FOR VIOLATION OF THE RESTRAINING ORDER?

6 A. NO.

7 Q. YOU SPENT -- HOW MANY DAYS DID YOU SPEND IN JAIL
8 AFTER --

9 A. YES. I'M SORRY. YES, I WAS. I WAS RELEASED
10 AND THEN I HAD ANOTHER HEARING TO GO TO, THE READINESS
11 HEARING ON -- I THINK IT WAS THE 9TH OR 7TH. AND AT THAT
12 TIME AFTER I HAD BONDED OUT OF THE FIRST ONE, THERE WAS
13 ANOTHER INCIDENT ON THE 4TH SAYING I WAS IN THE HOUSE.
14 AND ON THE READINESS HEARING DATE, THEY REMANDED ME BACK
15 INTO CUSTODY.

16 Q. WHY DID THEY DO THAT?

17 A. SOMEBODY HAD BROKEN INTO HER APARTMENT AND
18 STOLEN SOME MORE MEDICATION.

19 Q. WAS THE READINESS HEARING DATE ON SEPTEMBER
20 15?

21 A. YES.

22 Q. SO BASED ON ANOTHER ACCUSATION, YOU WERE PUT
23 BACK IN JAIL ON SEPTEMBER 15TH, CORRECT?

24 A. YES.

25 Q. AFTER YOU WERE RELEASED THE SECOND TIME FROM
26 JAIL, HOW DID -- DID YOU TAKE ANY PRECAUTIONARY MEASURES
27 TO FIGHT AGAINST FURTHER FALSE ACCUSATIONS?

28 A. YES, I DID.

1 Q. WHAT DID YOU DO?

2 A. I HAVE BEEN WEARING A GPS TRACKER SINCE THE 19TH
3 OF SEPTEMBER.

4 Q. DID YOU VOLUNTARILY --

5 A. YES.

6 Q. HOW DID YOU DO THAT? DID YOU GO TO AN
7 INVESTIGATIVE SERVICE?

8 A. WHEN I WENT TO THE BONDSMAN TO SIGN MY
9 PAPERWORK, I SAID I HAVE TO FIND A WAY TO DO THIS BECAUSE
10 SHE IS NOT GOING TO QUIT WITH THE FALSE ACCUSATIONS. AND
11 HE TOOK ME OVER TO D.S. INVESTIGATIONS, AND ON THAT DAY I
12 HAD A GPS TRACKER PUT ON MY LEG.

13 Q. I WOULD LIKE TO ASK THE WITNESS TO STEP OFF THE
14 STAND TO PULL UP HIS LEG AND SHOW THE COURT HIS GPS
15 TRACKER.

16 THE COURT: OKAY. CAN YOU -- MAYBE THE BAILIFF
17 WILL SHOW YOU A GOOD PLACE TO DO THAT.

18 THE COURT: OKAY. SO THE COURT IS OBSERVING A
19 BLACK OBJECT ON THE LEFT ANKLE OF THE WITNESS AND IT'S
20 FACED TO THE OUTSIDE THE WITNESS' FOOT. I CAN'T READ THE
21 WRITING ON THE OBJECT. IT'S AFFIXED TO HIS ANKLE WITH AN
22 ORANGE BAND.

23 THE WITNESS: THE TRACKER IS INSIDE THE POUCH.
24 THE TRACKER CANNOT COME OUT UNLESS IT'S CUT.

25 THE COURT: THE WITNESS HAS OPENED UP THE BLACK
26 OBJECT -- AND THE OBJECT THAT I JUST DESCRIBED IS WHAT
27 YOU ARE REFERRING TO AS THE TRACKER, SIR?

28 THE WITNESS: YES, INSIDE THE POUCH.

1 THE COURT: THANK YOU.

2 BY MR. GRIFFITH:

3 Q. YOU CAN TAKE THE STAND.

4 MR. COX, I NOTICED AN ORANGE STRAP THAT AFFIXES
5 THE TRACKER TO YOUR LEG.

6 A. YES.

7 Q. WHAT IS THAT?

8 A. IT'S HELD ON BY TWO STRAPS. ONCE YOU PUT THEM
9 ON, THEY DON'T COME BACK OFF UNLESS YOU CUT THEM OFF.

10 Q. OKAY. SO THIS GPS TRACKER HAS BEEN ABLE TO KEEP
11 TRACK OF WHERE YOU HAVE BEEN SINCE YOU HAD IT AFFIXED TO
12 YOUR LEG ON, WAS IT, SEPTEMBER 19TH, YOU SAID?

13 A. YES.

14 Q. IT'S AFFIXED TO YOUR LEG WITH A SEAL, AND IF
15 IT'S BROKEN, THE INVESTIGATOR WILL KNOW YOU'VE TAKEN IT
16 OFF?

17 A. YES.

18 Q. DO YOU KNOW BILL IVERSON?

19 A. YES.

20 Q. HOW DO YOU KNOW BILL IVERSON?

21 A. ON 1:00 O'CLOCK IN THE MORNING ON THE 24TH OF
22 SEPTEMBER, TWO POLICE OFFICERS CAME AND WOKE ME UP,
23 OFFICER SEMELE AND OFFICER SILVA. AND THEY SAID, "WE
24 HAVE AN INDIVIDUAL THAT IS INTERESTED IN TALKING TO YOU
25 THAT HAS PERTINENT INFORMATION TO YOUR CASE."

