

COA # 539331

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Statement of Additional Grounds for Review RAP 10.10. Page 1.

I placed citation of the verbal reports of the proceedings in this case (VRP), but I also placed my personal comments in Spanish. This documentation has been translated by Monica Time, State of Washington Department of Social and Health Services Interpreter Certification number 10786.

FILED
COURT OF APPEALS
DIVISION II
2020 SEP 23 PM 2:30
STATE OF WASHINGTON
BY: [Signature]

- I abbreviated the name of the plaintiff "Nicole Botino" with NB.
- I have cited 30 point of misconduct on my case, all contradicting the declarations of plaintiff NB.
- Declarations that had no significance to the case that were presented by Plaintiff "NB".
- Contradictions and declarations that were presented by NB and witnesses.
- These citations were not taken into consideration injudiciously by my lawyer, creating a biased effect on the jury. No set standards were placed with the significance of the case.
- I had also specifically asked my lawyer to remove juror 15 and juror 22 which my lawyer deliberately ignored.
- I had asked my attorney to bring forth as a witness the testimony of Mariana Barajas (witness) whom brought the plaintiff "NB" to my home and family soccer games, (witness) who knew the relationship the plaintiff "NB" had with her father. Which again my lawyer deliberately ignored.
- I had requested to be placed on the stand so that I could testify in my own case. My attorney advised me against testifying and stated that I did not need to testify, that everything would be just fine.
- I had requested that my attorney let the Judge and the jurors know of my back problems, (that situation came up in court about me, moving consistently), the judge was negligent to provide this information to the jurors. 450

[Signature]

Incident number 1, involving the sweater/ jacket/ coat. (356-357) Page 2.

Witnesses Vs Plaintiff Nicole Botino (NB)

Plaintiff "NB" had requested a sweater/jacket/coat from witness Judith Saavedra. Plaintiff "NB" stated she went to obtain a sweater/jacket/coat from the closet. Plaintiff "NB" stated after she had obtained the sweater/jacket/coat she returned to place it back in the closet which she had difficulty doing so. Plaintiff "NB" stated she placed the sweater/jacket/coat back into the closet because she felt too warm wearing the sweater/jacket/coat.

Three witnesses stated that Judith Saavedra (my wife) had obtained the coat for plaintiffs "NB's" mother (Cristina) whom then handed the coat to the plaintiff "NB". Immediately after doing so they left my apartment. 607 (Judith Saavedra), (653-654) (Beatriz Hernandez), (671) (Sergio Hinojosa).

Four witnesses stated that plaintiff "NB" never tried to hang up the jacket back in the closet. (607) (Judith Saavedra), (654) (Beatriz Hernandez (671-672) (Sergio Hinojosa), (549-550) (Karla Quiroga).

Cristina mother of plaintiff "NB" never collaborated with the testimonies of plaintiff "NB". Cristina (mother of Plaintiff NB) stated in (475.19) "I only know what Nicole has told me." (474-476)

These are some of the reasons why plaintiff "NB's" statements are non-dependable.

Incident number 1, involving the jacket. Part 2. (358-361) Page 3.

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Contradictions and statements made without valuable proof.

Plaintiff "NB" kept stating, (when she accused me of placing my hands in her pocket) that she continued to ask me to help her place the Sweater/jacket/coat back into the closet.

Plaintiff "NB" stated that no one else was near or around, that everyone else was outside. (358)

However, in (443.10-.11) Plaintiff "NB" stated that Karla was in the living room, 2 feet away from the closet.

If no one was around or near as Plaintiff "NB" later stated Karla was around and actually in the living room which Karla should have heard Plaintiff "NB" speaking as she stated but Karla never heard anything or seen Plaintiff "NB".

Plaintiff "NB" stated that everyone was located outside of the apartment. (355-358). Later stating that her and Karla were actually in the living room. (361.10-.12), (443.10-.11) if everyone were outside and her and Karla were located in the living room. Why would she need a coat if she was already in the house?

