

NO. 77973-2

SUPREME COURT OF THE STATE OF WASHINGTON

IN RE THE PERSONAL RESTRAINT PETITION OF

COREY BEITO,

Petitioner.

**SUPPLEMENTAL BRIEF IN RESPONSE TO
ARGUMENTS RAISED IN PETITIONER'S
AUGUST 2008 SUPPLEMENTAL BRIEF**

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A. **INTRODUCTION**

Corey Beito seeks to enforce half the contract he negotiated ten years ago with the people of the State of Washington. Beito pled guilty to a reduced charge in order, by his own admission, to avoid life imprisonment for the rape and murder a 14 year-old girl. As part of the plea agreement, Beito agreed that the State could seek an exceptional sentence. Beito now seeks to rescind the exceptional sentence, while *requiring* the State to resentence him on the reduced charge without the possibility of an exceptional sentence being imposed. This would result in a ten-year “windfall” reduction in Beito’s sentence and would not hold him accountable for his egregious conduct.

Beito's argument is without merit because Beito’s charge was reduced pursuant to a contractual agreement. When the State, due to a subsequent change in the law, is frustrated in obtaining the benefit it negotiated under the contract the remedy should be recession of the contract and a return of the parties to their original position. Such a result is entirely consistent with standard contract law. Beito’s petition – assuming it is not denied on the basis of any of several significant procedural flaws – may require this Court to face an issue it did not need to address in an earlier case, to wit: Is a plea agreement indivisible such that upon frustration of its purpose it is totally rescinded; not simply

partially rescinded to the benefit of the defendant?

The State respectfully asks this Court to hold that the plea agreement is indivisible, and that Beito may not seek to enforce only the portion of the agreement favorable to him after unforeseeable legal changes -- which overturned binding Washington Supreme Court precedent -- have eviscerated the State's consideration. The State amended the information to a lesser charge (and agreed to forego other charges) conditioned upon entry of a plea of guilty, and with the understanding and agreement of all parties that the State could seek an enhanced sentence for what is clearly a more egregious murder than typical.

Only two outcomes are fair under such circumstances: 1) the contract (negotiated under valid, preexisting state statutes and decisions of this Court) should be respected and left intact, or 2) the agreement should be vacated, and the parties returned to their original positions. Anything less deprives the people of the State of Washington the ability to sufficiently punish Beito for his crimes.

This Court need not reach the indivisibility issue, however, if it dismisses Beito's personal restraint petition (PRP) because he has not met the standard for relief in a personal restraint petition. The State's argument may be summarized as follows.

The State respectfully asks this Court to hold that Beito has not

proved that he was actually prejudiced by having a judge, rather than a jury, decide whether his rape and murder were sufficiently intertwined to merit greater punishment. Any factfinder would have found a sufficient nexus between the two crimes under these circumstances. The fact that Beito pled guilty and asked the trial court to find facts distinguishes his case from In re PRP of Hall, wherein this Court held that a prejudice analysis was impossible because a trial judge could never have imposed an exceptional sentence after a jury trial.

Moreover, Beito has not shown that there was any failure of "notice." This Court has never held that aggravating factors supporting an exceptional sentence need be charged in an information, and a new rule of criminal procedure cannot be announced and applied for the first time in a PRP. In any event, Beito clearly knew before he entered his guilty plea that the State intended to seek an exceptional sentence.

B. STATEMENT OF THE CASE¹

Corey Beito was charged by information with aggravated murder in the first degree. PRP Appendix A. The Certification for Determination of Probable Cause alleged that Beito strangled 14-year-old Jessica Seim to

¹ This case has been briefed piecemeal over several years as the issues have shifted with the changing legal landscape. The following summary of the case is provided for this Court's convenience. Also, documents appended to the original PRP will be cited in this brief as "PRP Appendix ___." Additional relevant documents will be referred to as "Appendix ___."

death. PRP Appendix A. In a taped statement to the police, Beito admitted to strangling the victim first with his hands and then with his belt. He referred to her as "just a baby" and said that he killed her after having what he claimed was consensual sex with her. PRP Appendix A. An autopsy revealed a large, fresh black eye, deep bruising to the neck, as well as evidence of sexual assault, including a vaginal abrasion and torn underwear. PRP Appendix A. After killing her, Beito stuffed his victim's body in a garbage can, put it in a doghouse, then later moved it to his backyard tool shed. PRP Appendix A.²

Beito was originally charged with first degree aggravated murder. PRP Appendix A. After plea negotiations, the State amended the information to charge murder in the first degree. The agreement was requested "[a]s part of the plea agreement, and contingent upon the plea agreement." PRP App. C (Motion and Order Permitting Filing of A Second Amended Information). Beito entered a plea of guilty to the charge of murder in the first degree. PRP Appendix B. The mandatory sentence for aggravated murder is life in prison without the possibility of parole. Beito's plea to the reduced charge resulted in a standard range of 291 to 388 months. PRP Appendix B.

² A transcript of Beito's confession was considered by the court and admitted as an exhibit at sentencing. See footnote 5 regarding other relevant documents.

In the Statement of Defendant on Plea of Guilty, Beito acknowledged that the State would be seeking an exceptional sentence of 504 months.³ PRP Appendix B (Statement at 3). He also admitted to causing the death of the victim, and stated his wish to plead guilty to the reduced charge because of the substantial likelihood that a jury would find the murder to be premeditated. PRP Appendix B (Statement at 7); PRP Appendix K at 10-11. In the plea, Beito agreed that "the Court may consider the certificate of probable cause as well as the terms of Appendix C to form a basis for my plea and my sentencing." PRP Appendix B (emphasis added).

The "Plea Agreement" attached to the Statement of Defendant On Plea of Guilty states, "[i]n accordance with RCW 9.94A.370 the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows: as set forth in the attached Appendix C." PRP Appendix B. "Appendix C to Plea Agreement Re: Real Facts," signed by the prosecutor, defense counsel and Beito, states that "as part of the plea agreement, Real and Material facts establishing elements of a Rape First and Second Degree, and Rape of a Child in the Third Degree to be considered at sentencing are specifically stipulated

³ With a 504-month sentence, Beito will be eligible for release at age 62.

to." PRP Appendix B (emphasis added). Pursuant to that document, the defendant acknowledged "[t]hat the crime of Rape of a Child Third Degree were committed," but disputed that the crimes of first or second degree rape was committed. PRP Appendix B. The parties stipulated that the court could consider Beito's statement to the police, the written statements of Michael Corbell, Mark Coffey and Nick Gaffe, the autopsy report and photos. PRP Appendix B. No testimony was presented at the sentencing hearing. PRP Appendix D.⁴

It was made clear to Beito -- in writing and orally -- before he pled guilty that the State was going to seek an exceptional sentence of 504 months. PRP Appendix B (Appendix C to Plea Agreement Re: Real Facts); PRP Appendix K (Plea Hearing at 3, 8-12, 22, 26). The court also made clear that "when you enter a plea you give up those rights associated with going to trial because, of course, there will be no trial." PRP Appendix K at 18. Beito replied, "Right." Id.

At the initial sentencing, the court imposed an exceptional sentence of 504 months, as recommended by the State and the Department of Corrections. PRP Appendix D; Appendix A (verbatim report). This

⁴ Beito has never challenged the "real facts" agreement. See Petitioner's Reply (filed in the Court of Appeals 7/25/05), at 5 ("...Mr. Beito is in no way challenging his real facts agreement. By that agreement, the trial court was permitted to consider those fact [sic] for any lawful purpose.")

sentence was appealed because the trial court had not expressly found a connection between the rape and murder, and the sentence was reversed. PRP Appendix E.

At a second sentencing, the court considered all the documents and facts stipulated to by Beito and the court again imposed an exceptional sentence of 504 months. PRP Appendix F. It found as fact that Beito had admitted rape of a child in the third degree, that the rape was closely connected to, and a motive for, the murder, that the victim's multiple injuries were not consistent with consensual sex, that the rape was forcible, that the victim was petite (104 pounds) and young, that she had been provided alcohol. PRP Appendix H at 2-5; Appendix B (verbatim report).⁵ This sentence was also successfully appealed based on an offender score error, and the sentence was reversed. PRP Appendix G.

At the third sentencing, the court again imposed an exceptional sentence of 504 months. PRP Appendix H; Appendix I (verbatim report). The basis for this exceptional sentence was the fact that Beito committed the crime of rape of a child in the third degree that was closely connected

⁵ PRP App. D lists the documents relied upon by the sentencing judge. Because Beito has not yet supplied those documents, and because they are relevant to a prejudice determination now at issue in this PRP, those documents are attached to this brief as follows: Witness statements of Michael Corbell, (Appendix C), Mike Coffey, (Appendix D), Nick Gache (Appendix E); Autopsy Report (Appendix F); the defendant's confession (Appendix G); Crime Laboratory Report (Appendix H).

to the murder. PRP Appendix H. This sentence was appealed. In an unpublished decision, the Court of Appeals affirmed the sentence. PRP Appendix I. Beito's petition for review was denied on September 8, 2004. PRP Appendix J. He subsequently filed this petition in April, 2005.

C. ARGUMENT

1. BEITIO'S PETITION SHOULD BE DISMISSED.

A personal restraint petitioner always bears the burden of showing that a constitutional error resulted in actual and substantial prejudice.

State v. Brune, 45 Wn. App. 354, 363, 725 P.3d 454 (1986). This rule was explained in In re Personal Restraint of St. Pierre, 118 Wn.2d 321, 328, 823 P.2d 492 (1992), where this Court held that a more demanding standard of review applies to collateral review than applies to direct review:

A personal restraint petition is not to operate as a substitute for a direct appeal. In re Hagler, 97 Wn.2d 818, 824, 650 P.2d 1103 (1982). We have limited the availability of collateral relief because it undermines the principles of finality of litigation, degrades the prominence of trial, and sometimes deprives society of the right to punish admitted offenders. Hagler, 97 Wash.2d at 824, 650 P.2d 1103. Therefore, we decline to adopt any rule which would categorically equate per se prejudice on collateral review with per se prejudice on direct review. Although some errors which result in per se prejudice on direct review will also be per se prejudicial on collateral attack, the interests of finality of litigation demand that a higher standard be satisfied in a collateral proceeding. We do not find errors in

to be per se prejudicial under the higher standard for collateral review.

See also In re Personal Restraint of Cook, 114 Wn.2d 802, 810-11, 792 P.2d 506 (1990)).

Thus, Beito must show actual and substantial prejudice by establishing that it is more likely than not that another factfinder would not have made the finding that the trial court made: that the rape was "so closely connected to the murder as to be considered 'part and parcel' of the same crime." See In re Sims, 118 Wn. App. 471, 476-77, 73 P.3d 398 (2003). Significantly, Beito has never challenged this finding by the trial court in any of his three direct appeals. See PRP Appendix G.

a. Beito Has Failed To Meet His Burden of Proof.

Beito has failed to establish that, more likely than not, another factfinder would not have found Beito's admitted rape of the victim was not closely connected with the murder. Beito has failed to provide the appellate courts with any of the evidence to which Beito stipulated and on which the sentencing court relied in finding that the rape was closely related to the murder. This includes the parties' stipulations that the court could consider Beito's confession to the police, the written statements of Michael Corbell, Mark Coffey and Nick Gaffe, the autopsy report, and photos. PRP Appendix B. In order to make a determination as to whether

there is a likelihood that another factfinder would not have found a connection between the rape and murder based on this evidence, this Court would have to review all the materials that were before the trial court. Beito has provided none of these materials. Thus, he has failed to meet his burden of establishing actual and substantial prejudice.

Those materials are attached for this Court's consideration. In Beito's 46-page confession, he asserts that the victim and his friends were drinking and partying at his house. He admits seeing the victim have sex with one of his friends. He claims that she fell asleep, that he awakened her, that she ended up in bed with him, and that they had sex. He claims not to remember tearing her panties or hitting her. He admitted strangling her with his hands and with his belt but claims not to know why. He admits that he strangled the victim immediately after he had sex with her. Thus, even by Beito's own accounting, the rape and murder occurred at the same time and place and in the same sequence of activity.

Those admissions, together with the physical evidence and the statements of other witnesses, prove the close connection between the rape and the murder, and establish that the rape was forcible. The autopsy report establishes that victim had significant bruising to the left side of her face and eye, bruises on her forehead, tears to her labia, a tear at her

vaginal opening, blood at the vaginal opening and the anus, and injury to her perineum region. See Appendix F. Her panties were cut or torn.

In addition, witness Corbell reported that before the attack, Beito had asked Corbell whether Corbell would turn Beito in for raping the victim. See Appendix C at 2.

This evidence illustrates that any rational trier of fact would have concluded that the rape and murder were closely connected. Beito has not even attempted to demonstrate otherwise.

b. A Procedure Existed To Impose An Exceptional Sentence Based On A Stipulation.

Beito argues in his supplemental pleading that the "sentencing error in this case cannot be harmless" because no procedure existed for submitting exceptional sentence determinations to a judge when Beito was sentenced. Notice of Appearance and Supplemental Pleading in Support of Discretionary Review at 2-3. This argument should be rejected because superior courts have always had the authority to accept stipulations of the parties and to decide factual matters based upon those stipulations. Beito stipulated to facts supporting an exceptional sentence in this case, and he agreed that the sentencing judge would determine those facts. Under the sentencing law at the time of Beito's offense, the trial court could clearly make factual findings and impose an exceptional sentence upon agreement

of the parties. See RCW 9.94A.120(2),⁶ and RCW 9.94A.390 (listing aggravating illustrative factors); In re Breedlove, 138 Wn.2d 298, 309, 979 P.2d 417 (1999) (authorizing exceptional sentences by agreement of the parties).