26 Q. OKAY. AND THIS PERSON WAS BILL IVERSON?

27 A. BILL IVERSON.

28 Q. WHO IS BILL IVERSON IN RELATION TO THE

1 PARTIES?

2 A. BILL IVERSON IS CASSIE'S DAD.

3 Q. CASSIE IS THE PERSON CURRENTLY STAYING WITH MS.
4 COX?

5 A. YES.

6 Q. WHAT DID BILL IVERSON TELL YOU?

7 A. HE TOLD ME THAT THEY HAD BEEN TRYING TO SOLICIT
8 HIM TO PUT DRUGS IN MY TRUCK.

9 Q. WHO IS THEY?

10 A. NADJA AND CASSIE TRYING TO SOLICIT HIM TO PLACE
11 HER MEDICATION OR DRUGS IN MY TRUCK AND MAKE A PHONE CALL
12 ON THE 24TH SO THAT I WOULD BE ARRESTED BEFORE THE
13 HEARING.

14 Q. BEFORE YOUR --

15 A. ON THE 24TH.

16 Q. BEFORE YOUR CRIMINAL HEARING?

17 A. YES.

18 MR. GRIFFITH: YOUR HONOR, IF THE COURT IS
19 INCLINED, I WOULD LIKE TO MAKE AN OFFER OF PROOF -- I'M
20 SORRY. CROSS-EXAMINE?

21 THE COURT: WHAT'S YOUR OFFER OF PROOF?

22 MR. GRIFFITH: I HAVE A WEB SITE THAT
23 CORRESPONDS WITH THE INVESTIGATION SERVICE THAT PROVIDES
24 SERVICE TO MR. COX. IF YOU GO TO THE WEB SITE, THIS
25 LINK, YOUR HONOR, YOU CAN SEE WHERE MR. COX HAS BEEN, A
26 TRACK OF WHERE HE HAS BEEN EVERY DAY SINCE HE GOT THE
27 DEVICE PUT ON HIS LEG.

28 EARLIER, MS. COX TESTIFIED THAT THE FIRST WEEK

1 IN OCTOBER, HE WAS 80 FEET FROM HER HOUSE. AND WE CAN
2 SHOW BY LOOKING AT THIS WEB SITE AND TRACKER ASSOCIATED
3 WITH IT, YOUR HONOR, THAT IN FACT, HE WAS NO WHERE NEAR
4 HER HOUSE.

5 THE COURT: DO YOU HAVE A DOCUMENT, COUNSEL?

6 MR. GRIFFITH: NO, YOUR HONOR. I DO HAVE THE
7 WEB SITE HERE.

8 THE COURT: WHY DIDN'T YOU PRINT OUT THE
9 DOCUMENT?

10 MR. GRIFFITH: IT'S MORE CREDIBLE IF YOUR HONOR
11 LOOKS ON THE WEB SITE YOURSELF. THE PRINTOUT DOESN'T DO
12 MUCH GOOD.

13 THE COURT: YOU HAVE MADE YOUR OFFER OF PROOF.

14 MR. GRIFFITH: THANK YOU, YOUR HONOR.

15 THE COURT: ANY OTHER QUESTIONS?

16 MR. GRIFFITH: NO, YOUR HONOR.

17 THE COURT: CROSS-EXAMINATION? DO YOU HAVE ANY
18 QUESTIONS FOR THE WITNESS BASED ON WHAT QUESTIONS WERE
19 ASKED BY THE ATTORNEY?

20 CROSS-EXAMINATION

21 BY MS. COX:

22 Q. IN REGARDS TO MR. BILL IVERSON, ISN'T IT TRUE
23 THAT HE IS A CONVICTED FELON?

24 A. I DON'T KNOW.

25 Q. OKAY. THIS IS CREDIBILITY FROM SOMEONE THAT YOU
26 TALKED TO?

27 MS. COX: YOUR HONOR, I'M NOT QUITE SURE WHAT I
28 NEED TO ASK.

1 THE COURT: OKAY. YOU MAY STEP DOWN.

2 MS. COX: I HAVE REBUTTAL BUT I'M NOT SURE HOW
3 TO ASK IT.

4 THE COURT: REBUTTAL FOR WHAT?

5 MS. COX: THAT'S ALL RIGHT.

6 THE COURT: ANYTHING ELSE?

7 MR. GRIFFITH: NO, YOUR HONOR.

8 THE COURT: OKAY. ALL RIGHT. GO AHEAD.

9 ANYTHING YOU WOULD LIKE TO SAY?

10 MS. COX: YES. IN REGARDS TO MR. BILL IVERSON,
11 THE ONE THING I DO KNOW, THAT IS CASSIE HAS A RESTRAINING
12 ORDER AGAINST HIM. SHE WAS TRYING TO RE-ESTABLISH
13 CONTACT WITH HIM. AS FAR AS THE ACCUSATION, I'M NOT
14 AWARE OF WHAT OCCURRED. I DO KNOW THAT SHE TRIED TO TALK
15 TO HIM AND LET HIM KNOW WHAT WAS GOING ON IN HER LIFE,
16 BUT I -- HIS CREDIBILITY AS A CONVICTED FELON, I DON'T
17 HAVE ANY TRUST OF WHAT HE SAYS AND DOES.