~~Plaintiff "NB" stated she felt uncomfortable and when she was asked "why?" Plaintiff stated immediately that she felt like nothing was wrong quoted "I feel like it was nothing." Plaintiff stated she felt uncomfortable but later stated she felt like it was nothing. Clearly contradicting herself. (360-361)~~

~~Those are all statements from plaintiff "NB" that are contradicting and insufficient proof to the case against me.~~

*Plaintiff NB stated she feel uncomfortable and when she was asked, did you tell anybody immediately? She answer no... I feel it was like it was nothing.
360-361*

Plaintiff NB stated tha she feel uncomfortable and feel like it was nothing at the same time

Those are all statements from Plaintiff NB that contradicting and insufficient proof to the case against me.

When the plaintiff "NB" and Karla had a sleepover at my apartment. They fell asleep on the living room floor. Plaintiff "NB" stated that I came out of my bedroom touched her inappropriately, then went back in my room, and then that I came out of my room again and touched her inappropriately a second time. Then went back into my room again and she moved to the couch. (367-384), (445-448).

Contradictions statements by plaintiff "NB"

(371.12) Question, "What did you do?"

(371.13) Answer, "Nothing."

(446.15) Question, "And you didn't struggle or fight back at all?"

(446.16) Answer, "I moved, I tried moving."

(373.12) Question, "Did you say anything to him?"

(373.13) Answer, "No".

(446.22) Question, "You just didn't say a word?"

(446.23) Answer, "I told him to stop."

Her answers to the questions continued to change. "NB" told my lawyer that she did talk and do something, and to the prosecutor "NB" told her that she didn't talk or do anything. "NB" kept changing her story. Contradicting making it impossible to rely on her statements alone.



Contradicting declarations by plaintiff "NB".

(375.13) Question, "Was it quite between the two of you?"

(375.14) Answer, "Yeah".

(374.4-6) According to plaintiff "NB" I grabbed her hand in a forceful manner.

(375.8) Answer, "I moved my hand."

(446.23) Answer, "I told him to stop."

(371.16) Answer, "I moved. I tried moving."

Plaintiff "NB" stated that "it was quite between he and I". Then later stated that she had told me to stop, also stating that Karla was right next to her in the living room floor. Yet Karla did not wake up. (376-378), (446). These statements are also contradicting and have no proof to convict me of such charges.

Plaintiff "NB" stated "it was very dark" (383.12)

Plaintiff "NB" stated there was no light "any light at all" (383.13-14)

Plaintiff "NB" stated that it was "a little dark" (446.14)

Very dark, any light at all and a little dark, are 3 very different definitions.

Again contradicting her testimony.

Plaintiff "NB" stated she was on the couch and I called her over to the hall way which was 14 feet from the bedroom where Judith (my wife) was sleeping, and 14 feet away from the couch she was sitting on. Plaintiff "NB" stated that from the hallway I called to her to come and she approached me because she felt like she had no choice.

If I were to have called out to her it would have been loud enough for my wife to hear and forceful enough for plaintiff to assume she was commanded to come to me with no other option. The positions and areas that plaintiff "NB" stated that Karla and herself were sleeping in (T) position (368.9-.10). According to "NB" Karla was ^{near} to me, by the position that "NB" mention she was sleeping in (368.9-.10). Karla and my wife should have heard me also. These statements made by plaintiff "NB" are not reasonable enough to be sustained in court.

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Incident number 2 involving the sleepover. Part 3. Page 6.

On (380-382) Plaintiff "NB" stated that in the hallway there were violent movements and we held an on-going conversation.

Yet Judith (my wife) was in the bedroom and Karla in the living room. Yet none of them heard any of the accusations she is making. This testimony has no sustainable proof.

Plaintiff "NB" stated that I had taken her to the hallway more than once. (447.21-23) This information is given creating another contradicting statement by plaintiff "NB". This information is going against statements she made on incident 367-379, and 445-446. First Plaintiff "NB" stated that I approached her in the living room, then stated that I called her from the hallway. Then stated that I took her to the hallway more than once.

Completely giving different narratives to her story. Again contradicting her statements that should have never been held in court.

Plaintiff "NB" Stated that I went to where she was and it was 3:00 AM. I left from where she was at the same time 3:00 AM. Then came back to her shortly after 3:00 AM. (447.8-.10)

Plaintiff "NB" stated that the same time I returned to the room she got onto the couch. (383.2-.6) When she got on the couch Karla had woken up and it was 6:00 AM (383.15-24), (447.12-14.)