In In re Pers. Restraint of Hall, 163 Wn.2d 346, 181 P.3d 799 (2008), this Court held that where a defendant exercised his right to a jury trial, a Blakely⁷ error could not be deemed harmless because under the statutes existing at the time it would have been procedurally impossible to submit the aggravating facts to a jury for determination. See also State v. Womac, 160 Wn.2d 643, 160 P.3d 40 (2007) (exceptional sentence imposed based on judicial factfinding following jury trial could not be harmless on direct appeal).

Beito's case is distinguishable from Hall because Beito waived his right to a jury trial. As noted by the United States Supreme Court in Blakely:

[N]othing prevents a defendant from waiving his Apprendi rights. When a defendant pleads guilty, the State is free to seek judicial sentence enhancements so long as the defendant either stipulates to the relevant facts or consents to judicial factfinding. If appropriate waivers are procured, States may continue to offer judicial factfinding as a matter of course to all defendants who plead guilty.

⁶ "The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence."

⁷ Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed.2d 403 (2004).

Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531, 2541, 159 L. Ed.2d 403 (2004). This Court has twice relied on this language from Blakely to hold that a defendant who agrees to facts supporting an exceptional sentence may not rely on Blakely to overturn a sentence based on those facts. See State v. Ermels, 156 Wn.2d 528, 131 P.3d 299 (2006) and State v. Suleiman, 158 Wn.2d 280, 143 P.3d 795 (2006).

Thus, a waiver occurs whenever a defendant either consents to facts, or consents to judicial factfinding. Beito did both. He stipulated that he had committed rape of a child *and* he consented to judicial factfinding. PRP Appendix B and C. Because Beito waived his right to a jury, stipulated to aggravating facts, and consented to judicial factfinding at sentencing, no separate statutory procedure was needed to submit the aggravating facts for the judge's decision. Neither Hall nor Womac -- which both involved jury trials, not stipulated sentencing -- are controlling. Under the existing law, the parties could submit the decision to the sentencing judge; no special procedure was required.

- c. The State Need Not Place Aggravating Factors In An Information; Beito Had Clear Notice Of The Sentencing Options.

Beito argues that his exceptional sentence must be reversed on collateral attack because he lacked notice that he might receive an

exceptional sentence; specifically, he alleges that the information in his case should have alleged aggravating circumstances. Notice of Appearance and Supplemental Pleading in Support of Discretionary Review, at 3-6. This argument should be rejected for two reasons. First, this Court has consistently held that exceptional sentence aggravators need not be pled in the information. Second, Beito must prove prejudice by a preponderance of the evidence, which he cannot do. He clearly had notice that an exceptional sentence was possible.

None of this Court's precedents have held that aggravating factors supporting an exceptional sentence must be charged in an information. In fact, the Court of Appeals has recently rejected such a claim. State v. Berrier, 143 Wn. App. 547, 178 P.3d 1064 (2008). And, since the decision in Blakely v. Washington, was issued in 2004, this Court has affirmed exceptional sentences that were not charged in the charging document. See State v. Ermels, 156 Wn.2d 528, 131 P.3d 299 (2006). Indeed, prior to issuance of the Blakely decision the appellate courts of Washington have affirmed hundreds, if not thousands, of exceptional sentences that were not charged in the charging documents. Beito fails to explain how the new rule of criminal procedure set forth in Blakely, which was based on the Sixth Amendment's guarantee of a jury trial, would

change the notice requirements contained in other, non-jury provisions of the federal and state constitutions.

More fundamentally, Beito is arguing for a new rule of criminal procedure, that if adopted by this Court, would not apply to Beito's case, which became final in 2004. New rules of criminal procedure do not apply retroactively to cases that were final when the new rule was announced. In Teague v. Lane, 489 U.S. 288, 109 S. Ct. 1060, 103 L. Ed.2d 334 (1989), the United States Supreme Court set forth a new formulation for determining the retroactive application of new rules. Pursuant to Teague, when a court's decision results in a new rule, that rule applies to all cases pending on direct review. Schiro v. Summerlin, 542 U.S. 348, 124 S. Ct. 2519, 2522, 159 L. Ed.2d 442 (2004). As to convictions that were already final when the new rule was announced, new substantive rules, such as interpretations of criminal statutes, generally apply retroactively. Id. In contrast, new rules of procedure do not apply retroactively unless the new rule constitutes a "watershed rule of criminal procedure implicating the fundamental fairness and accuracy of the criminal proceeding." Id. (citing Teague, 489 U.S. at 311). In order to fall within this narrow category the rule must be one "without which the likelihood of an accurate conviction is *seriously* diminished." Id. (emphasis in original) (citing Teague, 489 U.S. at 313). A charging error

has no effect on the accuracy of the criminal proceeding. The new rule advanced by Beito is a new rule of criminal procedure that would not apply to cases that are already final, and could not be applied to Beito's case.

Additionally, aggravating factors supporting an exceptional sentence are distinct from mandatory enhancements. Aggravating factors simply authorize a sentencing court to *consider* imposing an exceptional sentence, whereas enhancements like those at issue in the cases Beito relies upon *require* the sentencing court to impose increased punishment once the enhancement facts are found.⁸ Thus, this Court's precedents do not require that aggravating facts be set forth in the information. Distinguishing between automatic enhancements and aggravating circumstances is sensible, and is also consistent with the distinction between direct and indirect consequences of a guilty plea; the former require notice but the latter do not. State v. Ward, 123 Wn.2d 488, 513-14, 869 P.2d 1062 (1994) (consequences that are not “automatically

⁸ The cases Beito relies on are distinguishable because they involve mandatory enhancements. See State v. Nass, 76 Wn.2d 368, 456 P.2d 347 (1969) (mandatory minimum sentence for delivery of narcotics to minor); State v. Frazier, 81 Wn.2d 628, 503 P.2d 1073 (1972)(automatic deadly weapon enhancement); State v. Cosner, 85 Wn.2d 45, 530 P.2d 317(1975)(mandatory minimum for deadly weapon enhancement); State v. Theroff, 95 Wn.2d 385, 622 P.2d 1240 (1980)(same).

imposed” by the sentencing court, that do not “automatically enhance” the sentence, or that do “not alter the standard of punishment” are collateral).

Second, even if a notice challenge can be raised here, Beito must show prejudice from lack of notice. A petitioner raising a notice challenge in a PRP must show actual prejudice, even if the same error would be reversible on direct review. In re Crabtree, 141 Wn.2d 577, 9 P.3d 814 (2000). Even if Beito had raised a notice claim for the first time in a direct appeal, instead of a collateral attack, he would have been required to show prejudice. State v. Kjorsvik, 117 Wn.2d 93, 105-06, 812 P.2d 86 (1991) (employing a two-prong test: (1) do the facts appear in any form, or by fair construction can they be found, in the charging document; and, if so, (2) can the defendant show that he or she was nonetheless *actually prejudiced* by the inartful language).

Finally, Beito cannot show prejudice from any charging deficiency. He was repeatedly told, in writing and orally, before he entered a plea to the second amended information, that the State would be requesting an exceptional sentence based on the fact that he admitted raping his 14 year-old murder victim. Still, Beito chose to enter the guilty plea to reduce the chances that he would spend his life in prison. As he said before signing the Statement of Defendant on Plea of Guilty, "If I don't sign it I go to trial. I get life without." PRP Appendix K at 12.

Thus, it is clear that Beito had clear notice of the punishment the State was seeking and he can show no prejudice.

2. IF THE EXCEPTIONAL SENTENCE IS VACATED, THE STATE SHOULD BE PERMITTED TO REINSTATE THE CHARGE OF AGGRAVATED MURDER IN THE FIRST DEGREE BECAUSE THE PURPOSE OF THE ORIGINAL AGREEMENT HAS BEEN FRUSTRATED.

If this Court decides that Beito's rights were violated and that he has demonstrated prejudice, there remains the issue of remedy. Beito argues that his case must be remanded for imposition of a standard range sentence because it is now impossible to impose an exceptional sentence. His argument proves perhaps more than he realizes, and it should be rejected. If it is impossible to impose an exceptional sentence on Beito at this point, then Beito's remedy should be limited to withdrawal of his guilty plea. This is because the reduction in the charge Beito pled to is inseparable from the agreement itself. In other words, the State amended the information from aggravated first degree murder to simple first degree murder contingent on the plea agreement authorizing the court to consider imposition of an exceptional sentence. The agreement is indivisible.

Plea agreements are favored by the courts. See Brady v. United States, 397 U.S. 742, 751-53, 90 S. Ct. 1463, 25 L. Ed.2d 747 (1970).

When "[p]roperly administered, they can benefit all concerned."

Blackledge v. Allison, 431 U.S. 63, 71, 97 S. Ct. 1621, 52 L. Ed.2d 136 (1977). Plea agreements are regarded and interpreted as contracts that bind both parties. In re Breedlove, 138 Wn.2d at 309; In re PRP of Lord, 152 Wn.2d 182, 188, 94 P.3d 952 (2004).

In contract law, where integral parts of an agreement are incorrect due to mistake or changed circumstances, the purpose of the agreement has been frustrated, and the contract is voidable. This is true as to subsequent changes in laws or regulations that frustrate purposes of an agreement. Restatement (Second) of Contracts § 265 (1979); Washington State Hop Producers, Inc., Liquidation Trust v. Goschie Farms, Inc., 112 Wn.2d 694, 773 P.2d 70 (1989) (change in government regulation that changed prices paid for hops). It can also be true as to mutual mistake. See Hornback v. Wentworth, 132 Wn. App. 504, 132 P.3d 778 (2006) (common law rescission granted as to real estate contract); Davey v. Brownson, 3 Wn. App. 820, 478 P.2d 258 (1970) (rescission is the remedy for mistake; citing Restatement of Contracts (First) § 502 (1962); Ross v. Harding, 64 Wn.2d 231, 239, 391 P.2d 526 (1964).

A contract frustrated by changed circumstances or mistake is *voidable*, but not necessarily *void*. Thus, if party seeks to evade the terms of the contract, whether because circumstances have changed or a mistake was discovered, that party must justify the remedy he seeks. In the

context of criminal law and plea agreements, this Court recently held that a party may not unilaterally renegotiate a plea by attempting to obtain partial rescission of a plea agreement. Integral parts of a plea agreement are to be treated as indivisible absent objective evidence of a contrary intent in the agreement. See State v. Turley, 149 Wn.2d 395, 400-02, 69 P.3d 338 (2003).

Thus, if a plea agreement is invalid, a defendant is entitled to total rescission of the contract, but he is not entitled to enforce only the favorable aspects of the agreement. State v. Bisson, 156 Wn.2d 507, 130 P.3d 820 (2006). Rather, the State may contest the remedy proposed by the defendant. Bisson summarized the law as follows:

[W]here the terms of a plea agreement conflict with the law or the defendant was not informed of the sentencing consequences of the plea, the defendant must be given the initial choice of a remedy to specifically enforce the agreement or withdraw the plea. . . . After the defendant's election, the burden shifts to the State: Although the defendant has the initial choice of remedy, the trial court is not necessarily bound by the defendant's choice. Once the defendant has opted for one of the available remedies, the State "bears the burden of demonstrating that the defendant's choice of remedy is unjust." . . . The State's burden requires a showing that compelling reasons exist not to allow the defendant's choice. . . . We hold that when the plea agreement includes multiple counts or charges, the State need not make a showing of compelling reasons on each count or charge. Instead, the showing may be based on any one or all of the counts or charges. The trial court then determines whether those reasons are compelling and the

defendant's choice of withdrawal or specific performance is unjust. . . .

at 517-18 (internal quotation marks and citations omitted).

In Turley, a defendant sought to withdraw his guilty plea to a single charge because he was not properly advised that community placement would be required as to one of several charges. The State argued that the plea agreement covered multiple charges and was indivisible, i.e. the same agreement would not have been reached had the terms been different. This Court held that the plea agreement was presumptively indivisible so Turley had to rescind the entire agreement.

Similarly, in Bisson, the defendant sought to rescind portions of a plea agreement covering multiple counts with firearm enhancements and where the plea agreement was not clear that weapon enhancements must be served consecutively. The State sought and was granted complete rescission.

Here, the State amended the information from *aggravated* first degree murder to murder in the first degree conditioned on a plea agreement. PRP App. C (Motion and Order Permitting Filing of A Second Amended Information). That agreement was negotiated by the parties over "many, many months." PRP App. K at 16. The agreement benefitted Beito but the agreement also preserved the State's right to obtain an

exceptional sentence since a defendant who commits rape of a child contemporaneously with murder is clearly deserving of greater punishment than other murderers. In short, each party gained something and sacrificed something by this all-encompassing agreement. Equally clear, however, is the fact that the agreement was a package deal in the sense that the information was amended conditionally, based on the parties' understanding that an exceptional sentence was available.