18 DO I NEED TO PROCEED WITH ANY QUESTIONS
19 REGARDING ANYTHING ELSE?

20 THE COURT: SO WHAT WAS THE DAY THAT JOSEPH WAS
21 SUPPOSEDLY ILL AGAIN?

22 MR. COX: THE 31ST OF AUGUST.

23 THE COURT: AUGUST 2009?

24 MR. COX: YES.

25 THE COURT: SO WAS THE CHILD ILL ON AUGUST
26 31ST, 2009?

27 MS. COX: YES. HE WASN'T FEELING GOOD AND HE
28 WAS AT THE NURSE'S OFFICE ON THAT DAY.

1 THE COURT: DID MS. IVERSON CONTACT THE
2 PETITIONER ABOUT THAT?

3 MS. COX: I DON'T KNOW.

4 THE COURT: ANYTHING ELSE YOU WANT TO SAY?

5 MS. COX: NO. I DIDN'T EVEN KNOW ABOUT -- HE
6 SAID SOMETHING ABOUT SOMEBODY PLANTING DRUGS. I DIDN'T
7 KNOW ANYTHING ABOUT THAT. AND IN REGARDS TO COMING INTO
8 MY HOME, IT WASN'T JUST ABOUT THE MEDICATION BEING GONE,
9 THERE WAS A \$3,000 RING THAT WAS STOLEN. MY HOUSE WAS
10 TRASHED. FOOD WAS THROWN ON THE FLOOR. I HAD
11 PICTURES -- MY PERSONAL BELONGINGS WERE THROWN
12 EVERYWHERE. I HAVE -- CASSIE'S WHEELCHAIR WAS PROPPED UP
13 ON THE INSIDE OF MY CLOSET, SO WHOEVER WOULD OPEN THE
14 DOOR, IT WOULD FALL ON TOP OF THEIR HEAD. IT FELL ON
15 HER. IF ONE OF MY KIDS HAD BEEN HOME, IT WOULD HAVE BEEN
16 THEM. MY MAIN CONCERN IS FOR THEIR SAFETY.

17 THE COURT: OKAY. THANK YOU. ANYTHING ELSE
18 FROM YOUR SIDE?

19 MR. GRIFFITH: YOUR HONOR, THE RESPONDENT HAS
20 MADE MANY ACCUSATIONS, NONE OF WHICH ARE CREDIBLE, NONE
21 OF WHICH HAVE BEEN SUPPORTED BY ANY EVIDENCE WHATSOEVER.
22 SHE IS HARASSING MY CLIENT. SHE IS MAKING MY CLIENT'S
23 LIFE MISERABLE, YOUR HONOR. HE HASN'T SEEN HIS KIDS IN
24 THREE MONTHS. WE'RE ASKING THAT THE RESTRAINING ORDER
25 IMMEDIATELY BE DISSOLVED AND THAT MR. COX BE GIVEN
26 EXTENDED VISITATION WITH THE KIDS THAT HE HASN'T SEEN IN
27 OVER THREE MONTHS, YOUR HONOR.

28 THE COURT: DO YOU THINK THAT THE -- WHAT WAS

1 THE DATE OF THE TRACKING WEB SITE YOU WANTED ME TO CHECK?

2 MR. GRIFFITH: WE ARE LOOKING AT THE FIRST WEEK
3 IN OCTOBER.

4 THE COURT: AND YOU THINK THAT MR. IVERSON WAS
5 ON YOUR PROPERTY IN THE FIRST WEEK OF OCTOBER, MA'AM,
6 WITHIN 80 YARDS OF YOUR HOME?

7 MS. COX: MR. COX?

8 THE COURT: I'M SORRY, MR. COX.

9 MS. COX: WHAT I SAID WAS THAT JOSEPH HEARD HIM
10 AND THAT THE FORT WAS WITHIN 80 FEET OF MY HOME. RENE
11 AND JOSEPH HEARD HIM CALL.

12 THE COURT: YOU BELIEVE, THEREFORE, THAT HE WAS
13 80 FEET FROM --

14 MS. COX: THAT'S ABOUT HOW FAR THE FORT IS AWAY.
15 THEY COULDN'T SEE HIM BECAUSE IT WAS TOO FAR AWAY.

16 THE COURT: IF I LOOK AT THIS WEB SITE, YOU HAVE
17 CONFIDENCE THAT I'LL FIND THAT HE HAS BEEN TRACKED WITHIN
18 80 FEET OF YOUR HOME?

