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No. 36250-7-III

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON,

Respondent

v.

DOUGLAS VIRGIL ARBOGAST,

Appellant

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR BENTON COUNTY

NO. 17-1-00752-1

BRIEF OF RESPONDENT

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I. RESPONSE TO ASSIGNMENTS OF ERROR

- A. The trial court correctly found that there was no outrageous government conduct and the case should not be dismissed.
- B. Finding of Fact No. 12, that the governmental conduct was not so outrageous that the case should be dismissed, was not in error.
- C. The defense of entrapment was not proved.
- D. The trial court did not deny the defendant his constitutional right to present a defense and to a jury trial.

II. STATEMENT OF FACTS

The individuals involved:

Carlos Rodriguez: Sergeant with the Washington State Patrol Missing and Exploited Children Task Force (MECTF). RP¹ at 855. He posted the Craigslist ad in the “Casual Encounters” section that led to the defendant’s arrest. RP at 916.

John Garden: Detective with the MECTF, who did the online chatting with the defendant. RP at 922.

“Brandi”: An online persona created by Detective Garden to chat with individuals who answered the “Casual Encounters” ad. RP at 1034.

“Brandi” is a single mother of a 11-year-old girl and 13-year-old boy. RP

¹ Unless otherwise indicated, “RP” refers to the verbatim report of proceedings from jury trial on 06/11/2018 to 06/15/2018.

at 1053. The girl is named “Anna” and the boy is named “Jake.” RP at 1087.

Makayla Morgan: A detective with the Washington State Patrol assigned to the High-Tech Crimes Unit and a certified forensic examiner for cell phones and computers. RP at 1189-90. She also played the role of the undercover mom if needed, such as answering the door when the defendant knocked on “Brandi’s” apartment door. RP at 1192. Det. Garden also sent the defendant Det. Morgan’s photo in response to the defendant’s request for a photo of “Brandi.” RP at 1065-66.

Sgt. Rodriguez, on behalf of MECTF, places an ad in the “Casual Encounters” section of Craigslist with coded language for sex with children.

On July 5, 2017, detectives with the Washington State Patrol MECTF placed an ad in the “Casual Encounters” section of Craigslist. RP at 855, 916. Craigslist would take down an ad stating bluntly, “I’m looking for someone to have sex with my kids while I watch.” RP at 921. An advertisement would have to be more cryptic. *Id.* The ad MECTF placed is attached as Appendix A. It stated:

Mommy likes to watch—young family fun—420 friendly—w4m (Rich\$land). Mommy luvs to watch family fun time. Looking for that special someone to play with. 100% I know this is a long shot but I have been looking for a long item (misspelling—should be “time”) and haven’t had any luck. Looking for something real and taboo. If this is still up then I am still looking. Send me your name and

your favorite color so I know you are not a bot. I like to watch ddlg daddy/dau, mommy/dau mommy/son.

App. A; RP at 919.

Det. Rodriguez deciphered the abbreviations and codes in the ad as follows:

“Mommy likes to watch”: The mother would not be involved in the action; she would watch. RP at 918.

“young family fun”: The participants are young and family members. *Id.*

“family fun time”: This is a coded reference to incestual relationships with children. RP at 920.

“420 friendly”: The “mommy” is accepting of marijuana. RP at 918.

“w4m”: Women for men. RP at 882.

“ddlg”: daddy, daughter, little girl. RP at 891.

“looking for something real and taboo”: looking for sex with children. RP at 920.

“If this is still up, I’m still looking”: People will take down their own ads on Craigslist if they have found what they want. This is simply saying that the advertiser has not found a person meeting the qualification. RP at 897.

The defendant testified that he knew the “Casual Encounters” section of Craigslist was for people looking for sex with no strings attached and knew some of the acronyms used in those ads. RP at 1355-56, 1394. He told a detective that he was on Casual Encounters daily, but testified he only visited that section of Craigslist once or twice a week. RP at 1355, 1393.

The defendant responds and is explicitly told that the ad refers to sex with an 11-year-old girl and 13-year-old boy.

The email exchanges between the defendant and Det. John Garden, who was playing the role of the mom, “Brandi,” were admitted as Exhibit 2 and are attached as Appendix B. Of note is the email from “Brandi” at 5:54 P.M.:

I need you to be honest about what you what, that is best and makes sure we all get what we want. My girl is 11 and my boy is 13. She is not totally active, but still likes to play and is very ready and mature. My son is 13 and is very active. I’m single and looking for some one that is open and free to new ideas. If this fits you then lets talk and if it works out we can meet up and have some fun.

App. B; RP at 1037-38.

The defendant testified that he did not immediately see this email. RP at 1363. In the meantime, “Brandi” had sent him texts stating, at 6:33:02 P.M., “my father . . . started sleeping with me when I was young . . . he was so gentle and loving . . . I want my kids to experience the same closeness plus they need a teacher to help them with sex when they get

older.” And, at 6:33:59 P.M., “I have to be honest. I lost my attraction to men a while back. I can’t get enough of young boys about my sons age. Their innocence is amazingly a turn on for me.” And, at 7:02:57 P.M., “we had a very good man in my kids life for a year or so but lost him to a move because of military . . . he was bi and very gentle with them. Taught them oral and other skills . . . I am not interested in men, especially older.” See Exhibit 3, attached as Appendix C.

After this text, the defendant stated he read the email from 5:54 P.M. At this point, the defendant testified that he knew “Brandi” was not interested in having sex with him and wanted a father figure to teach her children sexual activities. RP at 1364-65.

The defendant initially says he is interested in the mom. But when she repeatedly brushes him off, he replies he is interested in having oral sex with both her children.

Although his defense was that he never had any intent to have sex with children, he testified that he was curious about having sex with “Brandi’s” children, and that “Brandi” tried to brush him off four different times but each time he said he was interested in having sex with the children. RP at 1382-83, 1389.

The first-time brush-off was after “Brandi” stated she wanted a father figure to replace the military man who taught her children “oral and other skills.” RP at 1057. The defendant replied, “Well sorry to hear that. I

just read that missed mail. Never have done that. I just wanted to be with mom. Don't know if I could help do kids. It's really up to you." App. C, text at 7:15:42 P.M.; RP at 1058.

If someone texts, "I'm into the mom" the MECTF detectives will write back that "Well, this isn't for you." RP at 932. They had more than enough business; MECTF arrested 26 men in five days. CP 65. It is efficient for the operation to discourage anyone looking for sex only with the mom. RP at 932.

So, "Brandi" texted back, "Thanks for not wasting our time. I am not looking for me. I'm looking for someone to be with my kids. Good luck with what it is you seek." App. C, text at 7:18:04 P.M.; RP at 1058.

Defendant, less than a minute and a half later: "I can be good with them. Just never thought about that way." App. C, text at 7:19:25 P.M.; RP at 1058.

"Brandi": "Do you have an attraction to children(?). I am not looking for a friend. I can find them anywhere. I am looking for their love trainers to give them experience." App. C, text at 7:20:45 P.M.; RP at 1059.