Beito now argues that the exceptional sentence is unavailable. In essence, he is attempting to unilaterally change the terms of the agreement by challenging his exceptional sentence and alleging that only a standard range sentence is available. Beito wants the benefits of the lesser charge without the detriments of an exceptional sentence. This Court should not grant him such a windfall. Under basic contract principles, he is entitled to total rescission of the agreement, or nothing. If Beito wishes to challenge his sentence and force a standard range sentence, the remedy is rescission of the agreement. In short, the State should be permitted to ask the superior court to rescind the amendment to the information since the amendment was requested and granted conditioned on the plea agreement, and conditioned on legal principles that have changed.

The State has adhered to its agreement but Beito now wants to bind the State to its part of the agreement, i.e. reduction of the charge, without

giving the State the opportunity to seek the benefit of an enhanced sentence for what are clearly more egregious circumstances than typical. This is fundamentally unfair, and such a result is not compelled by Blakely or by this Court's precedents.

Beito might argue that complete rescission is precluded by State v. Hagar, 158 Wn.2d 369, 144 P.3d 298 (2006). That argument would be mistaken. In Hagar, this Court rejected a more narrow argument:

The Court of Appeals affirmed Hagar's sentence, finding his stipulation to the real facts was an integral part of the plea agreement and was not shown to be divisible. However, whether the stipulation is divisible is irrelevant here because Hagar need not challenge his stipulation in order to establish that a Blakely violation occurred. . . . Even assuming Hagar's stipulation is valid, the trial court still engaged in improper Blakely fact finding when it found the crimes constituted a "major economic offense."

Hagar, 158 Wn.2d at 374. Thus, this Court in Hagar focused on whether the stipulation was divisible from the agreement, and held that Turley was irrelevant because Hagar did not need to challenge his stipulation to show a Blakely violation.

Here, the State is not alleging that Beito must challenge his stipulation to establish a Blakely violation. Rather, the State is pointing out that, even assuming a Blakely violation did occur, and even assuming the validity of the stipulation, the remedy Beito is entitled to is rescission

of the agreement he signed, not sentencing on a lesser charge than he otherwise would have faced.

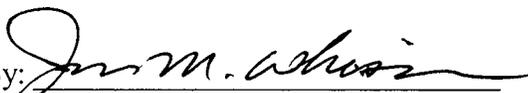
D. CONCLUSION

For all these reasons, Beito is not entitled to a standard range sentence on a conviction for first degree murder. The State respectfully asks this court to dismiss the petition because Beito have failed to show prejudice. Even if this Court concludes that prejudice has been shown, Beito is entitled to rescind the whole contract, not simply chosen parts.

DATED this 5th day of December, 2008.

Respectfully submitted,

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: 
JAMES M. WHISMAN, WSBA #19109
Senior Deputy Prosecuting Attorney
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Office WSBA #91002

VERBATIM REPORT OF PROCEEDINGS
FIRST SENTENCING HEARING
3/3/2000

APPENDIX A

FILED
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,)	
)	
PLAINTIFF,)	CAUSE NO. 98-1-00243-0 KNT
)	
v.)	APPEALS NO. 46308-0-I
)	
COREY S. BEITO, JR.,)	
)	
DEFENDANT.)	

VIDEOTAPE PROCEEDINGS

SENTENCING

MARCH 3, 2000, TAPE NO. 4FRJC-00-039

HEARD BEFORE THE HONORABLE DEBORAH FLECK

FOR THE PLAINTIFF:	TIM BRADSHAW DEPUTY PROSECUTING ATTORNEY W554 KING COUNTY COURTHOUSE SEATTLE, WASHINGTON 98104
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FOR THE DEFENDANT:	DAVID W. ROBERSON 810 THIRD AVENUE, #500 SEATTLE, WASHINGTON 98104
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T A B L E O F C O N T E N T S

PAGE NO.

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THE DEFENDANT ADDRESSES THE COURT	27
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THE COURT'S RULING.	35

1 SENTENCING

2 MARCH 3, 2000, 11:11 A.M.

3 THE COURT: Be seated, please. Good morning.

4 MR. BRADSHAW: Good morning, Your Honor. This, as
5 scheduled, is State of Washington versus Corey Scott
6 Beito, B-E-I-T-O. Mr. Beito is personally present in
7 court today with David Roberson, his attorney and counsel.

8 On behalf of the Plaintiff, State of Washington,
9 myself, Tim Bradshaw. Also in court is David Goula, who
10 was one of the investigators on the case, for -- on behalf
11 of the King County Major Crimes Detective Unit.

12 There are representatives from each family in the
13 court. I can't speak to who on behalf of Mr. Beito wishes
14 to address the Court. However, on behalf of the State,
15 and on a more personal level, Jessica, of course, I think
16 we have approximately a dozen or more people, and two
17 representatives who wish to be heard. And they are
18 Normandy, Jessica's mother, and Jewel Seim, the
19 grandmother.

20 As the Court knows, there are legal arguments to
21 address prior to imposition of sentence. So, I would ask
22 if you have a preferred order or an agenda you'd like to
23 follow.

24 THE COURT: I don't. It is your request --

25 MR. BRADSHAW: Yes, Your Honor.

1 THE COURT: -- and it seems appropriate that you go
2 first.

3 MR. BRADSHAW: Thank you.

4 The crime before Your Honor is Murder in the First
5 Degree, specifically Premeditated Murder in the First
6 Degree. I've tried to summarize the facts, initially in
7 the certification for determining probable cause, which is
8 in the record, and then a brief to Your Honor, with
9 specific attachments. And those have included some
10 witness statements, eyewitness statements, the autopsy
11 report in question, and some laboratory testing that was
12 done, and some graphical evidence of what Jessica looked
13 like when she was murdered.

14 But to start with the perspective, given that we're
15 talking vulnerability and we're talking deliberate
16 cruelty, and multiple injuries and additional felonies
17 that are not necessary to strangle and murder a 13- or
18 14-year-old girl, the family wants you to know what
19 Jessica was like alive.

20 This is not to say that the facts that Your Honor
21 will be reviewing, as summarized, show that anyone is
22 without error or sin in their life. But under any moral
23 compass, factual focus, or legal authority, what this
24 Defendant did to this young girl, this speaks and screams
25 out, frankly, for an exceptional sentence.

1 The bases that the State has forwarded to Your Honor
2 for departing -- in support of our argument that you ought
3 to part from the presumed standard range in this case --
4 and I think there's agreement on this point, that
5 Mr. Beito's applicable offender score is a five; the
6 seriousness level of this crime is a 14, resulting in a
7 standard presumed range of 291 to 388 months.

8 The State believes a length however of 504 months is
9 appropriate in this case. It's appropriate, number one,
10 because -- and let's start with what's uncontroverted. It
11 is uncontroverted, Your Honor, that in addition to and
12 apart from the premeditated murder of this young girl, who
13 weighed 104 pounds, Mr. Beito raped her, just so we're
14 clear. It's not challenged.

15 This is not a felony murder before Your Honor. This
16 is in addition to and preceding the assumed, the murder of
17 Jessica.

18 The statement that we've seen from Mr. Beito in
19 explanation for this is that this was merely a rape of a
20 child, third degree, crime, in that Jessica, in other
21 words, did not resist or consented. It is offered
22 furthermore in the Defense memorandum to the Court for
23 sentencing today that Mr. Beito claims to have had
24 consensual sex prior to the night of the murder.

25 I'm not quite sure how this fits in to any mitigation

1 he would like this Court to offer him. It should have,
2 from the State's viewpoint, put him on notice to her
3 vulnerability of this. And, of course, she was born
4 Christmas Day. So, when he raped her previous, she was --
5 would be 12 or 13.

6 The vulnerability factor, Your Honor -- the
7 vulnerability factor ties in and merges, I think, with
8 deliberate cruelty, as well as multiple injuries. I think
9 both counsel have addressed this.

10 What I want to try to make clear at this time, the
11 first question you have, Judge Fleck, before you is: Is
12 there a valid, substantial, propelling basis to depart
13 from the standard range? Right? That's the question.

14 A separate question is the length of that exceptional
15 sentence. That's why -- before I get to the summary of
16 the vulnerability and cruelty, that's why I started off
17 with the rape factor. It's the State's position that the
18 rape of Jessica is in and of itself an exceptional basis.

19 How we went past that, as far as another felony,
20 deliberately cruel, whatever, you are not prohibited from
21 considering that under the Real Facts Doctrine. That's
22 the importance of, I believe it was Appendix B in the
23 original plea form, the Judgment and Sentence.

24 So, with that, how can it possibly be claimed that
25 this murder is like the presumed, the normal -- ignoring

1 the editorial on that sentence, in and of itself, the
2 normal first degree murder -- how can it possibly be
3 claimed that a non-felony murder situation, that this is
4 anything but exception? The only doubt about the rape is
5 whether, gee, is it rape of a child, third degree, or is
6 it forcible first and second? The State's position is,
7 it's all.

8 To have strangled Jessica to death required multiple
9 efforts. The Defendant acknowledged to Detectives Peters
10 and Goula that he began in a manual fashion, with his
11 hands, in other words. Seeing that insufficient, he took
12 off the belt and used that as a ligature form.

13 Now, that is -- his comments are supported by the
14 autopsy report there, since the -- Dr. Thiersch, the
15 medical examiner, saw multiple marks upon and indented in
16 Jessica's neck. Okay.

17 In addition to those injuries, which then they, of
18 course, support the premeditation -- and we all know State
19 versus Bingham. In addition to that, Judge, there are
20 multiple, multiple contusions, abrasions, and
21 hemorrhaging. And without a -- out of respect to a sort
22 of sense of decency, as well as decorum, I'm not going to
23 go into those specifically right now. I'm going to refer
24 Your Honor to the autopsy report and the summary the State
25 has provided in its memorandum.

1. But it's not controverted that her genitals had
2 abrasions, that -- in a multiple fashion. And let's not
3 please forget that if there's a claim that because Michael
4 Korval was intimate with Jessica previous to the murder,
5 that only serves to show the importance of Mr. Croteau's
6 lab report.

7 So, Mr. Roberson was fair enough to acknowledge that
8 there is genetic evidence of his client in that report. I
9 want the Court to go the next step though. That report
10 excluded any other person. So, if that needs to be
11 explained later, I'll be happy to try to do so.

12 So, whether there is a sufficient basis, Your Honor,
13 to depart from the standard range is not in issue.

14 I have photocopied -- and out of a sense of
15 purposefulness, I photocopied or Xeroxed the black and
16 white bad (sic) copy forms, certainly of photographs.
17 Those were attachments that I'd personally asked be
18 separately marked as exhibits.

19 But I want you to know I did that on purpose because
20 we can see from those photos what's happening here. We
21 can see the huge purple eye, black eye, that Jessica
22 suffered, the injuries to her head, and the multiple
23 contusions. How are these consistent with just a rape of
24 a child in the third degree? And this ignores the other
25 scientific and more personal aspects of the evidence.

1 If necessary, however, I have brought, in a
2 circumspect way, if I may say so, two of the color photos
3 as provided by the detectives in the medical examiner's
4 office.

5 The cases that look at the victim vulnerability, Your
6 Honor, perhaps they look at the chronology of the person
7 involved. And it's my position they ought not just look
8 at that, but they ought to look at the emotional,
9 psychological, and physiological aspect of that victim.
10 So, I believe the Defense Counsel and I actually look
11 toward the same facts that were at play that night.

12 What I'm talking about is the fact that Jessica at
13 that moment was trying to find some stability, whether it
14 be with Michael or with Mr. Beito. And she was staying
15 for a time with Mr. Beito. I think there's an inherent
16 trust that goes along with granting that. She was,
17 according to the eyewitnesses -- and we agree on this as
18 well -- drinking alcohol. This means that in his house,
19 Mr. Beito was allowing this 13- or 14-year-old girl to
20 drink hard liquor. I believe it was whiskey or scotch.

21 This girl's having emotional problems herself with
22 her relationship, which was visibly shown at the party
23 that evening, since she was showing her upsettedness (sic)
24 with a prior boyfriend, who had she thought broken up with
25 her, whereas it's -- those facts are cast by the Defense

1 in the light of, well, this shows her maturity. I look at
2 it, the exact same facts and, no, that shows her
3 vulnerability.

4 And all those facts could have been seen by
5 Mr. Beito. And they were not, you know, hidden. These
6 are in open, plain view. So, at least I think we sort of
7 look at those same facts, but draw a different conclusion.

8 So, the question there is not just age, is the legal
9 point that I'm trying to make.

10 As to multiple injuries, I submit that can't be
11 controverted. These are injuries that are, as I've said,
12 inconsistent with any claim of consensual sex, but also
13 are unnecessary to and apart from the strangulation,
14 which, of course, is an elemental part of the charged
15 crime.

16 As to the deliberate cruelty claim, I think you've
17 seen -- you may have seen in my proposed findings that I
18 on purpose sort of grouped these together, because when we
19 look at the deliberate cruelty, I will concede that that
20 could be part and parcel to both the murder and the rape.
21 They however are proper for a consideration when we get to
22 the duration of the length of the exceptional sentence to
23 be imposed.

24 I would remind the Court that your determination of
25 the facts and whether the State has met its burden here is

1 not, as in a trial, criminal setting, of beyond any
2 reasonable doubt. We're talking a mere preponderance of
3 the evidence at this point.