19 MS. COX: NO. I HAVE CONFIDENCE THAT MY SON IS
20 RIGHT. THERE IS NO REASON FOR HIM TO BE THAT SCARED.
21 THEY BOTH HEARD HIM, THEY BOTH RAN.

22 THE COURT: ALL RIGHT. WHAT'S THE WEB SITE,
23 COUNSEL?

24 MR. GRIFFITH: YOUR HONOR, I CAN HAND YOU THE
25 LINK.

26 YOUR HONOR, I'M ALSO HANDING THE BAILIFF THE
27 CARD FOR TREVOR SUSSMAN, THE INVESTIGATOR.

28 THE COURT: ALL RIGHT. I SEE THAT.

1 SO THIS IS LIGHTENING GPS; IS THAT RIGHT?

2 MR. COX: YES. DOWN THERE YOU WILL SEE A LITTLE
3 BLUE CALENDAR. DOWN BELOW THERE SHOULD BE A LITTLE THING
4 DOWN THERE. AND YOU CLICK ON EITHER OF THE ARROW BUTTONS
5 TO GO BETWEEN MONTHS. ON ANY ONE OF THE BLUE DATES YOU
6 CLICK ON, IT WILL SHOW YOU WHERE I'VE BEEN.

7 THE COURT: HERE IS WHAT WE ARE GOING TO DO:
8 I'M GOING TO ASK MY BAILIFF TO TAKE THIS DOWN THERE.
9 I'VE GOTTEN THE WEB SITE UP THERE FOR YOU. YOU CAN GO
10 AHEAD AND QUEUE IT UP TO WHATEVER YOU WANT TO QUEUE IT UP
11 AND THEN WE'LL SHOW IT TO EVERYBODY AND THEN YOU CAN SEE
12 THE INFORMATION YOURSELVES AND THEN TELL THE COURT WHAT
13 YOU'VE FOUND.

14 MR. GRIFFITH: I THINK THERE IS SOME NUMBERS FOR
15 THE CLIENT.

16 THE COURT: LET'S NOT RECORD THIS PROCESS.

17 (OFF THE RECORD WHILE TRYING TO CONNECT TO
18 INTERNET)

19 (BACK ON THE RECORD.)

20 MR. COX: IT'S NOT CONNECTING.

21 THE COURT: THIS IS WHY YOU BRING THE DOCUMENT
22 WITH YOU.

23 ANYTHING ELSE FROM YOUR SIDE, MA'AM?

24 MS. COX: YES. REGARDING THE RESTRAINING ORDER,
25 DURING OUR LENGTHY MARRIAGE, ABOUT 16 YEARS, THERE WAS
26 CONTINUED PHYSICAL AND EMOTIONAL ABUSE TO MYSELF AND MY
27 CHILDREN. FILED WITH THE COURT IS A PREVIOUS RESTRAINING
28 ORDER FILED IN 2006 OF OCTOBER. THAT WAS ATTACHED TO MY

1 DECLARATION. AND THE CURRENT RESTRAINING ORDER THAT WAS
2 FILED ON JULY 10, WHICH HAS ALSO BEEN VIOLATED. FURTHER
3 EVIDENCE OF THE DOMESTIC VIOLENCE IS ATTACHED ON EXHIBIT
4 D AS A LETTER FROM MY DOCTOR, JOSEPH M.D., WHILE I LIVED
5 IN FLORIDA WHERE MR. COX PHYSICALLY HAD HURT ME AGAINST
6 THE CABINET COUNTER. THE CONTINUAL BEHAVIOR THAT HASN'T
7 CHANGED.

8 UP UNTIL THIS POINT I HAVE BEEN COOPERATIVE.
9 I'VE TRIED WORKING IN THE RELATIONSHIP UP UNTIL THIS
10 POINT, EVEN PRIOR TO THE MEDIATION. BUT BECAUSE HIS
11 BEHAVIOR HASN'T CHANGED, BECAUSE THE CHILDREN ARE
12 AFRAID -- AND WHEN HE IS PASSIVE AND HE IS CALM, THINGS
13 ARE OKAY. BUT WHEN HE GETS ANGRY, SOMEBODY GETS HURT.
14 IT'S BEEN PROVEN OVER AND OVER AGAIN. THAT'S WHY I FILED
15 A RESTRAINING ORDER BECAUSE OF THE CONTINUED PROBLEMS,
16 WHICH I'VE EXPLAINED IN MORE DETAIL.