Defendant: "I have not tried young kids. I do look at young girls, not so much boys. Would like to try a young lady once." App. C; RP at 1059.

“Brandi”: “could you be gentle with my princess or is this not for you?” App. C; RP at 1059-60.

Defendant: “I would be gentle of course. Has she had any teaching at all?” App. C; RP at 1060.

“Brandi” challenging the defendant on whether he really wanted to have sex with children occurred after he asked if she wanted TLC, tender loving care. RP at 1070.

“Brandi”: “I could get involved with you and Jake after a few good sessions of you two but I am not into it and don’t want to take away from my kids’ experience.” (Are you trying to) “change my mind about us hooking up?” . . . “I don’t think you could satisfy my kids nor that you want to sexually.” App. C, texts at 8:21:35 P.M., 8:22:26 P.M., and 8:23:23 P.M.; RP at 1070.

As before, if the defendant had said he was not interested in the children and only interested in the mom, the detectives would have said goodbye and wished him good luck. RP at 1072. Instead the defendant responded: “OK you mean I need to groom the boy alone? What about your princess?” And, “How active are they? Are they like needing a regular meeting a couple times a week?” App. C, texts at 8:23:47 P.M. and 8:26:33 P.M.; RP at 1072-73.

Det. Garden again attempted to have the defendant either state he wanted to have sex with the children or leave:

“Brandi”: “Oh no Anna needs her time to. She is very curious and is in the prime time to learn. I can’t force you to do this nor do I want to.” App. C, texts at 8:29:16 P.M.; RP at 1073.

Defendant: “You know, we should meet and try it out. *Both at the same time or separate.*” App. C, text at 8:31:00 P.M.; RP at 1074. (Emphasis added because the defendant is referring to both children separately and together.)

“Brandi” states some rules, including use of condoms, if the defendant is planning to penetrate either child. RP at 1077. “Brandi” stated she does not want a large penis entering her 11-year-old daughter, and the defendant answered, “No worry there.” App. C, text at 8:47:04 P.M.; RP at 1078-79.

The fourth attempt to brush off the defendant was after “Brandi” sent him a photo of the purported mother and her kids. Although they look young, the boy and girl are actually troopers with the Washington State Patrol. RP at 1081. The mother is actually Det. Makayla Morgan, a forensic expert with the WSP. RP at 1066, 1190. The defendant stated, “I’m in if you want an old guy.” App. C, text at 8:54:23 P.M.; RP at 1083.

“Brandi” responded: “I have to be clear. I am not involved . . . so when you say ‘you’ I don’t you to be disappointed and especially don’t want my kids disappointed because you don’t want them.” App. C, text at 8:55:36 P.M.; RP at 1083.

After this final statement from “Brandi” the defendant stopped saying he was interested in sex with the mom.

Defendant: “OK I would try for mo (probably ‘no’) disappoint. I have a lot to learn as well.” App. C, text at 8:57:31 P.M.; RP at 1083.

They then start discussing meeting that night. RP at 1085. But, the purpose of the meeting is clear from the texts:

“Brandi”: “Can you stop and get condoms and lube? I don’t want you to be unprepared if you need them. I have to prep the kids for what it is you want—oral, hand job, penetration, kissing. We are night owls, so time is good.” App. C, text at 9:16:32 P.M.; RP at 1086.

Defendant: “Like I said, I have not done this before. Could do almost anything without penetration.” App. C, text at 9:19:42 P.M.; RP at 1086.

“Brandi”: “Are you interested in both Anna and Jake? Same time or separate?” App. C, text at 9:21:40 P.M.; RP at 1087.

Defendant: “Anna first.” App. C, text at 9:22:34 P.M.; RP at 1087.

“Brandi”: “Do you want to start with touching and move to oral or what? Help me. I want to tell Anna. Do you want her dressed in anything specific?” App. C, text at 9:25:17 P.M.; RP at 1088.

Defendant: “Just under things touching then to oral.” App. C, text at 9:26:18 P.M.; RP at 1088.

“Brandi”: “You giving or them giving oral or both?” App. C, text at 9:27:15 P.M.; RP at 1088.

Defendant: “Both.” App. C, text at 9:28:14 P.M.; RP at 1088.
Detective Garden took this to mean that the defendant was going to give and receive oral sex from both children. RP at 1088.

The defendant proceeded to drive to the address “Brandi” gave him and Det. Morgan opened the door for him, after which he was arrested. RP at 1193-94.

The defendant admitted to Det. John Davis of the Kennewick Police Department that he went to “Brandi’s” apartment to be “with” the children, meaning to have sex with them. RP at 1446.

The defense: The defendant claimed he feigned a sexual interest in the children so he could have sex with “Brandi.”

The defendant testified that he responded to the ad with the hope of having sex with a woman. RP at 1361. Although “Brandi” said she wasn’t interested in having sex with him, he thought he could persuade her. RP at

1364. He persisted in the conversation and said he was interested sexually in the children to try to get on “Brandi’s” good side and have sex with her. RP at 1368. He thought if she knew he was leaning in the direction of having sex with the children, she might be more open to having sex with him. RP at 1365-66. However, he had no intention of having sex with either of the children that night. RP at 1366. When he knocked on the apartment door, he had no intention of having sex with either Anna or Jake. RP at 1378.

The defendant maintained this testimony although he acknowledged that “Brandi” told him she had no interest in older men, that she was interested in young boys and that she was not going to have sex with him that night. RP at 1382. He further acknowledged that the entire context of his conversation with “Brandi” was about him having sex with her children, that he told “Brandi” how he wanted Anna dressed, that he said he would like to try a young lady once, and he was curious about having sex with the children. RP at 1382-83, 1387. He further acknowledged the need to keep this a secret, that he made the statement about grooming Jake, that he asked about what training Anna had, and that he said he wanted to have oral sex with both Jake and Anna. RP at 1390, 1397.

Nevertheless, he stated that his intent was not to have sex with the children. RP at 1392.

III. ARGUMENT

A. **This Court should not dismiss the charges due to “outrageous governmental conduct.”**

1. **Standard on review:**

A claim that the police engaged in “outrageous conduct” is based on the principle that the conduct of law enforcement officers may be “so outrageous that due process principles would absolutely bar the government from invoking judicial processes to obtain a conviction.” *State v. Lively*, 130 Wn.2d 1, 19, 921 P.2d 1035 (1996). The conduct must “shock the universal sense of fairness.” *Id.* A due process claim based on outrageous conduct requires more than a mere demonstration of flagrant police conduct. Public policy allows for some deceitful conduct and violation of criminal laws by the police in order to detect and eliminate criminal activity. Dismissal based on outrageous conduct is reserved for only the most egregious circumstances and is not to be invoked each time the government acts deceptively. *Id.* at 20.

The Court in *State v. Markwart*, 182 Wn. App. 335, 351, 329 P.3d 108 (2014), stated that since the *Lively* case, “no Washington State court has dismissed a defendant’s charges or overturned a conviction because of

outrageous government conduct—but not for lack of the defense bar trying.”