4 I did not phrase it this way in the State's brief,
5 Your Honor. But the age of Jessica -- by my commenting on
6 the other factors not associated with the age, I don't
7 want to lose sight of the fact that she was very young.
8 And "young" is a relative term, since here she was -- or
9 Mr. Beito was twice her age. So, we're not talking a
10 situation where, regardless of the age of the victim,
11 there is a, you know, generational explanation.

12 I'm going to ask that the State's original
13 attachments to the trial brief be separately marked. I
14 have made -- tried to make a list of the items or
15 materials that Your Honor will be considering. They are
16 as follows:

17 The stipulation as to the real facts; the plea
18 agreement itself; the autopsy report; the witness
19 statements; and my horrible (inaudible) coping cash (sic).
20 This should be corrected, that Number D should be deleted
21 here. The photographic exhibits I referred to. The
22 Defendant's confession, I will defer to Mr. Roberson on
23 that.

24 The Crime Laboratory report from forensic Scientist
25 Croteau I have mentioned; mitigation packet, I will defer

1 to Counsel, I've separately listed at Bingham because in
2 this situation we're sort of asking Your Honor to take
3 judicial notice of a medical fact, but I actually believe
4 that's what we can glean from State versus Bingham, when
5 it simply looks at the importance of the premeditation.
6 And, finally, the arguments of Counsel.

7 And, do you have questions?

8 THE COURT: No, I don't.

9 MR. BRADSHAW: I would then ask to reserve the
10 comments of the family until the legal portion of the
11 proceedings has concluded, unless Your Honor would like to
12 hear from them now.

13 THE COURT: Counsel, I think I would prefer to hear
14 from the family at this time --

15 MR. BRADSHAW: Very well.

16 THE COURT: -- then turn to Mr. Roberson and any
17 other speakers he wishes to --

18 MR. BRADSHAW: Very well.

19 THE COURT: -- invite to speak.

20 MS. JEWEL SEIM: I'm the maternal grandmother.

21 MR. BRADSHAW: Can you --

22 MS. JEWEL SEIM: Oh.

23 THE COURT: Ms. Seim, would you please step forward
24 and state your name, and then tell me what you'd like me
25 to consider?

1 MS. JEWEL SEIM: Okay. My name is Jewel Seim. I'm
2 the maternal grandmother of Jessica. Myself, personally,
3 and a lot of my family, don't know why the death penalty
4 is not for -- automatic for the rape and murder of a
5 child. Our family has been devastated and will be for
6 years. It's something very hard to deal with. Her mother
7 is still having a hard time dealing with it.

8 I know there's a case in Spokane right now where a
9 father smothered his nine-year-old daughter, and they're
10 asking for the death penalty because they said it took at
11 least five minutes. Well, I know it only takes -- I mean,
12 it takes at least three minutes to strangle somebody.

13 So, what do you -- for me, that is premeditation to
14 commit a murder. I would like to see Mr. Beito get all we
15 can give him, and more.

16 THE COURT: Thank you, Ms. Seim.

17 MS. JEWEL SEIM: That's all I have to say.

18 THE COURT: Thank you.

19 MR. BRADSHAW: Normandy?

20 MS. NORMANDY SEIM: My name is Normandy Seim. I'm
21 Jessica's mother. First of all, I don't know how you
22 could kill something so beautiful. It has taken my life,
23 and I've had a failure to thrive for two years. Basically
24 I don't care if I lived or died. I'm a nurse, I've worked
25 hard for license, and my situation right now, I'm going to

1 treatment, hoping that I can find some anchor in life to
2 stop the pain, instead of dealing with it with methadone
3 and hard drugs.

4 I don't understand how a man that has a baby of his
5 own can even consider the innocence of my daughter. I
6 don't think that she ever confided in sex with him prior
7 to. In fact, what I understood is, she wouldn't pay
8 attention to him.

9 I have to live every day of my life in a life
10 sentence of emptiness there. He should have to live his
11 life at least as much in pain as I am. It's like a
12 personal vendetta, and I didn't even know it was
13 (inaudible). But she was obviously still just a baby,
14 like he quoted in his articles (sic).

15 I just hope that I can pull out and get some help.
16 And I have a three-year-old, thank God, that has kept me
17 here. A 13-year-old and a 13-month-old at one time. And
18 when she left, she says, you'll never leave (inaudible)
19 again.

20 The only good I see out of this possibly is, she's
21 got a free ticket to heaven. Other than that, I have to
22 learn to deal with that (inaudible). And it's not easy.
23 It hasn't been easy. And that's all I have to say.

24 THE COURT: Thank you.

25 MS. NORMANDY SEIM: You're welcome.

1 MR. BRADSHAW: Thank you.

2 THE COURT: All right. Mr. Roberson?

3 MR. ROBERSON: Thank you, Your Honor.

4 Your Honor, the State has requested an exceptional
5 sentence beyond the standard range. And, as
6 Mr. Bradshaw's indicated this morning, and previously in
7 his memorandum, they're basically relying upon three
8 separate grounds for this request.

9 The first grounds we're about to argue here this
10 morning was that there was uncontroverted evidence that a
11 rape occurred. And I want to make sure that the record is
12 clear, and that the Court understands that the
13 uncontroverted nature of the rape is that of Rape of a
14 Child, Third Degree, not that Mr. Beito engaged in any
15 forced sex with Ms. Seim, or Jessica Seim on the night in
16 question.

17 I do understand the delicate nature of today's
18 proceedings. And I have to make some arguments on behalf
19 of Mr. Beito that I hope the Court receives with the
20 understanding that legally, I just don't believe the facts
21 are sufficient to support an exceptional sentence. And in
22 part, the reason why the facts aren't sufficient is based
23 in some part upon Jessica's life style. And it's
24 unfortunate, but it's also a reality of how she was living
25 at the time of her death, that I believe the State and the

1 Defense are in agreement on.

2 With regards to the first prong since this -- or the
3 first request under the rape of Jessica Seim, there is no
4 evidence before this Court that there was forced rape.
5 So, the reason I cited State v. Clemens, at 78 Wash.App.
6 458, a 1995 case, out of Division II, is because that case
7 dealt with how to sentence an individual who engaged in
8 sex with a minor. That, too, was -- and that actually was
9 a rape in the second degree -- rape of a child in the
10 second degree that was plea-bargained to a rape of a child
11 in the third degree.

12 The court took the step in that particular case to go
13 below the standard range, finding that the victim was not
14 particularly vulnerable, but rather, in fact, when you
15 look at the facts of that case, that the victim was a
16 willing participant in the act. And therefore, although a
17 criminal act by our statutes, there must be some
18 accountability for whom the victim is.

19 And in this particular case, Your Honor, the fact
20 that Ms. Seims (sic) was engaged in sex with Mr. Beito is
21 not a grounds for an exceptional sentence because there's
22 no evidence before this Court -- in fact, there is
23 evidence contrary, that Ms. Seims was a vulnerable victim,
24 in terms of consensual sex.

25 Michael Korval, who gave a statement to the police,

1 who was present that night, when this party was taking
2 place, had sex with Ms. Seims on two occasions. So, the
3 fact that she was engaging in that type of adult activity,
4 with adults, cannot be viewed in my opinion as a factor
5 that she was vulnerable or that she was -- that she was
6 vulnerable, Your Honor.

7 The second prong that Mr. Bradshaw cites as an
8 aggravating factor is her vulnerability, in terms of her
9 youth and her size. And the case law is clear that in
10 order to use youth as an aggravating factor, the person
11 must have been known to be vulnerable to the defendant --
12 either was known to be vulnerable or should have been
13 known to be vulnerable to the defendant.

14 The reality is that Mr. Beito was aware that Jessica
15 Seims was living a mature, yet unguided -- misguided life.
16 She was often engaged in adult activities, or activities
17 associated with persons of a greater age than her
18 chronological age of 14.

19 I've provided in my brief statements to the Court
20 regarding her use of illegal substances, including drugs.
21 And that was something that was known to Mr. Beito.

22 I think the fact that Mr. Beito would allow this to
23 go on in his house, and the fact that he would engage in
24 sex with Jessica Seims himself, goes to Mr. Beito's
25 morality. But it does not go to her vulnerability.

1 Mr. Beito viewed her as a contemporary. And that's
2 the way he interacted with her. She was a contemporary.
3 The fact that Mr. Beito was so misguided -- and that again
4 speaks to Mr. Beito's life, but does not speak to her
5 vulnerability.

6 Mr. Beito's roommate at the time was a 19-year-old
7 man. So, Mr. Beito was 27, I believe at the time of the
8 incident, was emersed in a world where he was socializing
9 with teenagers and even those below the age of majority.

10 It's uncontroverted that there was alcohol being
11 drunk the night. It certainly wasn't necessarily supplied
12 by Mr. Beito. I think that actually the facts say that it
13 was not supplied by Mr. Beito.

14 There was testimony -- I don't know if it's in the
15 statements that Mr. Bradshaw's asked the Court to review.
16 It may very well be in Nick Gasher's statement. But
17 they -- Nick, Jessica, and a third individual came to
18 Mr. Beito's house -- I think it was Seth Seclamp -- and
19 had at least four or five shots of alcohol before they
20 arrived at Mr. Beito's house.

21 And it was after having these shots that Jessica
22 indicated that she was somewhat bored and needed a place
23 to go to have -- continue to -- to continue her night.
24 And she was the one, in fact, who chose Mr. Beito's house.
25 It wasn't the other two guys.

1 I think the statements by the other two gentlemen was
2 that they didn't particularly like Mr. Beito and didn't
3 really even want to go to his house. It was Jessica that
4 was somewhat adamant about going to the house to continue
5 the party, which is, in fact, what happened.

6 So, when we look at it, State v. Clemens, as well as
7 State v. Brown, at 60 Wash.App. 60, you come to the
8 undeniable fact that the youth and their vulnerability
9 must be something that may -- that was known to the
10 defendant or should have been known to the defendant.
11 And, unfortunately, he didn't view her as vulnerable. He
12 viewed her as a contemporary.

13 And the second prong of the vulnerability is that you
14 have to have shown that the individual engaged in the
15 criminal activity chose this person due to her age, chose
16 this person due to the vulnerability. Mr. Bradshaw cites
17 a few cases in his memorandum. One is State v. Sly, which
18 is an assault case or an attempted murder case that
19 involved skinheads choosing a black individual, and two of
20 them deciding to inflict gratuitous violence on the
21 individual because of who he was. He was chosen because
22 who he was.

23 The same thing is obvious in State v. Brown, which
24 I've already cited, as well as State v. Ross, which
25 Mr. Bradshaw cites in his brief at 71 Wash.App. 556. They

1 must have been chosen because of their vulnerability.

2 And in Ross, I believe -- if I'm not mistaken, this
3 is the case where, after a car accident -- maybe that's --

4 (DISCUSSION OFF THE RECORD.)

5 MR. ROBERSON: I believe Ross is the case where the
6 individual was chosen that did not speak the language very
7 well, involved in a car accident. And the individuals
8 tried to extract money from them, and then that turned
9 into an assaultive behavior. If it's not that fact
10 pattern, there is certainly a fact pattern like that that
11 Mr. Bradshaw cited in his cases.

12 And the lack of their understanding of the English
13 language, the lack of their culture experience which led
14 them to believe that they could just -- that they had to
15 pay this man \$50 or \$100 as he was asking for, was found
16 to be the reason why the crime was committed against them.
17 He knew of their vulnerability. He used that
18 vulnerability in order to advance his criminal activity.
19 And I don't believe that that is present in this case.

20 So, when you -- and then the last prong that
21 Mr. Bradshaw cites is the gratuitous nature of the
22 violence. And I think that the Court has to take -- or
23 the Court should start from the proposition that a
24 strangulation -- a death by strangulation, by its very
25 nature, is not a pleasant act. So, what the Court has to

1 find is that there's something substantial and compelling
2 that differentiates this strangulation from other
3 strangulations.

4 There have been numerous strangulations that resulted
5 in a person's death in the State of Washington. You have
6 to find that there was something unique and different or
7 compelling about this one that would allow the Court to
8 grant an exceptional sentence.

9 In terms of deliberate cruelty, the case law is quite
10 clear that the deliberate cruelty consists of gratuitous
11 violence or other conduct, which inflicts physical,
12 psychological, or emotional pain as an end in itself. In
13 other words, that the violence was done simply for the
14 sake of projecting pain on a person.

15 What we don't have, Your Honor, in this matter is, we
16 don't have indication of when the numerous injuries were
17 caused, or were inflicted upon Jessica. I think it's
18 uncontroverted, or it would be rather easy to determine
19 that a great number of the injuries may have, in fact,
20 been perpetrated on that night. But even if they were,
21 you have to still come to a decision as to whether or not
22 they were inflicted as a -- just to satisfy -- or whether
23 or not they -- the way they were inflicted constitute
24 gratuitous violence and that they were simply done in a
25 means to inflict pain.

1 Given there's no evidence, or not substantial or
2 compelling evidence that there was a forced rape in this
3 matter, the Court has to make a determination as to
4 whether or not the violence was to facilitate a rape,
5 which I suggest, given what happened that night, that it
6 was not. In Mr. Beito's statement that's part of this
7 record is that she never refused his sexual advances.
8 This Court has to consider that.