17 WHEN MEDIATION TOOK PLACE, THAT WAS ALSO PRIOR
18 TO THE VIOLATIONS ON THE TRO. AND ONE OF THE THINGS I
19 WANT TO REQUEST FROM THE COURT, IN CONSIDERATION AS WELL,
20 IS TO PLACE THOSE CHILDREN BACK THROUGH MEDIATION, AND
21 FOR THIS REASON: THEY ARE AFRAID, THEY ARE SLEEPING WITH
22 ME. THIS IS PATTERNS OF BEHAVIOR THAT HASN'T CHANGED
23 THROUGH THE YEARS. MY OLDEST SON DOESN'T WANT TO SEE HIS
24 FATHER RIGHT NOW. AND I HAVE ALWAYS ENCOURAGED THEM TO
25 SEE THEIR DAD. I HAVE ALWAYS ENCOURAGED THEM TO WORK
26 THINGS THROUGH. AT THIS TIME THERE IS A CONTINUAL THREAT
27 AND A PROBLEM THAT I HAVEN'T SEEN CHANGE. AND THAT IS
28 THE REASON I'M HERE TODAY. THAT WAS THE REASON WHY I

50

1 ASKED FOR THE PERMANENT RESTRAINING ORDER BECAUSE WHEN HE
2 IS UPSET AND HE IS ANGRY, THAT'S WHEN HE IS VIOLENT AND
3 HE IS NOT A SAFE PERSON TO BE AROUND.

4 THE COURT: THANK YOU. ANYTHING FOR YOUR SIDE?

5 MR. GRIFFITH: YOUR HONOR, THE ISSUES OF CUSTODY
6 AND VISITATION WILL BE ADDRESSED ON NOVEMBER 4. WE DO
7 HAVE A HEARING BEFORE THE COURT ON CUSTODY AND
8 VISITATION. THE PARTIES HAVE BEEN TO FAMILY COURT
9 SERVICES. FAMILY COURT SERVICES HAS RECOMMENDED
10 VISITATION.

11 THE COURT: I'M AWARE OF IT. ANYTHING ELSE ON
12 THE ISSUES BEFORE THE COURT?

13 MR. GRIFFITH: NOT ON THE ISSUES BEFORE THE
14 COURT, YOUR HONOR.

15 THE COURT: IN THE COURT'S REVIEW OF THE FILE,
16 THERE IS ONLY TWO ALLEGATIONS THAT ARE PRESENTED THAT THE
17 COURT FINDS ANY CREDIBILITY TO SUPPORT THEM. ONE
18 ALLEGATION IS THAT IN 2002 THE PETITIONER BATTERED THE
19 RESPONDENT. AND THE REASON THE COURT FINDS SOME
20 CREDIBILITY WITH THAT ALLEGATION IS THAT PETITIONER JUST
21 TOLD US ABOUT IT ON THE WITNESS STAND. IT COMES NOT SO
22 MUCH WHAT FROM THE RESPONDENT SAID IN TERMS OF CONFIRMING
23 INFORMATION, BUT WHAT THE PETITIONER SAYS. NOW, THE
24 PARTIES' VIEW OF WHAT ACTUALLY THE BATTERY, WHAT ACTUALLY
25 CONSTITUTES A BATTERY IS RADICALLY DIFFERENT, BUT A
26 BATTERY IS ANY UNCONSENT OF TOUCHING BY ONE PERSON OF
27 ANOTHER. SO TO THE EXTENT, SIR, YOU SAY, I PUT MY HANDS
28 ON THE EARS OF ANOTHER PERSON WITHOUT CONSENT. SO THAT'S

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1 BATTERY. THAT'S WHAT I'M REFERRING TO.

2 NOW, RESPONDENT TELLS US THAT PETITIONER GRABBED
3 HER BY THE THROAT AREA, LIFTED HER OFF THE GROUND A FOOT
4 AND A HALF. PETITIONER DENIES ALL OF THAT. SO THE I PUT
5 MY HANDS ON THE SIDES OF HER HEAD BY HER EARS AND GRABBED
6 HER EARS OR EARRINGS FROM HER HEAD AND TOLD HER THAT HE
7 WAS FRUSTRATED WITH THEIR RELATIONSHIP IN SOME WAY AND
8 LEFT THE HOUSE.

9 A RESTRAINING ORDER WAS ISSUED BACK IN 2006.
10 THAT ALLEGATION SUPPORTED THE DECLARATION OR WAS
11 CONTAINED IN THE DECLARATION THAT SUPPORTED THE ISSUES OF
12 THE RESTRAINING ORDER, SO IT'S BEEN ADDRESSED BY THE
13 COURT.

14 THE RESPONDENT AND THE PETITIONER -- I GUESS IT
15 WAS AT THE RESPONDENT'S REQUEST -- CHOSE TO DISMISS THOSE
16 RESTRAINING ORDERS IN '07. SO THEY WERE IN PLACE FOR A
17 PERIOD OF TIME, SHORT PERIOD OF TIME, BUT THEN SHE
18 REQUESTED THEY BE DISMISSED. AND THE COURT, ACTING ON
19 HER REQUEST, DID DISMISS THEM.

20 THE PERMANENT RESTRAINING ORDER WAS ISSUED ON
21 OCTOBER 5, 2006. THE REQUEST TO DISMISS WAS AUGUST 15,
22 '07 AT THE REQUEST BY MS. COX, WHO WAS THEN THE
23 PETITIONER IN THAT CASE, THE RESPONDENT IN THIS CASE, BUT
24 THE MOVING PARTY IN THIS CASE. MS. COX ASKED THE COURT
25 TO DISMISS THE RESTRAINING ORDER ABOUT NINE MONTHS AFTER
26 THEY WERE ISSUED. THE COURT GRANTED THE REQUEST. THE
27 COURT'S POINT IS THAT THE COURT ADDRESSED THIS BATTERY.