2. There is no reason to invoke this extraordinary remedy.

There are several reported cases with detectives using the same methods to investigate possible sexual predators. *State v. Wilson*, 158 Wn. App. 305, 308, 242 P.3d 19 (2010) involved a detective posing as a 38-year-old woman who posted an ad on Craigslist saying that she and her 13-year-old daughter would fulfill a client’s fantasies, “but it wouldn’t be cheap.” *State v. Patel*, 170 Wn.2d 476, 242 P.3d 856 (2010) involved a police detective posing as a fictitious 13-year-old girl. The defendant was convicted of attempted second-degree rape of a child when he went to “her” apartment after a sexually explicit conversation. *Id.* at 477-78. A policeman in *State v. Townsend*, 105 Wn. App. 622, 20 P.3d 1027 (2001) posed as a 13-year-old girl and had online communications with the defendant which lead to the charge of attempted child rape.

These cases are significant because the defense did not allege “outrageous conduct.” Sting operations have ensnared men seeking sex with children for decades and they have not been considered “outrageous governmental conduct.”

The cases cited by the defendant are not close to the facts in this case. In *Lively*, the police provided an informant with an apartment, including utilities, a car, and other living expenses. *Lively*, 130 Wn.2d at 6. The informant infiltrated NA/AA meetings with the knowledge and approval of the police to find individuals who may be targeted as potential drug dealers. *Id.* The defendant was vulnerable, having just completed an inpatient treatment program and started attending NA meetings. *Id.* The defendant and informant became romantically involved and started living together. *Id.* at 7. The informant asked the defendant for drugs several times. *Id.* The defendant did provide the informant with cocaine, but no one else, and the trial court found that she was induced to commit the crime by the informant. *Id.* at 16.

Greene v. United States, 454 F.2d 783 (9th Cir. 1971) also is distinguishable from this case. The synopsis in *Greene* states, “where (the) special investigator reestablished contact with defendants after their arrest on former bootlegging charges, offer to supply equipment and operator for a still, supplied sugar at wholesale, urged defendants to resume production, and acted as the only customer for illicit liquor, government thereby directly and continuously over at least a 2 ½ year period involved itself in the creation and maintenance of bootlegging operations and was

so enmeshed in criminal activity that it was barred from prosecuting (the) defendants.”

Finally, the defendant also cites *United States v. Twigg*, 588 F.2d 373 (3rd Cir. 1978), where a convicted felon attempting to reduce his sentence, suggested setting up a speed laboratory to a defendant. The DEA (Drug Enforcement Agency) supplied about 20 percent of the glassware and an indispensable ingredient, phenyl-2-propanone. The defendants may not have had the means or money to obtain this chemical on their own. The DEA also made arrangements with chemical supply houses to facilitate the purchase of the rest of the materials. The DEA found an isolated farmhouse well-suited for the location of an illegally operated laboratory, at no cost to the defendants. The convicted felon/informant was completely in charge of the production process and provided all of the laboratory expertise. Neither defendant had the know-how to manufacture methamphetamine. *Id.* at 380-81.

In contrast, the contact with the defendant was around 8 hours, not 2 ½ years. See App. B. The police did not supply the defendant with anything, other than the promise of sex with minors. By the defendant’s own admission, “Brandi” tried to get rid of him several times, but he kept returning expressing interest in having sex with the children. RP at 1388.

There was nothing outrageous about the police conduct, much less a reason to dismiss the case because the police manipulated the defendant to such a degree that it shocked the conscience.

B. The trial court appropriately did not allow an instruction for entrapment.

1. Entrapment was not the defense: The defendant claimed he did not commit the offenses, not that he was entrapped into attempting to have sex with children.

The defense attorney's opening statement, the defendant's testimony, and the attorney's closing argument were all consistent: the defendant was not guilty because he had no intent to have sex with the children. In the opening statement, the defense attorney stated, "Doug Arbogast is not sexually attracted to children." RP at 847. "Doug responded to that ad thinking it was an adult woman." RP at 848. "[H]e doesn't realize that Detective Garden is offering sex with children." RP at 849. "Doug told Detective Garden on at least three occasions that he was sexually attracted to the mother." *Id.* "Doug is chatting with someone that he believes to be an adult female." RP at 853. "And she has floated the possibility of having sex with her." *Id.* "At the end of this case, I'm confident that . . . you will determine Doug had no intent to have sexual intercourse with anybody that night . . ." RP at 853-54.

That matched the defendant's testimony. He was looking for sex with women. RP at 1361. "Brandi" said she was not interested in having sex with him, but he thought he could persuade her. RP at 1364. He made the comments about having sex with the children in order to meet her and get on her good side. RP at 1365. But he had no intention of having sex with either child that night. RP at 1366.

The defense attorney carried on this theme with the first statement of his closing argument: "Doug is not sexually attracted to children. He's never been sexually attracted to children. And he wasn't sexually attracted to children on the night of July 5, 2017." RP at 1533. The defense attorney continued this theme: "Eventually, he realizes what she's looking for is not her; it's her kids. . . . And so Doug, like many other men, goes along—plays along with what her interests are. He lies to her, tells her what he thinks she wants to hear to keep the conversation going." RP at 1537. "[H]e was the only one that personally knew what he intended that night. And you heard him testify that he had no intention of having sex with children." RP at 1543. "Men lie to get into women's pants, unfortunately." RP at 1546.

Entrapment only applies if the defendant committed a crime. RCW 9A.16.070 (1)(b). Defendants charged with drug delivery sometimes explain their drug sales by saying they were entrapped. *State v. Enriquez*,

45 Wn. App. 580, 725 P.2d 1384 (1986). But a defendant cannot say both “I did sell drugs” and “I sold drugs but only because I was entrapped.”

If the defendant testified, “I intended to have sex with Brandi’s children, but only because I thought it might lead to sex with Brandi,” entrapment would be an issue—not a good issue, but an issue. But where he presented a consistent theme that he had no intention of having sex with “Brandi’s” children, was only interested in “Brandi” and wrote incriminating texts about having sex with her children only to “get into her pants,” entrapment is not applicable. RP at 1423.

Not only was the defendant’s testimony and argument at trial inconsistent with an entrapment defense, his argument on appeal that he was both entrapped and his convictions should be reversed under the “outrageous conduct” doctrine are inconsistent. The focal point of entrapment is the defendant’s predisposition to commit the offense. Conversely, the outrageous conduct doctrine is based on the conduct of the police. *State v. Lively*, 130 Wn.2d 1, 19, 921 P.2d 1035 (1996).

2. **Even ignoring that the defendant testified he did not commit a crime; his entrapment instruction was properly denied.**
 - a. **Standard on review for entrapment instructions.**
 - i. **Standard of proof:**

An instruction can be given if evidence exists to support the theory upon which the instruction is based. With respect to entrapment, a defendant must present evidence which would be sufficient to permit a reasonable juror to conclude that the defendant has established the defense of entrapment by a preponderance of the evidence. *State v. Trujillo*, 75 Wn. App. 913, 917, 883 P.2d 329 (1994).