9 And then you get to the question of, were these
10 injuries inflicted as a part of trying to get her to the
11 point where he had control of her so that he could, in
12 fact, strangle her. If the Court is unclear as to how
13 these injuries occurred and if, in fact, they occurred as
14 a part and parcel of getting to the point to kill her,
15 then they were not inflicted for purposes of just pain in
16 itself. They were inflicted for the greater act, which is
17 the murder. And that is what he's being sentenced on.

18 So, there's nothing substantial or compelling or
19 gratuitous about those acts. They were part and parcel of
20 the crime of strangulation.

21 If she did not resist Mr. Beito's efforts -- and I
22 would submit to the Court that -- or I would have the
23 Court mark as an exhibit Mr. Beito's confession. If
24 they're not, because he said that she never resisted, then
25 they were not inflicted simply for the sake of gratuitous

1 violence, but rather they were done to accomplish the
2 ultimate crime.

3 And so, as unsettling and unpleasant of an act that
4 was committed on Jessica Seim, I just don't think that
5 legally you have a situation where the Court can impose an
6 exceptional sentence. Mr. Bradshaw went on in his
7 memorandum to indicate that an exceptional sentence would
8 be just because it would promote respect for the law and
9 protect the public.

10 There's nothing this Court's going to do today that's
11 going to bring Jessica back. There's nothing that this
12 Court's going to do today that's going to -- well, I
13 strike that.

14 This Court does have the ability to impose punishment
15 that will, in fact, protect society and that will send a
16 message to society. And you look at the standard range,
17 especially if you go to the top of that standard range,
18 Mr. Beito will be serving an exceptional sentence in terms
19 of length.

20 He is 27 years old, or thereabouts. He's looking at
21 a sentence of at least 30 to 40 years -- or not as high as
22 40. The top of the range is certainly I believe about a
23 35-year sentence. So, that is certainly a time frame that
24 when Mr. Beito were to be released at that point, he would
25 unlikely be a danger to society as he will be advanced in

1 age, well over the age of 55.

2 So, those are my comments in terms of the State's
3 request for an exceptional sentence.

4 I would like to just briefly alert the Court to the
5 fact -- or have the Court look at my mitigation package
6 that was submitted on behalf of Mr. Beito by his previous
7 attorney and to the Prosecutor's Office to give some
8 indication of who Mr. Beito is. It's uncontroverted that
9 Mr. Beito had a difficult childhood and that he suffers
10 from some mental health issues. At least, I think it's
11 uncontroverted.

12 I know Mr. Bradshaw does not believe, based upon
13 Dr. Weiss's review of Mr. Beito, that they would have led
14 to a diminished capacity or an insanity type defense. I'm
15 not suggesting that they would have.

16 But you can't ignore what was -- what's in the
17 mitigation package. You can't ignore the fact that
18 Mr. Beito has on probably 12 separate occasions has tried
19 to commit suicide. And Mr. Beito has a history of mental
20 illness when he was seen by a psychologist in the
21 Department of Corrections on previous commitment, that he
22 suffered from schizophrenia and/or bipolar disorder.

23 So, when you look at that prong again of
24 vulnerability and whether or not Mr. Beito chose her
25 because she was particularly vulnerable to him, if you

1 include the way in which Mr. Beito was raised and the
2 things that he had to experience and the mental health
3 issues he has, it's clear that she was not chosen by
4 Mr. Beito because of her vulnerability.

5 I think it's clear when you try to examine all the
6 facts -- and Ms. Seim's mother put it best, how could you
7 kill something so beautiful, the reason is that Mr. Beito
8 suffers. And it's in a history that has been documented
9 for quite some time.

10 And, as the letters that I submit on behalf of
11 Mr. Beito indicate, he had an aunt that suffered from
12 schizophrenia. And, based upon that, he was reluctant to
13 let others know of his problems, including the hearing of
14 voices, which he's indicated on separate occasions to
15 counsel, that he was suffering from on that particular
16 night.

17 Mr. Beito has expressed extreme remorse to the
18 detectives in this matter. He has expressed extreme
19 remorse to his previous counsel. That information was
20 placed into the mitigation package as an effort to help
21 resolve this matter. And I don't think that the Court
22 should ignore the remorse expressed by Mr. Beito.

23 He has been in the King County Jail now for some
24 time. And during that stay, he's had numerous religious
25 visits. And I spoke to the chaplain, who's seen him on

1 numerous occasions, and he wanted to make sure, because he
2 could not be here today, that the Court understood that
3 Mr. Beito's remorse was sincere. And the chaplain did not
4 feel that Mr. Beito's remorse was because of where he's
5 at, but rather because of what he's taken away from
6 Jessica and her family.

7 Thank you, Your Honor.

8 THE COURT: Thank you, Mr. Roberson. I do have your
9 recommendation of a middle of the range sentence to be
10 imposed here. Is there anything further about your
11 specific recommendation you wish to tell me?

12 MR. ROBERSON: No, Your Honor.

13 THE COURT: And are there any members of Mr. Beito's
14 family who wish to address me at this time? I have
15 reviewed materials.

16 MR. ROBERSON: Yes, Your Honor. I have Mr. Beito's
17 father, who would like to say a few words at this time.

18 THE COURT: All right.

19 MR. ROBERSON: And I'll have him step up.

20 THE COURT: Would you step to the other side, please?

21 MR. COREY BEITO, SR.: Yes.

22 THE COURT: Would you tell me your name, and then
23 tell me what you'd like me to consider?

24 MR. COREY BEITO, SR.: My name is Corey Beito Senior.
25 I'm Corey's father. I know that you've read the

1 mitigation and you're heard just about everything you
2 could imagine. The only thing I can tell you from my side
3 is that I probably know Corey better than anybody else,
4 what he's been through.

5 It does not excuse anything that happened. And I
6 know that truly Corey's been remorseful for the two years
7 that I've been visiting him. He -- he indicated many
8 times to me that he would do anything, which is
9 impossible, I know, but to go back and change it, not for
10 himself, for the family and for Jessica.

11 And I know that down in his heart he is remorseful.
12 If I didn't think he was -- or I didn't really believe
13 that, I didn't think his family would be there for him all
14 the time.

15 And I do want the family of the victim, Jessica, to
16 know that, though they may hate my son, which they have
17 every right, I still pray for them because they've lost a
18 lot, Corey even does. And there's probably not a lot of
19 words -- not a lot of words that I can say to make anybody
20 feel better. But it's -- it's not been easy for a lot of
21 people.

22 And I pray -- you know, to the Lord all the time that
23 he would give peace to their family and heal them. That's
24 all I really have to say.

25 THE COURT: Thank you.

1 MR. ROBERSON: Your Honor, Mr. Beito's mother has a
2 few words she'd like to quickly say to the Court.

3 THE COURT: All right.

4 MS. BEITO: First of all, I wanted to tell all of you
5 that I'm sorry. But, (inaudible).

6 THE COURT: Would you state your name for the record,
7 please?

8 MS. BEITO: My name's Judy.

9 THE COURT: Uh-huh.

10 MS. BEITO: My son -- I'm -- I'm sorry for what he
11 did. And if I could, I'd even take my own life for their
12 child, that if I believed that he really -- see, there's
13 mental illness in my family. I've been blessed. I
14 haven't suffered from it. You know, I feel like I'm
15 partly to blame because he would come and tell me he was
16 hearing voices, because it's like it's a -- we're marked
17 in the family, the ones that have the schizophrenia.

18 I just know that if he would have been given the
19 right help the times that he did try to commit suicide,
20 which was -- what his attorney said, on numerous
21 occasions, the time he even went to Harborview, and I
22 begged them to keep him, and I told them he had
23 schizophrenia. This was just a week and a half after that
24 this happened.

25 I just want to say I'm sorry, that's all I wanted to

1 say. But I know -- I know that he couldn't do this if it
2 wasn't for alcohol and drugs. He's a good kid. I'm
3 sorry.

4 THE COURT: Thank you. Anyone else, Mr. Roberson?
5 Mr. Beito, is there anything you'd like to tell me?

6 MR. BEITO, JR.: I don't know if I can talk.

7 THE COURT: You can take your time.

8 MR. BEITO, JR.: I wrote something, but --

9 THE COURT: You may be seated if it's more
10 comfortable for you. That's fine.

11 MR. BEITO, JR.: I wish I knew -- I wish I knew what
12 to say. Saying I'm sorry seems so meaningless at this
13 point. But for whatever it is worth, I'm sorry, not
14 because I'm sitting in jail, possibly facing the rest of
15 my life in prison.

16 MS. BEITO: Can you speak up, please, Scott?

17 MR. BEITO: But I'm sorry for the hurt, pain, misery,
18 and loss both families and friends have and are going
19 through.

20 I have a little girl of my own. And just the thought
21 of someone taking her from me crushes me inside. I don't
22 know how anyone can go through that. God forgive me,
23 please.

24 This is so difficult. I have so many things I want
25 to say, so many things. I feel it's just so hard to

1 express them. They're way deep down inside of me,
2 trapped.

3 I think everyone has had that dream of going back
4 once to change something in their past. I do, to bring
5 Jessica back to her family. God knows how much I only
6 want that, how much her family must want that. If I could
7 give my life for her, I would, to bring her back.

8 I don't walk around with thoughts of hurting and
9 killing. That's not who I am. I never had any intentions
10 at all to do what happened.

11 I'd been drinking for years and doing all different
12 drugs. The last six months, I was drinking heavily every
13 night. It was the only way I could sleep, and then
14 sometimes I still wasn't able to.

15 My girlfriend of about six years and our daughter
16 left me. I heard she was seeing a bunch of different guys
17 and she would continually -- continuously tease and taunt
18 me about that.

19 I was coming apart. I had no job. And when I did, I
20 could never hold one very long. My bills were stacking
21 up. It was just a matter of time before I lost my home
22 and was out on the street. I just wanted to fade away.

23 I couldn't deal with all the pressure, Jamie telling
24 me I was worthless one day, and the next day telling me
25 she loved me and wanted to work things out. It was an

1 emotional roller coaster that I just couldn't handle.

2 I'm not trying to make excuses. I'm really not. I
3 know no amount of apologizing can excuse what happened.
4 I'm only giving reasons what might have led up to that
5 night. There's so many things in my past and at that
6 time.

7 I think I was -- it was just too much for me to
8 handle. I lost control of my emotions. I lost control of
9 myself. I wasn't Corey. I can't even remember it all.
10 It's almost like bits and pieces of a picture. A lot of
11 what I do remember is from what I've read and been told,
12 and so I agree with most of it because it seems to fit.

13 Please don't misunderstand me. I'm not saying I'm
14 not responsible, my body committed an act, but my mind did
15 not. Life had become for me a continuous, hazy fog for
16 quite some time.

17 In my heart, Your Honor, I'm a good person. I never
18 had any intentions to do what happened. I had dreams and
19 hopes just like everyone else. I remember as a kid always
20 wanting to be a cop or a fireman, like most little kids
21 do. Then I got a little older, and I wanted to be a stunt
22 man and ride motorcycles and race cars for the movies. I
23 was always practicing crazy stunt, riding my bike or
24 falling off my dad's roof.

25 Then reality set in, and all I wanted was to be

1 happy, to have a good job, a wife to love, and kids. Now,
2 all I can hope for are any realities in a dream now. Now,
3 all I can hope for is -- and pray for mercy, that
4 somewhere tangled in all this, with the love and grace of
5 our Lord Jesus, you can search your heart and find mercy
6 for me. Possibly with mercy and a lot of work, I may
7 still build -- have a little bit of a life left.

8 I want to say I'm sorry to you all though. I truly
9 am. I know you hate me. I'm sorry. If I could give my
10 life, I would. I would give it.

11 UNIDENTIFIED: Give it.

12 MR. BEITO, JR.: That's all I have to say.

13 MR. BRADSHAW: Your Honor, I would ask permission to
14 respond to a couple of the factual points brought by
15 Mr. Beito's counsel?

16 THE COURT: You may.

17 MR. BRADSHAW: Thank you. I think it inconsistent
18 and anomalous to cite the -- Mr. Beito's vulnerability to
19 alcohol, but not allow that same vulnerability to alcohol
20 to Jessica, if it's at all important, the relative
21 drinking that was going on. The real importance is what
22 was in Mr. Beito's mind. Right?

23 Well, now that Counsel has submitted for the record
24 an exhibit of his client's confession to Detective Goula,
25 on Page 5, he says, quote, "I didn't know she was drunk."

1 So, as to his awareness of certain things, I would take
2 that into account.

3 I would want Your Honor to note in addition to the
4 diagnosis in the autopsy report, there are other things
5 that play into what went on there. And that -- I'm
6 referring specifically to Page 6, Items 9 and 12, which
7 refer to additional injuries to Jessica's forearm and her
8 lower leg. These, if the medical examiner were asked,
9 would classify these as defensive injuries. There's no
10 other explanation of fact pattern that night for those. A
11 proper conclusion is that the evidence preponderates to
12 Jessica trying to fight someone off.

13 Now, if Mr. Roberson's going to rely on Witness
14 Korval for the statement that he had intimate relations
15 with Jessica previous her death, well, it's Mr. Korval who
16 cites a quote to Mr. Beito. Prior to any interaction
17 between those two, Mr. Korval says Mr. Beito asked him,
18 would you turn me in or what would you do if I raped her?
19 That is inconsistent with any claim, I suggest, of
20 consensual sex.