In this statement plaintiff "NB" is testifying that I sat in the hallway shortly after 3:00 AM (447.9-.10) until 6:00 AM when I supposedly returned to my room and she got on the couch and Karla woke up. (383.15-24), (447.12-14). This statement is saying that 3 hours had passed of us having consistent talking and forceful movements. (381-382) While Judith (my wife) and Karla were nearby in the same home stated by the plaintiff "NB", which none of them heard me and her at all.

These statements are contradicting and unsustainable.

Incident number 2 involving the sleepover. Part 4. Page 7



Plaintiff "NB" Stated I went to wear she was and it was at 3:00 AM. I left from where she was and it was still 3:00 AM. (447.8-9)

What plaintiff "NB" stated that occurred by her statement (367-387-), (446) happened in less than seconds because it was still 3:00 AM, when I approached her and when I left her.

Once again "NB's" declarations where contradicting herself.

Witnesses Vs Plaintiff "NB"

Plaintiff "NB" stated that the next day her, Karla and another friend had a sleepover at Melissa's house. (384-385)

Cristina Arreche (Mother of Plaintiff "NB") stated that her daughter (Plaintiff "NB") was never at another sleepover the next day. (473)

Judith Saavedra (my wife) Karla's mom Stated that Karla was not with Plaintiff "NB" at Melissa's house for a sleep over the next day. (623-624)

Witnesses give different narratives to Plaintiff "NB" testimonies. Once again proving that Plaintiff "NB" has no feasible proof for allegations.



Plaintiff "NB" stated her and Karla were talking amongst themselves on the ride home. (435.11-16)

Karla also stated that they were talking amongst themselves on the ride home. (542.11-18)

Karla was sitting behind the driver seat. Karla could see Plaintiff "NB" while they were talking. (543)

- The time it takes for me to get to my house from Melissa's house is around 15 minutes (384-385).
- Defining the movements which plaintiff "NB" stated took place in front of Karla.
- The car I drove was a pickup truck Toyota 1993 transmission manual stick shift. (pictures were provided)

Plaintiff "NB" stated that I was grabbing her thigh with my hand (390.13-17)

Take note of the word (grabbing)

By the Plaintiff "NB" statement this means that my hand would be able to be grabbing her thigh and driving at the same time, logically if this was true I would have been making two different movements. One hand on her thigh and another where it was prior. Making it 2 different movements.

Plaintiff "NB" stated I grabbed her thigh a second time. Making it 3 movements (391.18.).

Plaintiff "NB" stated she moved my hand from her thigh. One movement by her and I. Making me place my hand somewhere else making that 2 movements. Making it 5 movements in all. (392.9-.11)

Plaintiff "NB" stated that I grabbed her thigh one more time making it 6 movements and she tried once again to move my hand making it 7 movements. Then stated that I squeezed her hand with force. Making that 8 movements. 392.22-24. Plaintiff "NB" stated she got loose from my grip (9 movements) and moved my hand from her thigh. (10 movements), making me once again move my hand to another location. In all 11 movements. (393.14-17)



Plaintiff "NB" stated that I told her that "it's very hot, to put her sleeves up, to put her sleeves up." At the same time, I held her sleeves up. (393.22-25), (394.1-.6) Considering that my truck is manual transmission stick shift. My hand had to be at the steering wheel with my right hand changing the velocity of the vehicle. Plaintiff "NB" stated I was speaking and she was resisting me and all the movements to reach with my right hand to put her sleeves up, using one hand per arm. Making it 4 movements to try to reach her left arm and maybe 7 stretching my right arm to reach her right arm. Then she stated she placed her sleeves back down making it another 2 moves. In all we are looking at least 24 movements Plaintiff "NB" stated I made a super move (394.11-12) She stated I went searching for something on the passenger seat door while driving.

Please Note: I am 5'5 in height and 135 in weight. Meaning I would have to stretch my body across the vehicle without removing my seatbelt, risking everyone's life including my daughters (Karla). Making it 25 movements. Plaintiff "NB" stated I touched her chest area for two seconds. (394.18-24) Making that 26 movements. Plaintiff "NB" stated all that I did all this right in front of my daughter (Karla) while conducting a stick shift vehicle, all in the matter of 15-minute drive. Which my daughter (Karla) didn't notice anything of the movements made. Stated in (435), (390-395), (527-528), (541-544).