28 THE ALLEGATION THAT'S OF CONCERN TO THE COURT

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1 THAT SEEMS TO HAVE SOME BASIS IN CREDIBILITY IS IN THE
2 CPS HISTORY ON PAGE 4 OF THE FAMILY COURT SERVICES'
3 REPORT. THERE IS A SUBSTANTIATED ALLEGATION OF SEXUAL
4 ABUSE OF RYAN AND JOSEPH BY FATHER. THAT WAS
5 SUBSTANTIATED 8-23-06. NOW, THE RESTRAINING ORDER THAT
6 THE COURT JUST REFERRED TO THAT WAS PUT IN PLACE IN '06,
7 AGAIN, WAS ISSUED ON OCTOBER 5, '06. THIS ALLEGATION
8 BEING SUBSTANTIATED AUGUST '06. SO, PRESUMABLY -- IT'S A
9 LITTLE UNCLEAR. IT'S MORE UNCLEAR ABOUT THIS BECAUSE THE
10 DECLARATION SUPPORTING THE PRIOR RESTRAINING ORDER ISN'T
11 CLEAR AS TO THIS POINT.

12 BUT IT DOES REFER, IT SAYS, "THEY HAVE CONCLUDED
13 ALL THREE OF THE CHILDREN, ESPECIALLY THEIR SONS, HAD
14 BEEN SEXUALLY MOLESTED." SO IT ISN'T SPECIFIC AS TO
15 NAMES LIKE THE SUBSTANTIATED ALLEGATION, BUT IT IS
16 INCLUSIVE OF ALL THE CHILDREN.

17 SO THE POINT I'M MAKING IS THAT IN SEPTEMBER OF
18 '06 MS. COX WAS ALLEGING THAT THE PETITIONER HAD SEXUALLY
19 MOLESTED ALL OF THE CHILDREN. AND IN AUGUST OF '06 THE
20 CHILD PROTECTIVE SERVICES HAS CONCLUDED, SUBSTANTIATED AN
21 ALLEGATION OF SEXUAL ABUSE OF RYAN AND JOSEPH BY FATHER.
22 AND THE COURT ISSUED A PERMANENT RESTRAINING ORDER IN
23 OCTOBER OF '06, WHICH WAS IN PLACE FOR ABOUT NINE MONTHS
24 UNTIL AUGUST OF '07 WHEN IT WAS DISMISSED AT THE REQUEST
25 OF THE PROTECTED PERSON.

26 SO THAT'S BEEN DEALT WITH BECAUSE THE COURT HAS
27 PRESUMED THAT PART OF THE REASON THE COURT ISSUED THE
28 RESTRAINING ORDER IN '06 WAS TO TAKE INTO CONSIDERATION

1 ALL THE ALLEGATIONS IN SUPPORT OF THE REQUEST, PURSUSANT
2 TO ONE OF THOSE ALLEGATIONS.

3 THEN CURIOUSLY ON TOP THAT, IN THE PRESENT
4 INTERVIEW -- PRESENT, MEANING AS OF AUGUST '09 -- RYAN
5 AND JOSEPH EXPRESS NO FEAR OF DAD. RYAN SAYS THAT HE IS
6 USED TO SEEING HIS FATHER EVERY DAY AND MISSES HIM. HE,
7 MEANING RYAN, DENIED THAT HIS FATHER HAS EVER HARMED HIM
8 BUT SAID HE DOES NOT FEEL SAFE WITH HIM AT THIS TIME,
9 DENIES FEELING PRESSURED BY EITHER PARENT OR BEING
10 EXPOSED TOWARD FAVORS; HOWEVER, HIS MOTHER TOLD HIM THAT
11 THE FATHER POISONED JOSEPH AGAINST HER. THIS IS WHAT
12 RYAN TELLS THE INVESTIGATOR. MOTHER SAID SHE WANTED A
13 50/50 PARENTING PLAN WHILE FATHER SAID HE WANTED PRIMARY
14 CUSTODY. THAT'S RYAN'S STATEMENT TO FAMILY COURT
15 SERVICES. RYAN DENIED EVER WITNESSING ANY BEHAVIOR ON
16 THE MOTHER'S PART THAT WOULD MAKE HIM THINK SHE WAS
17 MENTALLY ILL OR HAS A PROBLEM WITH ALCOHOL. RYAN SAID
18 THAT CASSIE IS THEIR BABYSITTER BUT DOES NOT LIVE IN THE
19 HOME. THAT'S CONSISTENT WITH WHAT MOM IS TELLING US
20 ABOUT MS. IVERSON'S ROLE IN THIS MATTER. SHE IS NICE TO
21 THE CHILDREN. THAT'S RYAN'S AUGUST 27, '09 STATEMENT TO
22 FAMILY COURT SERVICES.