21 You're asked to note that Mr. Beito claims to have
22 viewed his victim as a contemporary. What do we make of
23 that when we consider his -- his language in his
24 confession, that she was, quote, "just a baby." It's not
25 consistent whatever.

1 The last factual point I wish to address -- or direct
2 Your Honor to, in addition to the defensive wounds at play
3 here, again, if we're going to be citing Witness Korval,
4 he claims there was protected consensual sex earlier.
5 That's obviously not the case in Mr. Beito's situation
6 that's further evidence against any claim of consent.

7 And finally, just an observation, for what it's
8 worth, and to make part of the record now these photos, I
9 didn't want to earlier make. You know, you can look at
10 another photo of Jessica prior to Mr. Beito and
11 afterwards. But there are two photos here of her neck and
12 face and other regions, which are wholly inconsistent with
13 anything he's claimed.

14 My final observation, Judge, is this. You know, when
15 you're on the word processor and you're finalizing your
16 memorandum --

17 THE COURT: These have --

18 MR. BRADSHAW: -- I don't know if --

19 THE COURT: -- been marked as State's Exhibit 2.

20 MR. BRADSHAW: Thank you.

21 THE COURT: Are you offering them now?

22 MR. BRADSHAW: I am. And those would include two
23 photographs I previously showed Mr. Roberson.

24 THE COURT: Any objection, Mr. Roberson?

25 MR. ROBERSON: No, Your Honor.

1 THE COURT: the State's Exhibit 2 is admitted.

2 MR. BRADSHAW: And, finally, Your Honor, you know,
3 when you're finalizing the memorandum and findings and
4 such, and you go in through the Word Perfect on that --
5 our computers, as everyone has now, and there's the
6 automatic thesaurus and spell check? Well, on mine what
7 kept coming up, every time it saw the word "Jessica," it
8 would give you what else to put there? And the first
9 option was "justice." So, I think it's time for that.

10 MR. ROBERSON: Your Honor, may I just briefly
11 respond?

12 THE COURT: Yes.

13 MR. ROBERSON: Mr. Bradshaw is somewhat misleading
14 the Court when he cites Mr. Korval's statement.
15 Mr. Bradshaw had had opportunity to interview Mr. Korval,
16 as -- so did I. I did not interview him, but I did speak
17 to others who told me, and I related what I was told to --
18 to me, to Mr. Bradshaw, and he agreed, that Mr. Korval is
19 not certain that Mr. Beito said "if I rape her."

20 So, for that -- what that's worth, that should be
21 clear. And I think Mr. Bradshaw would agree that
22 Mr. Korval said that he is not sure Mr. Beito used the
23 word "rape."

24 Second of all, I think the defensive wounds again go
25 to the argument, when you talk about whether or not the

1 violence was gratuitous. If it was -- if all the violence
2 that was committed against Jessica Seim was done in order
3 to commit the crime of murder, it cannot be used as a
4 justification for gratuitous or deliberate cruelty. It
5 was not done for the sake of violence. It was done for
6 the sake of the ultimate act, which is what he's charged
7 with.

8 And with all due respect to Mr. Bradshaw and the
9 photographs of Jessica Seim that he has, these photographs
10 do not depict her when she was living on the streets in
11 Capital Hill, when she was telling everybody she was 17
12 years old, when she was injecting methamphetamines. So, I
13 think the Court needs to keep that in mind as well.

14 MR. BRADSHAW: Just finally on that one isolated
15 point with Mr. Korval, that statement I believe was in my
16 initial packet. This was the first statement Mr. Korval
17 made. And since Mr. Roberson was referring to Mr. Korval,
18 I thought we should look at the balance of his compounded
19 statements. Otherwise, I do not disagree with his
20 representations.

21 THE COURT: And you're referring then to something
22 contained in the package now identified as State's Exhibit
23 Number 1?

24 MR. BRADSHAW: Yes.

25 THE COURT: And --

1 MR. ROBERSON: And, Your Honor, as Mr. Bradshaw has
2 indicated in his proposed findings, if the Court were to
3 grant an exceptional sentence, but I just want to make
4 sure that the record's clear at this point, too, that we
5 go ahead and include Mr. Beito's statement. It's been
6 referenced.

7 THE COURT: All right.

8 MR. ROBERSON: It's 46 pages. It's not stapled, but
9 I would ask that it be stapled as one exhibit.

10 MR. BRADSHAW: There will be some duplication,
11 Your Honor. But, in the proposed findings, as to the
12 materials considered by this Court, there's a -- on
13 purpose, there's a blanket reference to the plea
14 documents. And so, I think in two places you'll find the
15 relevant witness statements.

16 THE COURT: Counsel have presented fairly large and
17 complete packets of information for me to consider, and I
18 have reviewed them. I have also heard from numerous
19 individuals, both from Jessica Seim's family and from
20 Corey Beito's family.

21 Jessica was a young woman, only 14 years old, who
22 certainly did not deserve to die. She did absolutely
23 nothing to Mr. Beito, according to all of the information
24 which has been presented to me.

25 In the letters from her family, she is referred to by

1 Kalynn Williams as, quote, "my beloved niece." Another
2 aunt, Dionne Black, wrote, "It's been two years since
3 Jessica was brutally taken from us. But it still seems
4 like yesterday. Every day I feel the loss. Every day I
5 miss her. Every day I cry because I know I will never be
6 able to hold my niece again. I don't know why anyone
7 would want to kill such a sweet, friendly, outgoing,
8 caring, loving, compassionate, creative, beautiful, young
9 woman."

10 Her stepfather wrote to me, "Jessica's chance to be a
11 big sister, high school grad, college student, someone's
12 wife, a mother, or to excel in and love life to the
13 fullest has been denied by an individual that took her
14 very life."

15 Her grandmother, Jewel Seim, wrote to me, "She was a
16 beautiful, full-of-life, precious little girl. She had
17 only been 14 years old for 28 days when her life was taken
18 away, brutally and deliberately by Mr. Beito. The grief
19 is indescribable."

20 Her mother has spoken to me today, Normandy Seim,
21 that she has been given a life sentence of emptiness.
22 Many have spoken of the tremendously painful, every-
23 minute-of-every-day, life-long loss they suffer by
24 Jessica's murder.

25 While she was a young woman experimenting, as

1 teenagers often do, with aspects of adult life, she was
2 just at the beginning of her life. And, as people have
3 written to me, she had so many positive qualities and so
4 much to live for, again, as her family has so poignantly
5 described to me.

6 Corey Beito has, by all accounts that I have read,
7 had a very difficult life. He grew up in abusive
8 households, repeatedly and sometimes severely abused by
9 stepfathers and stepmothers, watching the vicious abuse,
10 including apparently sexual abuse of his mother.

11 His extended family includes many who have committed
12 or attempted to commit suicide, and many with
13 schizophrenia. He himself has attempted suicide on a
14 number of occasions. And there are indications that he
15 hears voices similar to his schizophrenic aunt and other
16 members of his family.

17 He may have some brain damage. And he may have some
18 possible serious mental disorders. He has also abused
19 alcohol and probably other drugs extensively.

20 He expresses remorse. And I understand from
21 Mr. Roberson's presentation today that a religious person
22 visiting him in the jail has indicated his belief that he
23 is sincere in his remorse.

24 Mr. Beito also has support from family and friends.
25 In addition, he is reported to be a loving, caring father

1 to his young daughter, with whom he has a strong bond.

2 The only explanation for this crime is that Mr. Beito
3 just snapped. Mr. Roberson has argued that he suffers
4 from a variety of things. And Mr. Beito himself has
5 indicated that he lost control of his emotions and of
6 himself.

7 This child, Jessica, this young woman, did nothing to
8 bring on her own murder. Even if she as a child, legally
9 incompetent to agree to sexual intercourse, did agree,
10 rather than being forced against her will, it is perhaps
11 more inexplicable. Under those circumstances, she put up
12 no resistance that would anger him or make him snap.

13 Mr. Beito is the product of a very traumatic and
14 extremely abusive childhood. This is a background which
15 has produced a very dangerous person.

16 From what I have read about you, Mr. Beito, I don't
17 believe that you are an evil person. But you are clearly
18 a very dangerous person, as I see from the inexplicable
19 murder of Jessica, a 14-year-old child, and also by other
20 materials, including a DOC profile report attached to the
21 Defense materials.

22 Mr. Beito has had a fairly lengthy misdemeanor
23 criminal history, with much of that being traffic-related,
24 until in 1996, a period of time with a fourth degree
25 assault misdemeanor and a violation of a no contact order,

1 a misdemeanor conviction. And he has an offender score of
2 five, based largely on property crimes, plus a six-year-
3 old unlawful possession of a firearms charge.

4 Mr. Beito is 29 years old. He is not a teenager,
5 where my strong focus would be on rehabilitation.

6 Mr. Beito is well into his adult life, and community
7 protection is my primary concern. Community protection is
8 embraced by two of the seven purposes of the Sentencing
9 Reform Act and follows the first three, which are focused
10 on proportionate and just punishment, which is also my
11 concern.

12 This inexplicable crime has caused indescribable pain
13 and grief to Jessica's family. And Corey Beito's family
14 has also been very damaged by this indescribable murder.

15 As I indicated, I have reviewed the legal arguments
16 of each counsel. And I do find that rape of a child,
17 based on a stipulation, is a substantial and compelling
18 reason to support an exceptional sentence in this case.

19 This circumstance does distinguish it from other
20 crimes of Premeditated Murder in the First Degree, and
21 forms a basis to impose a longer sentence than the
22 standard range. I find it sufficient, standing on its
23 own, to support an exceptional sentence.

24 Counsel have each argued additional matters and each
25 have made substantial points with respect to the

1 additional matters. I don't wish to diminish either the
2 points or the arguments by not reviewing them and
3 referring to them; however, I do not think it is necessary
4 at this point to make specific findings about each of
5 those additional points, based on the finding I have made
6 regarding the impact of Rape of a Child, and it forming a
7 substantial and compelling reason to impose an exceptional
8 sentence.

9 The State and the Department of Corrections have both
10 recommended a period of 504 months, which is 42 years or
11 ten years above the high end of the standard range of 32
12 years. I do find that a period of 504 months is an
13 appropriate and just sentence. And I do impose a period
14 of 504 months as the sentence for this Premeditated Murder
15 in the First Degree charge, Mr. Beito.

16 I will place you on 24 months of community
17 supervision. There are additional conditions which have
18 been recommended by the Department of Corrections. They
19 are generally standard conditions.

20 Mr. Roberson, do you have any specific objection to
21 any of the conditions recommended by the Department of
22 Corrections?

23 MR. ROBERSON: No, Your Honor.

24 THE COURT: Mr. Beito, I will impose the additional
25 conditions as follows: You are to report to and be

1 available for contact with your assigned corrections
2 officer, as directed. You are to be involved in some form
3 of employment, community service, or education program
4 approved by your Department of Corrections officer. You
5 are to pay supervision fees as determined by the
6 Department of Corrections.

7 You are to receive prior approval for your living
8 arrangements and your residence location. You are to
9 notify the community corrections officer of any change in
10 address or employment. And you are to remain within a
11 geographical boundary, or outside of certain geographical
12 boundaries, if they are established in writing for you by
13 the corrections officer.

14 In addition, I impose the following conditions:
15 You're not to purchase, possess, or use any controlled
16 substances or have any drug paraphernalia without a valid
17 prescription. And you are to submit to searches upon a
18 reasonable belief that you were violating. And these
19 searches are of your person, residence, property, and
20 vehicle. You are also to submit to urinalysis testing to
21 monitor compliance. You are not to associate with users
22 or sellers of illegal drugs.

23 You are not to purchase, possess, or use alcohol.
24 And you are to submit to the same searches upon the same
25 conditions as indicated for controlled substances. You

1 are not to enter any business where alcohol is a primary
2 commodity for sale. ;

3 Within 45 days of your release from custody, if you
4 have -- you are to obtain a written substance abuse
5 evaluation from a qualified provider. And if you are
6 evaluated as needing any treatment at that time, then you
7 are to enter at the next available opening and complete
8 all treatment recommended.

9 On a time frame determined and directed by your
10 corrections officer, you are also to obtain a written
11 mental health evaluation from a qualified provider and
12 complete treatment recommendations, if any.

13 I will notify you on the record that you are
14 ineligible to possess a firearm unless your right to do so
15 is restored by a court of record. This, for example, is a
16 court of record. You can't touch or shoot or possess a
17 firearm. And if you're in a car or a house or a building
18 where a firearm is present, you may be in violation. Do
19 you have any questions about that?

20 MR. BEITO: No.

21 THE COURT: I will also impose a no-contact order
22 with Jessica Seim's family. And that is a no-contact
23 order that contemplates indirect, as well as direct,
24 contact. The only indirect contact that will be
25 authorized would be that submitted through the King County

1 Prosecutor's Office, and it would be then entirely up to
2 them whether any communication you may have for members of
3 the Seim family would be forwarded on.

4 Mr. Roberson, will you waive my formal reading of the
5 notice of rights on appeal and on collateral attack and
6 review them with your client?