Again Plaintiff "NB" testimony is not valid and unsustainable for all the movements that she stated were made with nothing but heresy to sustain these accusations.

Incident number 4, Allegations take place in my apartment (home) Lakeshore Apartments Lakewood W.A. 98444. (395-398) Page 10.



Plaintiff "NB" stated that when we got home, Karla and Judith (my wife) left to retrieve some clothes and plaintiff "NB" stayed seated in the living room. (395.6-.8)

My wife had already been home the whole day, she didn't have to wait for us to get home for her to obtain clothes.

We have our room where she keeps her clothes and Karla keeps her wardrobe in her own room. (378), (367).

My wife did not need to take Karla to her room to obtain clothes when she had been home all day. Karla has her own room to obtain clothes from and plaintiff "NB" always followed her into the room when doing so. It's not common that my wife would wait for us in order to look for clothes to go out and leave Plaintiff "NB" in the living room by herself for her to get clothes for Karla. Leaving Karla's friend (Plaintiff "NB") in the living room alone when Karla has her own room with her own clothes. These actions Plaintiff speaks of are uncommon and unrealistic. Both girls were inseparable.

Plaintiff "NB" stated I called her into the kitchen, while she was sitting on the couch and she came into the kitchen because she thought something was wrong. (395)

According to Plaintiff "NB" has now stated that a few minutes has passed from the supposedly truck incident where I supposedly grabbed her thigh and tried grabbing her breast and that there were violent movements between the two of us. Supposedly "NB" stated that I called her into the kitchen and she came.

Plaintiff "NB" appears to be inconclusive with her statements. Why would she come into the kitchen if I was to call her, If I was supposedly grabbing her thighs and her breast in the vehicle??

Plaintiff "NB" then states I cornered her by the dining room table.

Image 15 in evidence corresponding to the case. (396.22-24)

A large image shows the dining room setting and the area where the Plaintiff "NB" stated I cornered her.

Our dining room area is very small and our dining room table is very big and it is impossible for two people to fit in the area where the plaintiff "NB" stated she was cornered. Especially with the movements she stated occurred that she was grabbed by her waist, trying to kiss her while she was trying to move away. (397)

Evidence does not correspond with testimony.

Witnesses Vs Plaintiff "NB"

Plaintiff "NB" stated after all this occurred, Plaintiff "NB", Judith (my wife), Karla (my daughter) and I attended church. (397)

(Pg10.2) Witness Judith Saavedra (my wife) stated that day we did not attend church. (634)



Witness Karla (my daughter) stated we did not go anywhere we had just stayed home. (528-529)

Plaintiff "NB" testimony does not correspond with the testimonies of the witnesses, bystanders that were involved in the case.

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Plaintiff "NB" stated that I had told her to go to behind the church when we were on the top floor of the church. (404.4-.7)

The second top floor of the church consist of the Pastors office, a classroom, and a chapel.

Plaintiff "NB" stated that I told her to go behind the church when she was outside the church. (433.25), (434.1-.8)

Viewing the Plaintiff "NB" testimony, she testified that I asked her to go behind the church inside the church on the top floor. (404.4-.7)

Viewing the Plaintiff "NB" testimony, she also testified that I had asked her to go behind the church while she was outside. (433.25-434.1-8)

These testimonies from the Plaintiff "NB" contradict itself and her allegations are impugning.

Plaintiff "NB" stated that when we were in the alley, I didn't speak to her. (408.24-.25)

Plaintiff "NB" stated that when we were in the alley I told her to get in the car. (429-430)

These statements are also contradicting and an unfeasible scenario.

Plaintiff "NB" stated she did not wish to eat because she wanted to remain thin. (403-404)

Plaintiff "NB" stated that when I asked her to go to the back of the church, she thought I was going to take her to go get something to eat. (404), (404.17-.18)

Plaintiff "NB" stated she didn't like to eat because she wished to remain thin, then she stated that she went to the alley behind the church because she thought I ~~told her~~ I was going to take her out to eat.

Statements by Plaintiff "NB" are again contradicting themselves.



Incident number 5 Allegations made that took place at church. Part 2. (402.2-.11), (529.5-.7)
Page 12.