Without citing any authority, the defendant states that the standard announced in *Trujillo* is erroneous. Br. of Appellant at 54. But it is well established that entrapment is an affirmative defense and the defendant bears the burden of proving affirmative defenses, including entrapment, by a preponderance of the evidence. *Lively*, 130 Wn.2d at 13.

ii. What the defendant must be prove:

RCW 9A.16.070 is the statute for Entrapment. There are two prongs of this statute:

First, the defendant must demonstrate that he was tricked or induced into committing the crime by acts of trickery by law enforcement. Second, he must demonstrate that he would not otherwise have committed the crime. *State v. Smith*, 101 Wn.2d 36, 43, 677 P.2d 100 (1984).

The defense of entrapment is not established by showing that law enforcement merely afforded the defendant an opportunity to commit a

crime. *State v. Enriquez*, 45 Wn. App. 580, 584, 725 P.2d 1384 (1986).

The police may use deception and trickery and may employ a normal amount of persuasion to overcome expected resistance. *Id.* at 585. The key is upon the intent or predisposition of the defendant to commit the crime. *Id.* The defendant must show more than mere reluctance on his part to violate the law. *Id.*

b. The defendant did not meet this burden.

i. The defendant did not establish a lack of predisposition to have sex with children.

Although the text messages between the defendant and “Brandi” are damning, it is also helpful to review the defendant’s testimony. He testified that he knew “Brandi” was not interested in older men and that she said she would not have sex with him that night. RP at 1381. While he testified that it was not his intent to have sex with “Brandi’s” children, he testified that he does “look at” young kids. RP at 1382. He testified that he would “like to try” a young lady once, and he was curious about having sex with “Brandi’s” kids. RP at 1382-83. He admitted that he told “Brandi” that he wanted to see her daughter in underclothes. RP at 1387. He admitted he wanted to keep things a secret. RP at 1390. He asked about grooming “Brandi’s” son and how much “training” her daughter had. *Id.* He admitted saying he wanted to have oral sex with “Brandi’s” daughter

and son. RP at 1397. The defendant admitted to Det. John Davis in a pretest interview for a polygraph that he went to the apartment to have sex with the children. RP at 1451.

The defendant thought about sex with minors, was curious about sex with “Anna” and “Jake,” wanted to groom “Jake,” and stated he went to the apartment to have sex with them. The trial court was correct to find that the defendant did not establish a lack of predisposition to have sex with children.

ii. The defendant did not establish that he was induced to commit the crimes.

Concerning the second prong of RCW 9A.16.070, the most reluctance the defendant expressed to having sex with children was that he had “never thought about it that way.” RP at 1058. The only pressure the police put on the defendant was for him to commit whether he was interested in an adult or a child, saying, for example, “I can’t force you to do this. Nor do I want to.” RP at 1073.

“Brandi” all but told the defendant to get lost and stay lost on four occasions: “I’m looking for someone to be with my kids. Good luck with what it is you seek.” RP at 1058. “I don’t think you can satisfy my kids nor that you want to sexually.” RP at 1070-71. “I can’t force you to do this. Nor do I want to.” RP at 1073. “I have to be clear. I am not involved.

So when you say ‘you’ I don’t want you to be disappointed and especially don’t want my kids disappointed because you don’t want them.” RP at 1083.

The trial court was also correct to find that the defendant did not establish that he was lured or induced to commit the crimes.

C. The cases cited by the defendant can be distinguished.

United States v. Gamache, 156 F.3d 1 (1st Cir. 1998) and *United States v. Poehlman*, 217 F.3d 692 (9th Cir. 2000) cited by the defendant are distinguishable because federal courts allow an entrapment defense even though the defendant does not admit all the elements of the crime. *Gamache*, 156 F.3d at 9 n.2. *People v. Grizzle*, 140 P.3d 224 (Colo. App. 2006) did not follow the case because of the distinction between federal and state law. Entrapment in Colorado, and in Washington, is only available as a defense to a crime.

Further, in both *Gamache* and *Poehlman*, law enforcement spent lengthy periods of time corresponding with the defendants. In *Gamache* the correspondence between the police and the defendant was for three months, from October 14, 1995 to January 16, 1996. In *Poehlman* it was over six months. In this case the conversation lasted a few hours. In *Jacobson v. United States*, 503 U.S. 540, 540, 112 S. Ct. 1535, 118 L. Ed.

2d 174 (1992), the court stated that the defendant was “the target of 26 months of repeated Government mailings and communications.”

The *Jacobson* court indicated that it was the prosecution’s burden to disprove a defense of entrapment. In the syllabus, the *Jacobson* court stated, “The prosecution failed, as a matter of law, to adduce evidence to support the jury verdict that Jacobson was predisposed, independent of the Government’s acts and beyond a reasonable doubt, to violate the law by receiving child pornography through the mails.” *Id.* In the decision the court stated: “[I]t is our view that the Government did not prove that this predisposition was independent and not the product of the attention that the Government had directed at petitioner since January 1985.” *Id.* at 550. “The prosecution’s evidence gathered during the investigation also fails to carry the Government’s burden.” *Id.* at 551.

IV. CONCLUSION

No reported case in Washington State has ruled that a Net-Nanny investigation is “outrageous conduct” or entraps a defendant. The defendant did not argue that he was entrapped. From his opening statement, through his testimony, to the closing argument, the defendant argued throughout the trial that he did not commit a crime. He may have feigned sexual interest in “Brandi’s” children, but only to try to have sex

with “Brandi.” The defendant did not claim that he committed the crimes because he was entrapped.

There was no evidence of entrapment. By his own admission the defendant said “Brandi” tried to brush him off four times. He said he was curious about having sex with “Brandi’s” children and told a police officer that was the reason he went to “her” apartment.

The convictions should be affirmed.

RESPECTFULLY SUBMITTED on February 18, 2020.

ANDY MILLER
Prosecutor

A handwritten signature in black ink, appearing to read "Terry J. Bloor", is written over a horizontal line. The signature is stylized and cursive.

Terry J. Bloor, Deputy
Prosecuting Attorney
Bar No. 9044
OFC ID NO. 91004

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this day I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

Lenell Nussbaum
2125 Western Avenue, Suite 330
Seattle, WA 98121

E-mail service by agreement
was made to the following
parties:
lenell@nussbaumdefense.com

Signed at Kennewick, Washington on February 18, 2020.


Demetra Murphy
Appellate Secretary

APPENDICES

Appendix A: Craigslist Ad

Appendix B: Emails between “Brandi” and the defendant

Appendix C: Text messages between “Brandi” and the defendant

Appendix A

Craigslist Ad

[reply](#)

[prohibited](#) 

Posted 16 minutes ago

[print](#)

☆ **Mommy likes to watch - young family fun - 420 friendly - w4m (Richland)** 

Mommy luvs to watch family fun time. Looking for that special someone to play with. 100% I know

this is a long shot but I have been looking for this for a long item and haven't had any luck. looking for something real and taboo. If this is still up then I am still looking. send me your name and your favorite color so I know you are not a bot. i like to watch ddig daddy/dau, mommy/dau mommy/son.