7 MR. ROBERSON: Yes, Your Honor.

8 THE COURT: I will impose the \$500 Victim Penalty
9 Assessment. There are \$872 in court costs. Those are
10 higher than typical. This is --

11 MR. BRADSHAW: I'm sorry. The amount, Your Honor?

12 THE COURT: 872.

13 MR. BRADSHAW: Thank you.

14 THE COURT: I am imposing court costs. There will be
15 a substantial period of time, over which those court costs
16 may be paid. I do waive imposition or recoupment of
17 attorney's fees, if you are court appointed, Mr. Roberson.

18 MR. BRADSHAW: I'd request a hearing date for
19 restitution if there's not an agreement beforehand.

20 (ATTORNEY/CLIENT DISCUSSION OFF THE RECORD.)

21 MR. ROBERSON: Your Honor, in the event there's a
22 restitution hearing, Mr. Beito waives his presence.

23 Does Madam Clerk have a credit for time served?

24 THE CLERK: 768 days.

25 MR. ROBERSON: And, Your Honor, again the findings

1 that Mr. Bradshaw's preparing in the case, that the
2 mitigation package has been received, has that been marked
3 as an exhibit?

4 THE COURT: You may check with the clerk. I don't
5 know if it has.

6 THE CLERK: I have three exhibits marked.

7 MR. ROBERSON: At this point, I would ask that I
8 guess the Court's copy -- I didn't file one with the
9 clerk's office because I thought it included some very
10 sensitive material.

11 THE COURT: May I see the copy you have?

12 This is the copy that I've reviewed?

13 MR. ROBERSON: Yeah, that's what I want -- that's the
14 one I'm asking the Court to go ahead and file at this
15 point as an exhibit.

16 (DISCUSSION OFF THE RECORD, CLERK AND COUNSEL.)

17 MR. ROBERSON: Okay. I want to file them. Any
18 objection?

19 MR. BRADSHAW: No.

20 THE COURT: What I would ask, Counsel, is that you
21 make an extra copy. My copy has my personal marks on
22 it --

23 MR. ROBERSON: Okay.

24 THE COURT: -- and I don't want that to be -- you
25 know, since you wish simply to file it, I will merely

1 indicate that it may filed, and you can take care of
2 that --

3 MR. ROBERSON: I certainly will, Your Honor.

4 THE COURT: -- at your convenience.

5 MR. ROBERSON: Your Honor, I've reviewed the Judgment
6 and Sentence; it does accurately reflect the Court's
7 ruling this morning.

8 (ATTORNEY/CLIENT DISCUSSION OFF THE RECORD.)

9 MR. ROBERSON: I would ask Your Honor to review the
10 Court's written findings and conclusions of law.

11 Mr. Bradshaw's indicated the length of sentence, has
12 given the reasons for that. I'm not sure if that's what
13 the Court intends.

14 He cites the multiple injuries, cruelty.

15 THE COURT: I would simply like to be provided with a
16 disk of this, and I will handle it. And, if you wish, I
17 will send my proposed findings before signing them to each
18 of you, if you'd like an opportunity to read them. Or I
19 will send them signed and give you an opportunity to seek
20 reconsideration.

21 MR. ROBERSON: Your Honor, we are offering Defense
22 Exhibit Number 3 as the Defendant's statement.

23 THE COURT: It is admitted.

24 Counsel -- I have made modifications, Counsel, to the
25 appendix, and I would ask each of you to review that,

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please.

MR. ROBERSON: Your Honor, I have reviewed them.
They're correct.

THE COURT: All right. I've signed the Judgment and
Sentence, hand it back down.

MR. BRADSHAW: Your Honor, may I have the restitution
date I've been given, May 17th?

THE COURT: Yes.

I want to indicate an appreciation to both the family
members of Corey Beito for writing to me and being present
and speaking to me. It's helpful to understand and have a
fuller understanding of the person -- each person that I
sentence.

And I also want to thank Jessica's family for writing
to me and being present and standing witness for her.
This matter is concluded.

MR. BRADSHAW: Thank you, Your Honor.

(SESSION ENDS AT 12:28 P.M.)

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VERBATIM REPORT OF PROCEEDINGS
SECOND SENTENCING HEARING
11/16/2001

APPENDIX B

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SUPERIOR COURT, STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE of WASHINGTON,)
) VERBATIM REPORT OF
) PROCEEDINGS
)
) Plaintiff,)
) Cause No. 98-1-00243-0 KNT
) -vs-) COA No. 49528-3-I
)
) COREY BEITO,) SENTENCING HEARING
)
) Defendant.)

TRANSCRIPT

of the proceedings had in the above-entitled cause before the HONORABLE DEBORAH FLECK, Superior Court Judge, on the 16th day of November, 2001, reported by Joyce G. Stockman, Certified Court Reporter, CCR No. ST-OC-KJ-G383RP.

RECEIVED
KING COUNTY, WASHINGTON

FEB 11 2002

APPEARANCES:

FOR THE PLAINTIFF:

TIMOTHY BRADSHAW
Deputy Prosecuting Attorney

KNT DEPARTMENT OF
JUDICIAL ADMINISTRATION

FOR THE DEFENDANT:

RICHARD QUIRK
Attorney at Law

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NOVEMBER 16, 2001

THE COURT: Good afternoon.

MR. BRADSHAW: We're here for the sentencing of Corey Beito, B-E-I-T-O, 98-1-00243-0, a KNT case. Defendant's personally present with Richard Quirk; Tim Bradshaw for plaintiff, State of Washington. Also behind me, Your Honor, are scores of members from Jessica's family, many of which were here last time Mr. Beito was sentenced.

I don't know if Your Honor had a preferred agenda for this sentencing or if you'd simply like me to go forward with the recommendation --

THE COURT: You may

MR. BRADSHAW: -- consistent with its previous recommendation to a term of 504 months, with credit for all time served. When the defendant was previously sentenced he had served and received 768 days, he ought receive credit for the time up until, additional time until today, of course.

I should say first, there's still agreement about the offender's score of 5, seriousness level resulting in the standard range of 291 to 388 months.

The basis for the exceptional sentence of 504 months that the State's recommending also remains consistent. The State believes there are multiple bases that result in a substantial and compelling reason, or

1 reasons, to depart from that standard range.

2 To speak in general terms, I think all the bases
3 are equal to the summary that Mr. Beito did not simply and
4 only kill Jessica Seim with premeditation, he raped her and
5 brutalized her, that's exactly the type of crime that the
6 legislature thinks ought receive additional punishment
7 because it's a substantial and compelling reason to do so.
8 That's the factual, I believe, accurate but factual argument
9 and rhetoric to what he did.

10 The specific legal reasons are that Jessica was at
11 the time, had just turned 14 years old, she weighed 104
12 pounds. All agreed that she had herself been drinking prior
13 to her murder, the amount could not be accurately diagnosed
14 because she had been placed in a garbage can by the
15 defendant, and a garbage bag, and then locked into a tool
16 shed; so with the time that went by, accurate diagnosis
17 could not be determined.

18 But what we do know is what Mr. Beito must have
19 known at the time, and that's that Jessica was extremely
20 vulnerable, she was, well, let's use his word, that she was
21 a baby. That's what he said in his own statement. That
22 remains true, and because of the act she will never, of
23 course, be an adult.

24 The nature of the wounds to Jessica were
25 gratuitous in their quality as well as their quantity. The

1 State, by way of record, has previously and would re-endorse
2 the autopsy report that quite thoroughly denotes the
3 injuries upon Jessica.

4 When we look at not just the cruelty involved to
5 her, we also should keep in mind a third factor, which is
6 any connection between the rape which wasn't, from the
7 State's perspective, simply a statutory rape, it was a
8 forcible rape. The question, I think, for the Court on that
9 point is whether there is therefore a reasonable inference
10 from the facts in the record, and the agreed-upon facts, for
11 the Court to conclude that there was essentially, the rape
12 was part and parcel to murder and vice versa, I'm quoting
13 from the Court of Appeals opinion in the case -- well, let's
14 look at the essentially uncontroverted physical evidence.

15 The defendant wanted to have sex with the
16 14-year-old, he admitted such to his friends, Michael
17 Corbell and a Nicholas Gasche, G-A-S-C-H-E. Jessica was
18 taken into Beito's room by Beito, she was not seen alive
19 again.

20 The time period of her death, according to the
21 medical examiner, is consistent with that exact time period
22 of Michael Corbell, that is, the last time he saw her alive.
23 Jessica had severe bruising to her eye, the defendant told
24 Nicholas Gasche that he did hit her in the eye and mentioned
25 he wanted to have sex with her. She had ligature marks

1 consistent with Beito's tapestry belt, this is consistent
2 with one who wants to prevent another from screaming or
3 yelling out for help so that others, such as Gasche and
4 Corbell, who were in the room right next door might hear
5 those pleas for help or for mercy.

6 The defendant obviously had sex with Jessica, as
7 his semen was analyzed as being in her. Jessica had injury
8 to her anus. The photos that I don't believe the State used
9 in any untoward fashion before, the originals, ought be in
10 the court file, photocopies or Xeroxed copies were attached
11 previously in our packet.

12 The defendant himself did not assert that he had
13 ever had sex or intercourse with Jessica after she was
14 killed, the only conclusion is that the rape was part and
15 parcel to the murder itself.

16 One may finally ask with regard to motive or any
17 common sensical inference here, if the victim had consented
18 to have sex with Beito, why then did he kill her?

19 Would the Court like me to address any of the
20 cases in support of any of the three bases to exceed the
21 standard range?

22 THE COURT: Well, you have identified extreme
23 vulnerability, gratuitous wounds, I believe, and --

24 MR. BRADSHAW: The third was the real facts about
25 the rape itself.

1 THE COURT: And why don't I, if you have
2 concluded, I can hear from Mr. Quirk and then if there's a
3 legal argument that needs to be made, that would be fine.

4 MR. BRADSHAW: If I could just conclude briefly
5 with this, that the Court of Appeals obviously encouraged
6 the Court to make additional findings, I think I probably
7 should've asked for that when we were here last, and I feel
8 remiss in that respect, but I would point out for the record
9 and for the Court that there should not be, upon further
10 review of this record, any suggestion that the State's
11 recommendation has changed in any way to tailor what we
12 believe to be the proper bases and a proper sentence before
13 the Court. We're simply taking the Court of Appeals
14 suggestion that the Court not only make a conclusion about
15 whether there was a connection part and parcel between the
16 rapes and the murder, but also the State now is asking the
17 Court to address the other bases about deliberate cruelty
18 and vulnerability of the victim. Thank you.

19 THE COURT: Mr. Quirk.

20 MR. QUIRK: Thank you, Your Honor. Dick Quirk
21 with the defendant, Your Honor. In addition to the
22 defendant and myself, some members of his family are present
23 and at some point his father would like to speak to the
24 Court.

25 Your Honor, I know the Court has been through this

1 sentencing procedure once already, I know the Court also
2 reads carefully the materials submitted to it. I'll focus
3 on the three grounds that the State is urging upon the Court
4 as a basis for the exceptional sentence.

5 The vulnerability of the victim. True, she was 14
6 years old, described by Mr. Beito as just a baby. This is
7 not an effort to try the victim on my part, Your Honor, but
8 there are certain elements in her lifestyle that would
9 suggest that she was not an innocent, vulnerable 14-year-old
10 girl in the sense we might expect it. Unfortunately, her
11 life was such that she was fairly experienced in the ways of
12 men.

13 She had difficulty throughout most of her
14 adolescent years and she was not someone who was, say,
15 snatched from a family, taken out and assaulted in that
16 manner. She'd lived a lifestyle that was not particularly
17 compatible. I don't think her age automatically puts her in
18 the vulnerable category, I think her lifestyle and her
19 background would suggest that she had some sophistication
20 beyond that of a typical 14-year-old girl.

21 As to the deliberate cruelty, in cases like this,
22 there's always a question, can you kill someone without
23 being cruel to them? In this case, we don't have an
24 indication of torture, a drawn out execution procedure,
25 anything of that nature. There are marks, there are

1 bruising, but there's also a death, and I don't think you
2 can have a death without some marks on the body, some
3 bruising, some indication of the trauma that caused the
4 death. So I don't think the State has established that
5 there was cruelty in the death of the girl.

6 THE COURT: If you look at marks, other than the
7 marks on the neck, is it your position that black eyes and
8 other abrasions and contusions aren't sufficient that would
9 be separate and apart from the cause of death?

10 MR. QUIRK: I don't think they rise to the level
11 of cruelty by themselves, I think cruelty in an exceptional
12 sentence context refers to prolonged torture, long, drawn
13 out execution.

14 On the question of the connection between the rape
15 and the murder, the State asks the Court to make a number of
16 inferences. None of those inferences appear as facts in the
17 record, we have sex with an underage girl, we have a
18 murder. But I see nothing in the factual record before the
19 Court that links the two as part and parcel of one another.

20 I don't think it would be appropriate to use the
21 sex with the 14-year-old girl as a basis for an exceptional
22 sentence in this case, absent some further showing that the
23 murder somehow was produced by the sex and motivated by the
24 sex, which we don't have. We can speculate as to what
25 reasons for the murder may have existed, but I don't think

1 speculation is sufficient for an exceptional sentence.

2 As to the duration the State seeks, Your Honor,
3 504 months equals a little more than 42 years. Even
4 allowing for good time, given the fact that the defendant is
5 31 years old, a 42-year sentence would, as a practical
6 matter, be a life sentence for him at this point.