Plaintiff "NB" stated that this incident occurred twice at church on the ~~highway~~^{alley} and on the side of the road. (429.14), (430.2-.5)

Plaintiff "NB" stated that when she left the alley, I did not go after her. (430)

Plaintiff "NB" stated that after leaving the alley she entered the church and a few minutes later I entered the church. (407-410)

Plaintiff "NB" never mentioned that I was with her on the side of the church if you look back in (402-410), (429-434), (438-441). Nothing that the Plaintiff "NB" is stating is in connection with her allegations.

Incident number 5 Allegations made that took place at church. Part 2. Page 12.

Witnesses Vs Plaintiff "NB"

Plaintiff "NB" stated that when she entered the church after being in the alley (behind the church,) I entered the church minutes later. (409)

Witness Judith Saavedra (my wife) went outside the church to obtain some tums out of our vehicle. Judith (my wife) saw me outside picking up trash and also saw her far from me (Plaintiff "NB") on her phone. After Judith (my wife) grabbed the tums we both went inside the church together. (612-615)

Witnesses gave different narratives to plaintiff "NB" testimonies. Once again proving that Plaintiff "NB" has no feasible proof for allegations.

The time that supposedly Plaintiff "NB" testified that these scenarios occurred.

First Sunday service ends at 12 PM onwards. (557)

Normally the food is ready after service from 12:30 PM onwards.

Plaintiff "NB" testified stating that when we were at the lower level of the church where the kitchen and dining area are located. there was a lot of people (403) which had to be around 1:00 PM.

Plaintiff "NB" testified that I had gone back up to the upper part of the church and that later she followed after. So this time it should had been 1:20 PM.

According to Judith (my wife) she was practicing in choir. Then she went outside to grab her tums out of our vehicle, which she then saw me picking up trash and we both went inside (her returning to choir practice. (612-615)

My wife returned to practice because by this time maximum it should have been close 1:30 PM. The individuals practicing in choir should have had to be downstairs to eat (614.10-11) then gotten ready for the following service which started at 2:00 PM.

(Pg12.2) Meaning the incident, the Plaintiff "NB" testified had to have occurred around 1:20 to 1:30 PM.

This is according to my calculations by the declarations being made by the Plaintiff "NB" testimonies. (403-404) Judith Saavedra (612-615) Pastor Joel (557).

A handwritten signature in black ink, appearing to be "C. Saavedra", located in the bottom right corner of the page.

Incident number 5 Allegations made that took place at church. Part 3. Page 13.

This was summer season (561), (570), (636), (663).

In the summer time the congregation normally interacts outside of the church. (Those that have just finished eating after the first service and those that are coming for the second service). (517.10-.12) The family in our congregation interact outside because they watch their children as some people finish up eating and get ready for the 2PM service. Some families arrive to church and others leave. (614.20-23), (611.14-20). Normally the greatest population of the church passes the back of the church/the alley because the entrance to the church parking lot is located in the alley/behind the church. Surrounding the church are multiple houses, also the neighbors form the back of the church have their garages and they pass through there. Residents living there are consistently outside, mowing their lawns, walking their pets. It's an ongoing traffic outside of the church. There is also a place in front of the church where they watch over the elderly and you can see cars entering there and leaving.

Concluding everything that the Plaintiff "NB" stated that had happened outside the church, (402-410), (429-434), (438-441). Plaintiff "NB" testified that this incident happened twice. (429.14) This occurred in approximately 15 minutes (between 1:20pm and 1:30pm) and around multiple church members coming in and out of the church. There were no witnesses that could testify that they saw me and her together. Again, these allegations are not sustainable because with all the people in our congregation or in the neighborhood have seen this happen.

Plaintiff "NB" stated there were big trees and small trees located outside the church, (345-349), (431) However there have never been big trees outside the church, only small trees that were planted for décor. The trees located outside the church are not big enough to cover a person from one's view. (613)

The state never presented evidence of proof of the trees being cut before or after the supposed incident. More declarations without sense or proof.



Incident number 6 the supposed Allegations that took place in my home when her and her parents were visiting. Page 14.