- do NOT contact me with unsolicited services or offers

post id: 6206033338

posted: 16 minutes ago

[email to friend](#)

[best of](#) 

Appendix B

Emails between “Brandi” and the defendant



Click here to enable desktop notifications for Gmail. Learn more Hide

Gmail

4 of 18

COMPOSE

Mommy likes to watch - young family fun - 420 friendly - w4m

- Inbox
- Starred
- Sent Mail
- Drafts (1)
- Bickford
- JG
- kinkyk
- ...
- Bickford

Doug Arbogast <13929d8cd5cf3ad2bc1796be205337d7@reply.craigslist.org> 1:56 PM (6 hours ago)

to xb2ph-62060333.

Doug and black&white

<http://kpr.craigslist.org/cas/6206033338.html>

Sent from my iPad

Original craigslist post:

<https://kpr.craigslist.org/cas/6206033338.html>

About craigslist mail:

<https://craigslist.org/about/help/email-relay>

Please flag unwanted messages (spam, scam, other):

<https://craigslist.org/mf/acc1fcb5d55109d28070419abaab1f30b6b49243.1>

Brandi Collins <brandiscandee11@gmail.com> 4:14 PM (3 hours ago)

to Doug

hi doug 😊 I am brandi . . are u a black and white kind of guy?

Doug Arbogast <13929d8cd5cf3ad2bc1796be205337d7@reply.craigslist.org> 5:27 PM (2 hours ago)

to xb2ph-62060333.

Yes I am. If guessed photography that is why. I do B&W Picts
So I up for anything if you are.

Sent from my iPad

Original craigslist post:

<https://kpr.craigslist.org/cas/6206033338.html>

Brandi



0.09 GB (0%) of 15 GB used
[Manage](#)

[Terms - Privacy](#)

Last account activity: 1 minute ago
Open in 2 other locations [Details](#)

No recent chats
Start a new one



Firefox automatically sends some data to Mozilla so that we can improve your experience.