23 JOSEPH, THE OTHER CHILD FOR WHICH THERE WAS A
24 SUBSTANTIATED ALLEGATION OF SEXUAL ABUSE, SAYS HE LOVES
25 BOTH OF HIS PARENTS AND FEELS SAFE WITH BOTH OF THEM. HE
26 DOES NOT ALWAYS LIKE THE WAY THEY BEHAVE. HE DENIED EVER
27 WITNESSING ANY BEHAVIOR ON THE PART OF THE MOTHER THAT
28 WOULD CAUSE HIM TO BELIEVE SHE HAS A MENTAL ILLNESS OR A

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1 PROBLEM WITH ALCOHOL.

2 BY THE WAY, FATHER WAS ALLEGING TO THE FAMILY
3 COURT SERVICES MEDIATOR THAT MOM HAS MENTAL ILLNESS AND
4 SHE HAS PERSONALITY -- A MENTAL ILLNESS THAT MANIFESTS
5 ITSELF IN DISASSOCIATIVE IDENTITIES AND THAT THAT'S WHY
6 THESE CHILDREN ARE REFERRING TO WHETHER OR NOT MOM HAS A
7 MENTAL ILLNESS OR NOT, BECAUSE I BELIEVE THAT BOTH
8 PARTIES TALK TO THE CHILDREN ABOUT THIS CASE.

9 ANYWAY, JOSEPH SAYS HE'S NEVER SEEN BEHAVIOR OF
10 MY MOM THAT WOULD CAUSE HIM TO BELIEVE THAT SHE HAS A
11 MENTAL ILLNESS OR A PROBLEM WITH ALCOHOL. HE ALSO DENIED
12 BEING ENCOURAGED TO JUMP OFF THE BALCONY BY HIS FATHER.
13 HE SAID IT WAS HIS OWN DECISION AND HE TAKES
14 RESPONSIBILITY FOR IT.

15 SO EVEN THOUGH THE ALLEGATIONS OF SEXUAL ABUSE
16 WERE SUBSTANTIATED, APPARENTLY NEVER LED TO A CRIMINAL
17 CASE, ONE; SECOND, THE CHILDREN ARE TELLING US IN '09
18 THEY HAVE NEVER BEEN HARMED, THEY FEEL SAFE WITH BOTH
19 PARENTS; AND, THREE, IF THERE WAS ANY CREDIBILITY TO IT,
20 THE COURT HAS ADDRESSED IT BY ISSUING A PERMANENT
21 RESTRAINING ORDER, WHICH MOM ELECTED TO DISMISS, WHICH
22 WOULD HAVE BEEN IN EFFECT UNTIL OCTOBER 4, '09, IF SHE
23 HAD NOT ELECTED TO DISMISS IT.

24 OTHER THAN THAT -- SO MY CONCLUSION, BY THE WAY,
25 IS THE TWO PRIMARY ALLEGATIONS THAT CONCERN -- THAT SEEMS
26 TO HAVE SOME CREDIBLE BASIS HAVE BEEN ADJUDICATED BY THE
27 COURT. AND/OR ONE OF THEM, THE MORE SERIOUS OF THE TWO,
28 BOTH SERIOUS, BUT AT LEAST AS TO THE CHILDREN, THE MORE

1 DIRECTLY RELATED TO THEM IS THE CONCERN WAS HOW CREDIBLE
2 IT WAS. BECAUSE AS I SAID A MINUTE AGO, EVEN THOUGH CPS
3 SUBSTANTIATED IT, LAW ENFORCEMENT NEVER FOLLOWED UP WITH
4 IT APPARENTLY OR NEVER CHARGED BASED ON IT. NOW THE
5 CHILDREN ARE TELLING US THAT THEY DON'T FEEL AT RISK WITH
6 EITHER PARENT. THE ONLY ONE THAT SAYS HE IS AT RISK WITH
7 DAD HAS NOTHING TO DO WITH THIS ALLEGATION OF SEXUAL
8 ABUSE. IT HAS TO DO WITH THIS IDEA THAT DAD IS
9 ALIENATING THE OTHER CHILD.