Plaintiff "NB" stated that after the incidents and after she was taken to the hospital to be examined by a physician due to the allegations. Her parents brought her to my house knowing clearly of the allegations. She remained with her parents the entire time and when they left she told her parents she did not want to be in my home because she did not feel comfortable. (419-420)

Cristina Arreche (Mother of Plaintiff "NB") deny bringing her daughter to my apartment after making the allegations towards me. They sent her to my house with a person who's name is Maria Berejes. (465-466)

Judith Saavedra (my wife) stated plaintiff "NB" did not come to our apartment with her parents. They sent her to my house with another person who's name Marina Berajes. (624-625)

Plaintiff "NB" own mother stated that she was never at in my apartment that day after the allegations were made.

Plaintiff "NB" later stated she never seen me again after the supposed visit with her parents. (420)

Plaintiff "NB" also stated she seen me at a soccer game with Karla and Melissa. (421)

Plaintiff "NB" again contradicting her statements.

• Statements Vs Actions made by Plaintiff "NB's" parents.

Statements made by Cristina Arreche. Plaintiff "NB" mother stated, that I spoke with her about the incidents that had occurred and that I told her, I didn't know why I did it. (466) A conversation that never occurred.

Plaintiff "NB's" mother (Cristina Arreche) stated that when she spoke to her daughter (Plaintiff "NB") she felt terrible about what had occurred. (464)

Plaintiff "NB's" mother (Cristina Arreche) stated that they had spoken about this situation multiple times. (478)

Actions made by Plaintiff "NB's" parents, Cristina Arreche and Juan B.

Plaintiff "NB's" parents, (Cristina Arreche and Juan B.) Continuously calling us and visiting us after the allegations were made and were wanting to invite us on dinner outings. (624-628,477)



Plaintiff "NB's" parents, (Cristina Arreche and Juan B.) sent their daughter (plaintiff "NB") (after allegations were made) to my apartment and they later came to pick her up. (624-626,466) They sent their daughter to a soccer game where Karla was playing and I was there but her parents weren't (627-628,477)

Plaintiff "NB's" parents, (Cristina Arreche and Juan B.) Sent an invite by text so our families could take a family trip to the polar express, where our families would be together for long hours of the day. (477), (628).

Plaintiff "NB's" parents, (Cristina Arreche and Juan B.) apparently did not mention this outing to their daughter (plaintiff "NB") because she stated she didn't know. (422)

(Pg14.2) To all of this Cristina calls it "forgiveness". (466), (478).

These declarations and actions don't make sense, for one either her ("NB") parents are mentally impaired by putting their daughter "NB" in harms way not only physically, but psychologically, or "NB's" parents knew that what "NB" had said didn't occur and that is why they showed trust in me and my family.

A handwritten signature in black ink, appearing to be "Cristina Arreche", located at the bottom right of the page.

Incident number 7 allegations occurred at bible study. Pg15

I was a bible study teacher at the church Palabra de Vida. I ran bible study sessions three times a month on Tuesdays and once a month on a Sunday. I ran a class of students ages 9-12 years of age. In one of my sessions, the Plaintiff "NB" was playing on her phone, creating a disturbance, making the other children loose concentration on the class lecture. I had asked the plaintiff "NB" twice to please put her phone away and she didn't do it. By the third interruption I asked her to please leave my classroom, that she should return with her parents for the remainder of the bible study session that day. She stormed out of the classroom stating that I would repay for making her leave the classroom. (428-429)

Other reasons why Plaintiff "NB" could have created false accusations was because she had stated to her parents and peers that she did not want to live in the state of Washington. She wished to return to Florida. (472.12-13)

Plaintiff "NB" had an unhealthy relationship with her father. Juan Botino (Plaintiff "NB's" father) was present when the allegation of the sweater/jacket/coat in incident 1 occurred. (356), (475), (605), (652), (669). Juan Botino (Plaintiff "NB's" father) did not present himself in the court proceedings, not even when his daughter testified in court. Plaintiff "NB" stated that when her and her parents made it home after the court proceedings. The plaintiff "NB" and her mother spoke about what occurred, while her father remained in his car. (418)

Investigators only interviewed mother of the plaintiff "NB" (Cristina A) and never mentioned to have interviewed the plaintiffs father. (475-476)

Detective Patricia said she had talked with "NB's" mother but didn't talk to "NB's" father. Also detective Patricia said that "NB's" mother was interviewed but the father was not. (575-575)