Choose What I Share

Appendix C

Text messages between “Brandi” and the defendant

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|-----------------|------|-----------|---|------|-----------------------------|----------|
| 2017/07/05 | 05:54:03 PM | PD1509-547-8758 | SMS | Incoming | Hi. I'm Doug. What's happening ? | | 2017-07-05_17-54-03_PDT.txt | |
| 2017/07/05 | 06:00:46 PM | PD1509-547-8758 | SMS | Outgoing | thank u so much better to text | | 2017-07-05_18-00-46_PDT.txt | |
| 2017/07/05 | 06:01:18 PM | PD1509-547-8758 | SMS | Outgoing | did you read my last email. i dont want to waste our time if this isnt for you. i really wnt to find the match | | 2017-07-05_18-01-18_PDT.txt | |
| 2017/07/05 | 06:07:02 PM | PD1509-547-8758 | SMS | Incoming | This really is me. I do B&W Picts if this helps | | 2017-07-05_18-07-02_PDT.txt | |
| 2017/07/05 | 06:08:22 PM | PD1509-547-8758 | SMS | Outgoing | ok are you good with my kids ages? | | 2017-07-05_18-08-22_PDT.txt | |
| 2017/07/05 | 06:09:01 PM | PD1509-547-8758 | SMS | Incoming | What are the ages | | 2017-07-05_18-09-01_PDT.txt | |
| 2017/07/05 | 06:11:09 PM | PD1509-547-8758 | SMS | Outgoing | thats why i asked if you read the last email i sent. ...its in the email. boy is 13 and my precious baby girl is 11 | | 2017-07-05_18-11-09_PDT.txt | |
| 2017/07/05 | 06:12:58 PM | PD1509-547-8758 | SMS | Incoming | Ok sorry I missed it. All the replies on top of each other. | | 2017-07-05_18-12-58_PDT.txt | |
| 2017/07/05 | 06:15:03 PM | PD1509-547-8758 | SMS | Outgoing | i get it...that is why i hate the emails i like texting for that reason | | 2017-07-05_18-15-03_PDT.txt | |
| 2017/07/05 | 06:17:08 PM | PD1509-547-8758 | SMS | Incoming | I agree. So tell me more about yourself | | 2017-07-05_18-17-08_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|-----------------|------|-----------|--|------|-----------------------------|----------|
| 2017/07/05 | 06:33:02 PM | PD1509-547-8758 | SMS | Outgoing | i was rasied very close to my father. he started sleeping with me when i was young...at first i was scared but really enjoyued it. he was so gentle and loving. my mom knew so it made our home open. i miss those days. i want my kids to expereince the same closeness plus they need a techer to help them with sex when they get older | | 2017-07-05_18-33-02_PDT.txt | |
| 2017/07/05 | 06:33:59 PM | PD1509-547-8758 | SMS | Outgoing | i have to be honest. i lost my attraction to men a while back. i cant get enough of young boys about my sons age./ their innocense is amazingly a turn on for me | | 2017-07-05_18-33-59_PDT.txt | |
| 2017/07/05 | 06:46:54 PM | PD1509-547-8758 | SMS | Incoming | Ok Brandi, I am probably a we bit older and know a few things. I can be easy and exploring into everything you might desire. So if you want to try someone older, game on. I d have most of my hair. | | 2017-07-05_18-46-54_PDT.txt | |
| 2017/07/05 | 06:57:37 PM | PD1509-547-8758 | SMS | Incoming | So what would you like me to do to help? | | 2017-07-05_18-57-37_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|-----------------|------|-----------|---|------|-----------------------------|----------|
| 2017/07/05 | 07:02:57 PM | PD1509-547-8758 | SMS | Outgoing | we had a very good man in my kids life for a year or so but lost him to a move becasue of military. i am looking to fill his role in my kids lives. he was bi and very gentle with hem. taught them oral and orther skills. its so hard to find the right guy. i have to be so careful and so do you. i am not interested in men especailly older. sorry my secrete is i am into boys my sons age ... i love their innocense. can you be the daddy my two kids need?? | | 2017-07-05_19-02-57_PDT.txt | |
| 2017/07/05 | 07:15:42 PM | PD1509-547-8758 | SMS | Incoming | Well sorry to hear that. I just read that missed mail. Never have done that. I just wanted to be with mom. Don't know if I could help do kids. It's really up to you | | 2017-07-05_19-15-42_PDT.txt | |
| 2017/07/05 | 07:18:04 PM | PD1509-547-8758 | SMS | Outgoing | thanks for not wasting our time. I am not looking for me. I am looking for someone to be with my kids. good luck with what it is you seek | | 2017-07-05_19-18-04_PDT.txt | |
| 2017/07/05 | 07:19:25 PM | PD1509-547-8758 | SMS | Incoming | I can be good with them. Just never thought about that way | | 2017-07-05_19-19-25_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|-----------------|------|-----------|--|------|-----------------------------|----------|
| 2017/07/05 | 07:20:45 PM | PD1509-547-8758 | SMS | Outgoing | do you have an attraction to children. i am not looking for a friend. i can find them anywhere. i am looking for their love trainers to give them experieence | | 2017-07-05_19-20-45_PDT.txt | |
| 2017/07/05 | 07:29:22 PM | PD1509-547-8758 | SMS | Incoming | I have not tried young kids. I do look at young girls, not so much boys. Would like to try a young lady once. | | 2017-07-05_19-29-22_PDT.txt | |
| 2017/07/05 | 07:30:57 PM | PD1509-547-8758 | SMS | Outgoing | could you be gentle with my princess or is this not for you? | | 2017-07-05_19-30-57_PDT.txt | |
| 2017/07/05 | 07:32:18 PM | PD1509-547-8758 | SMS | Incoming | I would be gentle of course. Has she had any teaching at all? | | 2017-07-05_19-32-18_PDT.txt | |
| 2017/07/05 | 07:37:15 PM | PD1509-547-8758 | SMS | Outgoing | yes we had a very good man taht was with both my son and daughter for almost half a year. he was married and in military. he undestood the lifestyle and was the fatehr figure they needed and like i had. he left because of the military and been looking ever since | | 2017-07-05_19-37-15_PDT.txt | |
| 2017/07/05 | 07:41:27 PM | PD1509-547-8758 | SMS | Incoming | Well I am married. Wouldn't be able to spend as much time that I think would be necessary for this training. The thought would be nice to see what would happen | | 2017-07-05_19-41-27_PDT.txt | |
| 2017/07/05 | 07:49:06 PM | PD1509-547-8758 | SMS | Incoming | I assume kids are in school, would you like to meet publicly for a coffee? Could discuss more from there | | 2017-07-05_19-49-06_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|-----------------|------|-----------|---|------|-------------------------------|----------|
| 2017/07/05 | 07:56:35 PM | PD1509-547-8758 | SMS | Outgoing | I am not looking for someone to live with us. come and go when they want. the last guy was married too. | | 2017-07-05_19-56-35_PDT.txt | |
| 2017/07/05 | 07:57:06 PM | PD1509-547-8758 | SMS | Outgoing | i homeschool my kids. it keeps our secrets and gives me the control. | | 2017-07-05_19-57-06_PDT.txt | |
| 2017/07/05 | 07:58:14 PM | PD1509-547-8758 | SMS | Incoming | Ok. And my secret as well if chosen | | 2017-07-05_19-58-14_PDT.txt | |
| 2017/07/05 | 08:06:00 PM | PD1509-547-8758 | SMS | Outgoing | can i get one of your black and white photos of yourself holding up 3 fingers? i want to see what you look like and make sure you are who u say | | 2017-07-05_20-06-00_PDT.txt | |
| 2017/07/05 | 08:09:28 PM | PD1509-547-8758 | SMS | Incoming | Me | | 2017-07-05_20-09-28_PDT.txt | |
| 2017/07/05 | 08:09:31 PM | PD1509-547-8758 | MMS | Incoming | Ok | | 2017-07-05_20-09-31_PDT_1.jpg | |
| 2017/07/05 | 08:09:48 PM | PD1509-547-8758 | SMS | Incoming | How about some from you? | | 2017-07-05_20-09-48_PDT.txt | |
| 2017/07/05 | 08:13:18 PM | PD1509-547-8758 | SMS | Outgoing | nice B & W pic i can show the kids if you would like and are serious about this | | 2017-07-05_20-13-18_PDT.txt | |
| 2017/07/05 | 08:14:00 PM | PD1509-547-8758 | SMS | Incoming | Go for it. | | 2017-07-05_20-14-00_PDT.txt | |
| 2017/07/05 | 08:14:43 PM | PD1509-547-8758 | MMS | Outgoing | he is mine...its a good hair day | | 2017-07-05_20-14-43_PDT_1.jpg | |
| 2017/07/05 | 08:16:57 PM | PD1509-547-8758 | SMS | Incoming | Ok. Yes good day. You sure you don't need some talc? | | 2017-07-05_20-16-57_PDT.txt | |
| 2017/07/05 | 08:18:53 PM | PD1509-547-8758 | SMS | Outgoing | talc???? what is that | | 2017-07-05_20-18-53_PDT.txt | |
| 2017/07/05 | 08:20:02 PM | PD1509-547-8758 | SMS | Incoming | Sorry. Fat fingered the letters. TLC | | 2017-07-05_20-20-02_PDT.txt | |
| 2017/07/05 | 08:21:35 PM | PD1509-547-8758 | SMS | Outgoing | i could get invloved with you and jake after a few good sessions of you two but i am not into it and dont want to take away from my kids expereince | | 2017-07-05_20-21-35_PDT.txt | |
| 2017/07/05 | 08:22:26 PM | PD1509-547-8758 | SMS | Outgoing | change my mind about us hookiing up? | | 2017-07-05_20-22-26_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|-----------------|------|-----------|---|------|-----------------------------|----------|
| 2017/07/05 | 08:23:23 PM | PD1509-547-8758 | SMS | Outgoing | yes u r but i dont think you could satisfy my kids nor that you want to sexually | | 2017-07-05_20-23-23_PDT.txt | |
| 2017/07/05 | 08:23:47 PM | PD1509-547-8758 | SMS | Incoming | Ok you mean I need to groom the boy alone? What about your princess | | 2017-07-05_20-23-47_PDT.txt | |
| 2017/07/05 | 08:24:12 PM | PD1509-547-8758 | SMS | Incoming | Like I say. Never have done kids before | | 2017-07-05_20-24-12_PDT.txt | |
| 2017/07/05 | 08:26:33 PM | PD1509-547-8758 | SMS | Incoming | How active are they? Are they like needing a regular meeting a couple times a week? | | 2017-07-05_20-26-33_PDT.txt | |
| 2017/07/05 | 08:29:16 PM | PD1509-547-8758 | SMS | Outgoing | oh no anna needs her time to. she is very curious and is in the prime time to learn i cant force you to do this nor do i want to. | | 2017-07-05_20-29-16_PDT.txt | |