10 THE BALANCE OF MOM'S ALLEGATIONS ARE NOT
11 BELIEVABLE. QUITE FRANKLY, THEY ARE NOT ONLY NOT
12 SUPPORTED BY THE EVIDENCE, MOST OF IT IS THIRD PARTY THAT
13 HAS REALLY LITTLE OR NO EVIDENTIARY FOUNDATION. MOST OF
14 MOM'S ALLEGATIONS ARE BECAUSE SOME CHILD TOLD HER THIS OR
15 THAT. FIRST OF ALL, THESE ARE NOT TERRIBLY YOUNG
16 CHILDREN BUT IMPRESSIONABLE TEENAGERS WHO AREN'T PERHAPS
17 ALWAYS CONSISTENT WITH THEIR OBSERVATION WHO ARE BEING
18 SUBJECTED TO THE PRESSURES OF THIS CASE, WHO ARE -- WHO
19 MOM HAS SUGGESTED IS CHANGING POSITIONS ALMOST MONTHLY.
20 NOW SHE WANTS ME TO SEND EVERYBODY BACK TO FAMILY COURT
21 SERVICES BECAUSE NOW MOM SAYS THAT JOSEPH IS AFRAID OF
22 DAD. WELL, JOSEPH TOLD THE MEDIATOR TWO MONTHS AGO HE IS
23 NOT AFRAID OF DAD. SO EVEN IF WHAT MOM IS SAYING IS
24 TRUE, WHAT THAT TELLS ME IS THIS CHILD IS BOUNCING BACK
25 AND FORTH IN TERMS OF HIS FEELINGS ABOUT HIS PARENTS,
26 WHICH AFFECTS THE CREDIBILITY OF THE OBSERVATIONS
27 ALLEGEDLY THE CHILD HAS COMMUNICATED TO MOM EVEN IF WE
28 COULD BELIEVE THE CHILD.

1 THIS IDEA THAT BY THE WAY THAT DAD TOLD ONE OF
2 THE CHILDREN TO JUMP OFF THE BALCONY, IT'S SORT OF AN
3 EXTRAPOLATED CONCLUSION BASED IN PART ON WHAT SOME CHILD
4 TOLD HER THAT SUPPOSEDLY DAD SAID IN A TELEPHONE
5 CONVERSATION THAT SHE, MOM, NEVER HEARD. AND THEN IT'S
6 UNCLEAR AS TO WHETHER DAD TOLD THE CHILD TO DO ANYTHING
7 OTHER THAN LEAVE THE HOUSE. HE'S SUPPOSED TO JUMP OFF
8 THE BALCONY, THAT'S HOW THIN, IF YOU WILL, OR NONEXISTENT
9 HER EVIDENCE IS ABOUT THESE ALLEGATIONS.

10 THE MOST DISTURBING CREDIBILITY BREAK IS THIS
11 IDEA THAT IT APPEARS THAT MOM AND/OR MS. IVERSON
12 CONCOCTED SOME STORY TO GET DAD ARRESTED AT THE END OF
13 THE LAST DAY OF THE MONTH, I THINK IT WAS AUGUST, WITH
14 SOME FEIGNED EMERGENCY OF JOSEPH AT THE HOUSE, SPITTING
15 UP BLOOD WHICH CAUSES DAD TO GO TO THE HOUSE, WHICH
16 CAUSES THE ARREST, WHEN IN FACT AT THE TIME THE CHILD IS
17 IN SCHOOL AND NOT AT THE HOUSE.

18 SO SUFFICE IT TO SAY THAT THE COURT FINDS THAT
19 THERE IS NO EVIDENTIARY SUPPORT FOR ANY OF THE
20 ALLEGATIONS THAT ARE PRESENTLY BEFORE THE COURT THAT HAVE
21 NOT BEEN ADJUDICATED. THE COURT IS DENYING ALL THE
22 REQUESTS FOR A RESTRAINING ORDER, DISMISS THE TEMPORARY
23 RESTRAINING ORDER IMMEDIATELY AND THE EXISTING ORDERS
24 THAT EXISTED PRIOR TO THE ISSUANCE OF THE RESTRAINING
25 ORDER, IF ANY, WILL RETURN TO BE IN FULL FORCE AND
26 EFFECT.

27 ALL RIGHT. GOOD LOOK. SEE YOU BACK HERE AT THE
28 NEXT HEARING.

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MR. GRIFFITH: OUR REQUEST FOR A WEEKEND
VISITATION FOR DAD FOR THIS WEEKEND?

THE COURT: I AM NOT GOING TO MAKE ANY ORDERS
OTHER THAN WHAT I'VE DONE TODAY. SO IF THERE ARE ANY
OTHER ORDERS THAT GOVERN HIM, THEY WILL BE IN PLACE. IF
NOT, WE WILL ADDRESS THEM AT THE NEXT HEARING.

MR. GRIFFITH: THANK YOU, YOUR HONOR.

THE COURT: GOOD LUCK.

(AT 10:59 A.M., THE HEARING WAS CONCLUDED.)

* * * * *

STATE OF CALIFORNIA)
: SS.
COUNTY OF SAN DIEGO)

I, DANA SARUK, CSR NO. 10653, HEREBY CERTIFY THAT I REPORTED IN SHORTHAND THE ABOVE PROCEEDINGS ON THURSDAY, OCTOBER 22, 2009, AND I DO FURTHER CERTIFY THAT THE ABOVE AND FOREGOING PAGES NUMBERED 1 TO 56, INCLUSIVE, CONTAIN A TRUE AND CORRECT TRANSCRIPT OF SAID PROCEEDINGS.

I FURTHER CERTIFY THAT I AM A DISINTERESTED PERSON AND AM IN NO WAY INTERESTED IN THE OUTCOME OF SAID PROCEEDING.

DATED: DECEMBER 21, 2009.



DANA SARUK
CSR NO. 10653