| 2017/07/05 | 08:29:49 PM | PD1509-547-8758 | SMS | Outgoing | optimal couple times a week....play dates 😊 | | 2017-07-05_20-29-49_PDT.txt | |
| 2017/07/05 | 08:31:00 PM | PD1509-547-8758 | SMS | Incoming | You know, we should meet and try it out. Both at the same time or separate | | 2017-07-05_20-31-00_PDT.txt | |
| 2017/07/05 | 08:33:33 PM | PD1509-547-8758 | SMS | Outgoing | up to you but i have rules that must be followed | | 2017-07-05_20-33-33_PDT.txt | |
| 2017/07/05 | 08:34:09 PM | PD1509-547-8758 | SMS | Incoming | Tell me the rules then | | 2017-07-05_20-34-09_PDT.txt | |
| 2017/07/05 | 08:36:34 PM | PD1509-547-8758 | SMS | Outgoing | no pain or anal condoms are a must no prego kid you must stop when if i say so you have to come to our place and when you come in we all get naked cops dont get naked and that way we can rule that out R U ok with them | | 2017-07-05_20-36-34_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|------------------|------|-----------|--|------|-------------------------------|----------|
| 2017/07/05 | 08:39:25 PM | PD1 509-547-8758 | SMS | Incoming | Yes. No prego cause I shoot blanks. Never done anal so no worry. Just like doing oral along with regular sex | | 2017-07-05_20-39-25_PDT.txt | |
| 2017/07/05 | 08:41:29 PM | PD1 509-547-8758 | SMS | Outgoing | but you have to wear condoms if going to penetrate anna or jake. there are no exceptions. lube is a must for her too | | 2017-07-05_20-41-29_PDT.txt | |
| 2017/07/05 | 08:41:53 PM | PD1 509-547-8758 | SMS | Outgoing | how big are u | | 2017-07-05_20-41-53_PDT.txt | |
| 2017/07/05 | 08:44:52 PM | PD1 509-547-8758 | SMS | Incoming | Condoms it is. I don't have them nor lube been a very long while since I have even seen or touched a bare body. Probably won't last but 15 seconds | | 2017-07-05_20-44-52_PDT.txt | |
| 2017/07/05 | 08:45:45 PM | PD1 509-547-8758 | SMS | Incoming | And I am about average. Nothing big | | 2017-07-05_20-45-45_PDT.txt | |
| 2017/07/05 | 08:46:38 PM | PD1 509-547-8758 | SMS | Outgoing | thats funny....anna is good even at her age and could make that happen. good i dont want a large penis entering her | | 2017-07-05_20-46-38_PDT.txt | |
| 2017/07/05 | 08:47:04 PM | PD1 509-547-8758 | SMS | Incoming | No worry there | | 2017-07-05_20-47-04_PDT.txt | |
| 2017/07/05 | 08:48:08 PM | PD1 509-547-8758 | SMS | Outgoing | do you want to see a pic of us....you seem legit and ok to trust. | | 2017-07-05_20-48-08_PDT.txt | |
| 2017/07/05 | 08:48:30 PM | PD1 509-547-8758 | SMS | Incoming | Yes. Send a photo | | 2017-07-05_20-48-30_PDT.txt | |
| 2017/07/05 | 08:49:01 PM | PD1 509-547-8758 | SMS | Outgoing | give me a sec i will get them | | 2017-07-05_20-49-01_PDT.txt | |
| 2017/07/05 | 08:49:09 PM | PD1 509-547-8758 | SMS | Incoming | K | | 2017-07-05_20-49-09_PDT.txt | |
| 2017/07/05 | 08:52:09 PM | PD1 509-547-8758 | MMS | Outgoing | | | 2017-07-05_20-52-09_PDT_1.jpg | |
| 2017/07/05 | 08:53:32 PM | PD1 509-547-8758 | SMS | Outgoing | thats my whole world. such good kids | | 2017-07-05_20-53-32_PDT.txt | |
| 2017/07/05 | 08:53:57 PM | PD1 509-547-8758 | SMS | Incoming | Ok Looking good' | | 2017-07-05_20-53-57_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|-----------------|------|-----------|---|------|-----------------------------|----------|
| 2017/07/05 | 08:54:23 PM | PD1509-547-8758 | SMS | Incoming | I'm in if you want an old guy | | 2017-07-05_20-54-23_PDT.txt | |
| 2017/07/05 | 08:55:36 PM | PD1509-547-8758 | SMS | Outgoing | i have to be clear i am not involved...so when you say "you" i dont want you to be disappointed and especially dont want my kids disappointed because u dont want them | | 2017-07-05_20-55-36_PDT.txt | |
| 2017/07/05 | 08:57:31 PM | PD1509-547-8758 | SMS | Incoming | Ok. I would try for mo disappoint. I have a lot to learn as well | | 2017-07-05_20-57-31_PDT.txt | |
| 2017/07/05 | 08:58:02 PM | PD1509-547-8758 | SMS | Outgoing | where do u live | | 2017-07-05_20-58-02_PDT.txt | |
| 2017/07/05 | 08:58:57 PM | PD1509-547-8758 | SMS | Incoming | Pasco | | 2017-07-05_20-58-57_PDT.txt | |
| 2017/07/05 | 09:00:05 PM | PD1509-547-8758 | SMS | Outgoing | when can we make this happen. the sooner the more it makes me less cautious its not a set up | | 2017-07-05_21-00-05_PDT.txt | |
| 2017/07/05 | 09:04:22 PM | PD1509-547-8758 | SMS | Incoming | Ok. I'm not setting you up cause I just being cautious to. Tell me times suited for you. I have to be discreet and time things just right. Sometimes mornings work for me. Then of course getting stuff. Never done it before | | 2017-07-05_21-04-22_PDT.txt | |
| 2017/07/05 | 09:06:18 PM | PD1509-547-8758 | SMS | Outgoing | we are flexable. I clean houses for work and can adjust my schedule. we could do it tonight it you would like 15 seconds of fun it sounds like u have more problems. pick a time | | 2017-07-05_21-06-18_PDT.txt | |
| 2017/07/05 | 09:08:48 PM | PD1509-547-8758 | SMS | Incoming | You are right. I don't have the required stuff. So we would have to flexible for tonight | | 2017-07-05_21-08-48_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|-----------------|------|-----------|---|------|-----------------------------|----------|
| 2017/07/05 | 09:10:03 PM | PD1509-547-8758 | SMS | Incoming | Where r u? | | 2017-07-05_21-10-03_PDT.txt | |
| 2017/07/05 | 09:11:20 PM | PD1509-547-8758 | SMS | Outgoing | kind of new to the area....liv in richland by the 240 bypass. | | 2017-07-05_21-11-20_PDT.txt | |
| 2017/07/05 | 09:11:56 PM | PD1509-547-8758 | SMS | Outgoing | what did you have in mind for play time tonight? what would u like | | 2017-07-05_21-11-56_PDT.txt | |
| 2017/07/05 | 09:14:20 PM | PD1509-547-8758 | SMS | Incoming | I'm easy for it. Just get to know one another. Are good with it. Send address | | 2017-07-05_21-14-20_PDT.txt | |
| 2017/07/05 | 09:16:32 PM | PD1509-547-8758 | SMS | Outgoing | can you stop and get condoms and lube. i dont want u to be unprepared if you need them. i have to prep the kids for what it is you want oral, hand job, penetration, kissing. we r night owls so time is good | | 2017-07-05_21-16-32_PDT.txt | |
| 2017/07/05 | 09:19:42 PM | PD1509-547-8758 | SMS | Incoming | Like I said have not done this before. Could do almost anything without penetration. | | 2017-07-05_21-19-42_PDT.txt | |
| 2017/07/05 | 09:21:40 PM | PD1509-547-8758 | SMS | Outgoing | are u interested in both anna and jake? same time or separate | | 2017-07-05_21-21-40_PDT.txt | |
| 2017/07/05 | 09:22:34 PM | PD1509-547-8758 | SMS | Incoming | Anna first | | 2017-07-05_21-22-34_PDT.txt | |
| 2017/07/05 | 09:23:10 PM | PD1509-547-8758 | SMS | Incoming | I'm leaving now so send address | | 2017-07-05_21-23-10_PDT.txt | |
| 2017/07/05 | 09:23:23 PM | PD1509-547-8758 | SMS | Outgoing | ok separate is best. i will have to watch to make sure all is | | 2017-07-05_21-23-23_PDT.txt | |
| 2017/07/05 | 09:25:09 PM | PD1509-547-8758 | SMS | Incoming | K | | 2017-07-05_21-25-09_PDT.txt | |
| 2017/07/05 | 09:25:17 PM | PD1509-547-8758 | SMS | Outgoing | do you want to start with touching and move to oral or what. help me.....i want to tell anna. do you want her dressed in anything specific | | 2017-07-05_21-25-17_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|-----------------|------|-----------|---|------|-----------------------------|----------|
| 2017/07/05 | 09:26:18 PM | PD1509-547-8758 | SMS | Incoming | Just under things touching then to oral | | 2017-07-05_21-26-18_PDT.txt | |
| 2017/07/05 | 09:27:15 PM | PD1509-547-8758 | SMS | Outgoing | you giving or them giving oral or both?? | | 2017-07-05_21-27-15_PDT.txt | |
| 2017/07/05 | 09:28:14 PM | PD1509-547-8758 | SMS | Incoming | Both | | 2017-07-05_21-28-14_PDT.txt | |
| 2017/07/05 | 09:29:12 PM | PD1509-547-8758 | SMS | Incoming | Ok I'm driving. Address please. Can't look at same time | | 2017-07-05_21-29-12_PDT.txt | |
| 2017/07/05 | 09:29:33 PM | PD1509-547-8758 | SMS | Outgoing | ok...give me 10-15 minutes to prep them and shower anna. i am excited you want to see them. i hope this turns out to be what i am looking for. | | 2017-07-05_21-29-33_PDT.txt | |
| 2017/07/05 | 09:29:56 PM | PD1509-547-8758 | SMS | Incoming | Ok | | 2017-07-05_21-29-56_PDT.txt | |
| 2017/07/05 | 09:30:54 PM | PD1509-547-8758 | SMS | Incoming | On the road | | 2017-07-05_21-30-54_PDT.txt | |
| 2017/07/05 | 09:41:22 PM | PD1509-547-8758 | SMS | Outgoing | what clothes u didnt say to put them in. sorry hurrying | | 2017-07-05_21-41-22_PDT.txt | |
| 2017/07/05 | 09:43:07 PM | PD1509-547-8758 | SMS | Incoming | Under clothes is good | | 2017-07-05_21-43-07_PDT.txt | |
| 2017/07/05 | 09:43:48 PM | PD1509-547-8758 | SMS | Incoming | I'm in town. Just need directions | | 2017-07-05_21-43-48_PDT.txt | |
| 2017/07/05 | 09:50:24 PM | PD1509-547-8758 | SMS | Outgoing | you have to do one more thing there is a car wash next to our place i have to google the name and address but go there and take a selfie with it in the background holding 3 fingers and send it to me and i will give u my addrss. | | 2017-07-05_21-50-24_PDT.txt | |
| 2017/07/05 | 09:50:51 PM | PD1509-547-8758 | SMS | Incoming | Ok | | 2017-07-05_21-50-51_PDT.txt | |
| 2017/07/05 | 09:51:33 PM | PD1509-547-8758 | SMS | Outgoing | its called liberty car wash 418 riverstone drive | | 2017-07-05_21-51-33_PDT.txt | |
| 2017/07/05 | 09:51:48 PM | PD1509-547-8758 | SMS | Incoming | Ok | | 2017-07-05_21-51-48_PDT.txt | |

Detail for 509-620-2098

| Date | Time | Number | Type | Direction | Content | Min. | File Name | MD5 Hash |
|------------|-------------|------------------|------|-----------|---|------|-------------------------------|----------|
| 2017/07/05 | 09:52:29 PM | PD1 509-547-8758 | SMS | Outgoing | wow the kids are freaking bouncing around....anna is singing. u will like her underwear 😊 | | 2017-07-05_21-52-29_PDT.txt | |
| 2017/07/05 | 09:59:06 PM | PD1 509-547-8758 | MMS | Incoming | Excited | | 2017-07-05_21-59-06_PDT_1.jpg | |
| 2017/07/05 | 10:00:10 PM | PD1 509-547-8758 | SMS | Outgoing | thanks hun come on over 2513 duportail st E-235 at the mosiac on the river apartment down the street. this will be fun | | 2017-07-05_22-00-10_PDT.txt | |
| 2017/07/05 | 10:04:28 PM | PD1 509-547-8758 | SMS | Incoming | Ok Clue. | | 2017-07-05_22-04-28_PDT.txt | |
| 2017/07/05 | 10:04:51 PM | PD1 509-547-8758 | SMS | Outgoing | u lost...ha ha | | 2017-07-05_22-04-51_PDT.txt | |
| 2017/07/05 | 10:04:59 PM | PD1 509-547-8758 | SMS | Incoming | Yup | | 2017-07-05_22-04-59_PDT.txt | |
| 2017/07/05 | 10:05:40 PM | PD1 509-547-8758 | SMS | Outgoing | it the new aparetments with different colors on the river. you have to drive past older apartments. i dont know where u r | | 2017-07-05_22-05-40_PDT.txt | |
| 2017/07/05 | 10:06:55 PM | PD1 509-547-8758 | SMS | Incoming | Ok went end and turned left | | 2017-07-05_22-06-55_PDT.txt | |
| 2017/07/05 | 10:08:33 PM | PD1 509-547-8758 | SMS | Outgoing | take your first left after the intersection and drive straight down until get to new apartmets. my unit is close to river by pool | | 2017-07-05_22-08-33_PDT.txt | |
| 2017/07/05 | 10:13:36 PM | PD1 509-547-8758 | SMS | Outgoing | r u still lost | | 2017-07-05_22-13-36_PDT.txt | |
| 2017/07/05 | 10:13:38 PM | PD1 509-547-8758 | SMS | Incoming | At pool | | 2017-07-05_22-13-38_PDT.txt | |
| 2017/07/05 | 10:13:53 PM | PD1 509-547-8758 | SMS | Incoming | Need to park | | 2017-07-05_22-13-53_PDT.txt | |
| 2017/07/05 | 10:13:54 PM | PD1 509-547-8758 | SMS | Outgoing | come on up | | 2017-07-05_22-13-54_PDT.txt | |
| 2017/07/05 | 10:18:32 PM | PD1 509-547-8758 | SMS | Outgoing | test | | 2017-07-05_22-18-32_PDT.txt | |
| 2017/07/05 | 10:18:50 PM | PD1 509-547-8758 | SMS | Outgoing | test | | 2017-07-05_22-18-50_PDT.txt | |

BENTON COUNTY PROSECUTOR'S OFFICE

February 18, 2020 - 1:42 PM

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Appellate Court Case Title: State of Washington v. Douglas Virgil Arbogast
Superior Court Case Number: 17-1-00752-1

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