7 I don't think a life sentence is appropriate in
8 this case. I think the legislature, when it created the
9 Sentencing Reform Act, provided for people who have previous
10 offenses, who commit murder, who have a violent history, and
11 that that should be the guideline the Court follows, not an
12 exceptional sentence of some 42 years.

13 We're recommending the top end of his range, which
14 would be 32 years, which will not leave him a young man when
15 he gets out of prison. Any concern about his threat to the
16 community when he gets out of prison in his early 60s, I
17 think, is pure speculation. So we'd ask the Court not to
18 impose the exceptional sentence sought by the State, but
19 instead, to impose the high end of his standard range.

20 THE COURT: Why don't I turn back to you, Mr.
21 Bradshaw, and hear a legal response and then I'll hear from
22 family members who may wish to speak with me, then from any
23 of Mr. Beito's family members, then from him.

24 MR. BRADSHAW: Briefly in response to Mr. Quirk,
25 the argument about Jessica's lifestyle and decisions she

1 made, etcetera, I understand the point that's trying to be
2 made, and it's a point that was made when we were here last
3 by other counsel. However, knowing the facts that we do
4 from the record, I'm just as offended by it now as I was
5 then. And the reason is, is because the proper inference
6 from that, even if true, is that she was more vulnerable.

7 Similarly, when counsel says there's mere
8 speculation about what went on regarding the nexus or lack
9 of nexus, there's a clear difference between speculation and
10 logical inference. And here we have the latter.

11 With regard to the injuries, how does defense
12 counsel explain, or in what category would defense counsel
13 put hemorrhaging to a 14-year-old who had been strangled
14 previous? Or in looking at the mens rea Mr. Beito had, once
15 again considering the statement of Mr. Gasche that the next
16 day, to really sort of make sure Jessica was dead, he broke
17 her finger.

18 So the mindset that Mr. Beito had toward Jessica
19 from beginning to end was simply to treat her like what he
20 did literally, and that's like garbage. Thank you.

21 THE COURT: Are there any family members that
22 wish to speak?

23 MS. JULIE SEIM: I'm Jessica's grandmother, and
24 Mr. Beito's attorney said it's like giving him a life
25 sentence. Well, at least that is life that is living,

1 Jessica will never, ever live again, she was a precious,
2 beautiful child that was victimized by this beast as far as
3 I'm concerned. I'm sorry he's not dead now.

4 THE COURT: And just for the record, would you
5 state your name, please?

6 MS. JULIE SEIM: My name is Julie Kathleen Seim,
7 S-E-I-M, and I am the maternal grandmother of Jessica.

8 THE COURT: Thank you. Anyone else?

9 Would you state your name first, and then tell me
10 what you'd like me to consider.

11 MS. NORMANDY SEIM: My name is Normandy Lee Seim,
12 I'm Jessica's mother. I'm just going to wing this.

13 I have been through a lot in the last four years
14 since Jessica's death, my life has changed dramatically, I
15 still am trying to find a purpose for living and I have
16 that, I have Jessica's sister here, but sometimes it just
17 doesn't feel like it, I feel disconnected and my life had
18 totally an upside down turn.

19 I've worked hard these last couple years trying to
20 come to grips with this and make sense of it all, and it
21 just breaks my heart every time I see a young girl that
22 would be Jessica's age, you know, it just -- it's a pain to
23 live now, and I just feel like because she's gone I've
24 already lived my life, you know, and I'm only 36 years old.

25 So I am working hard to try and -- I have to work

1 now to try and be happy, you know, I have my moments, and it
2 has gotten better, but I don't think that there should be
3 leniency on his sentence considering that he himself stated
4 how he wishes he was dead to bring her back. And I wish to
5 God's sake that she could come back, but there's nothing
6 that'll bring her back and our lives have all been changed
7 because of it, and her life has been changed because of it.

8 He hasn't only affected Jessica's life and that
9 she had a messed up adolescent childhood, that's
10 disregarded here because I was taken away from Lindsay, who
11 was only two years old at the time, and she has struggles in
12 life now too, you know. And that's all I have to say.
13 Thank you.

14 THE COURT: Thank you.

15 MS. LONGSTON: My name's Darcy Lynn Longston, I'm
16 the aunt of Jessica. I have a poem here that my sister
17 wrote and would like me to read.

18 It's called Christmas Angel. On Christmas day she
19 arrived so beautiful to behold, an angel sent from up above
20 to enrich our lives tenfold. Each and every day she filled
21 our hearts with love so unselfish in her ways, God's gift
22 from up above. God then one day decided He needed her back
23 home, he missed his Christmas Angel, to his side she has
24 flown. Although our hearts are heavy and our open wounds
25 still sting we rejoice in the knowledge that our angel got

1 her wings.

2 THE COURT: Thank you. Anyone else? Okay.

3 And let me turn over here and ask Mr. Quirk
4 whether he would like me to hear from your client or from
5 his family member first.

6 MR. QUIRK: From his family first, Your Honor.

7 MR. BEITO: I'm Corey, and I'm Corey's father,
8 and it's been a long four years for everyone in all the
9 families.

10 It's never gonna go all away, all the things we
11 all have, it's tough, they lost someone, we've lost
12 someone. She's gone, and Corey's alive. We're thankful for
13 that, although we will never either go to movies together,
14 we won't do things together, we're still thankful he's here.

15 And I do want to share one thing, and that's that
16 in these last years what I've noticed from the day he was
17 arrested wherein he was confused, mixed up, out of his mind,
18 hurt, angry, all the feelings he must have felt too, I've
19 noticed in all these years he's changed his life, and that's
20 a choice he made while in prison, while in jail.

21 He's encountered fights more than once, been
22 jumped more than once, I won't even say by who, but certain
23 people, and he's controlled himself, that shows a lot. He
24 has not -- he's been a model prisoner while he has been in
25 prison.

1 And while he is in prison, what I have noticed is
2 that even though his body is the same, his mind, his spirit,
3 his soul, those things have changed, that's a miracle. And
4 I do believe from what I'm learning and what I'm seeing in
5 his life, he's not the same person that he was four years,
6 four and a half years ago or more.

7 To have an exceptional sentence, I believe, in my
8 opinion takes away any hope of getting out at an age where
9 you can be functional. So my concern, I guess, is that he
10 has a break, that he have a chance to start life again.

11 I think that even though he will be old when he
12 gets out, he's a different man today, and that that's the
13 truth, I can see that. And I know that a lot of people
14 don't understand that, especially the other side of the
15 family, and I don't expect 'em to, but it hurts on this side
16 too, it does all the way around. That's all.

17 THE COURT: Thank you, Mr. Beito.

18 MR. QUIRK: Your Honor, I believe that's all of
19 the family members to speak for the defendant. And I think
20 the defendant now has a few words to say to the Court.

21 THE COURT: All right.

22 THE DEFENDANT: I really don't know what -- where
23 to begin. I am truly sorry, I know you guys probably don't
24 believe me, but I am. I am not the same person. I've
25 committed my life to the Lord and I know II Corinthians 5:17

1 says, therefore, if any man be in Christ then he is a new
2 creation, all the old things have passed and the new has
3 come. I'm that new person. I'm not expecting you to
4 understand, I hope you do, but I'm just -- I'm sorry, I
5 truly am, and I want a new life. I am a new person and I
6 want to be able to start over again, and I know that's still
7 way down the road, if ever possible. But I just pray that
8 you can find some mercy for me. That's all.

9 THE COURT: Anything from anyone else?

10 MR. BRADSHAW: No, Your Honor.

11 MR. QUIRK: Not from the defense, Your Honor.

12 THE COURT: When we were here last time I spent
13 some time talking on the record about letters that I had
14 received from Jessica's family members and quoting from
15 them. I've heard from people again in person and I won't
16 review again the things that were meaningful to me at that
17 time, they continue to be meaningful to me about this girl,
18 this young woman, Jessica, who was only just 14 when she was
19 murdered.

20 And I also talked about what I'd read about you,
21 Mr. Beito, the difficult life that you had led in abusive
22 households, mental illness appeared to be present in you, as
23 well as your family members, but what I think I
24 characterized as an extremely difficult upbringing that you
25 had had, and I mentioned that then, and remind myself about

1 it again because I think it impacts a fair assessment of who
2 you are.

3 And I've heard today that, both from your father
4 and from you, that you think that you have changed, that you
5 have perhaps matured. You have identified a religious
6 conversion or experience that has impacted your life, and I
7 hope that that's true and that those experiences are helpful
8 to you.

9 At the time of the first sentencing I indicated
10 that the only explanation for what had happened to Jessica,
11 again a very petite young woman of only 14 years of age, was
12 that you had snapped, that was the only explanation that had
13 been given. And clearly, she didn't have anything to do
14 with her own -- or bringing about her own murder. But my
15 concern then, which continues to be my concern, Mr. Beito,
16 is under those circumstances you were, and I have no way of
17 understanding that there has been any change or difference,
18 you were a very dangerous person to snap and murder this
19 child.

20 When I sentenced you, I believe you were 29 years
21 old, and the only thing that really has changed for purposes
22 of this sentencing, in my mind, is that I made an error
23 initially by not making it clear that the factual
24 determination that I had made and the legal conclusion that
25 I had drawn were in fact made and drawn, and those are as

1 follows:

2 I did then, and do now, find the connection
3 between the rape and the murder. I think there are
4 reasonable inferences based on factors that Mr. Bradshaw has
5 indicated, including, particularly the estimated time of
6 death, including the time of the rape he lists. And I also
7 find the strangulation injuries being consistent with an
8 inference of attempting to prevent her from screaming so
9 that others in the nearby rooms could have come to her
10 rescue.

11 The fact that she was taken into your room and
12 never seen again after that, the fact that you never
13 indicated that you had intercourse with her after her
14 demise, and the fact that these other injuries, while Mr.
15 Quirk assesses them as not of the type that would constitute
16 deliberate cruelty, nevertheless, indicate not only was she
17 legally incapable of consenting, but also consistent with
18 her being injured possibly in an effort to fight back.

19 But in any event, in addition, there are injuries
20 on her body that are not consistent with consensual sexual
21 activity; and for those reasons, I do find that the rape
22 that occurred constitutes a substantial and compelling
23 reason to impose an exceptional sentence.

24 In terms of vulnerability, I don't believe that
25 there is a case that addresses someone of Jessica's age

1 being identified as extremely vulnerable. I do find that
2 she was petite and small, both in stature and in weight, and
3 she certainly was young.

4 I do, I suppose, tend to agree with you, Mr.
5 Quirk, that there may be a distinction between a young
6 person snatched off of a school yard who has not experienced
7 certain aspects of life that are more adult-like and the
8 life that Jessica was experiencing at that time. But as I
9 said last time, she appears to me to have been a young woman
10 who was doing experimentation, as many young people do. We
11 all see children who go through phases and stages and they
12 experiment with more adult things, that doesn't mean she was
13 in fact an adult or mature like an adult, but rather,
14 simply, that she was a young person, a young girl going
15 through some experiences that perhaps her mother would like
16 to have not had her go through, but nevertheless, she was a
17 teenager experimenting. And she, as her family indicated,
18 had many positive qualities and they miss her terribly.

19 I'm pleased to hear family members seem to be
20 making some adjustment. Last time, I know when you were
21 here, the grief expressed was strong and fresh and
22 substantial and -- but the death of a young person such as
23 Jessica is something that no one's ever, in a family who
24 loves her, is ever going to completely recover from or get
25 over, and I do recognize that.

1 In terms of her vulnerability then, the
2 characterization by Mr. Beito that she was just a baby, her
3 size, the fact that she, by other reports, had been
4 drinking, and not verified by testing of bodily fluids, are
5 factual findings, inferences I can make from this record.
6 Whether -- and I do make them, whether they are sufficient
7 to support the extreme vulnerability is a conclusion, I
8 think, of law and I don't make that conclusion, I do make
9 the findings however.

10 I don't find that the wounds that were made
11 constitute deliberate cruelty, so I'm making some factual
12 findings, Mr. Bradshaw, associated with extreme
13 vulnerability and relying, for purposes of an exceptional
14 sentence, on the connection between the rape and the murder
15 as I did last time. And so with those findings being made,
16 I will impose the same sentence I imposed last time.

17 MR. BRADSHAW: Your Honor, I've asked Madam Clerk
18 to mark as an exhibit the materials that I referenced in my
19 argument. They were filed, I believe straight to the file
20 last time, and there was a reference in the Court of Appeals
21 decision that they lacked a witness statement. So I think
22 they'll have two now, but just to be doubly sure, I would
23 offer that exhibit.

24 THE COURT: And in terms of the findings that
25 were entered last time, am I to understand that the list of

1 A through J perhaps, that I imposed, did or did not include
2 the witness statement you're referring to?

3 MR. BRADSHAW: I believe it did. However, given
4 the statement from the Court of Appeals, I'm not sure if it
5 was left out previous, or because it wasn't separately
6 marked as an exhibit it didn't get to the court. So that's
7 why I've sort of offered it twice.

8 THE COURT: The findings may also reflect that
9 it is uncontroverted that Mr. Beito raped Jessica, and I
10 don't believe that that violates the real facts drawn. I do
11 find that rape of a child in the third degree is a
12 substantial and compelling reason to support an exceptional
13 sentence.

14 And I also find that committing a rape at the same
15 time as, or in close proximity to, the murder, just before
16 the murder, distinguishes this crime from other premeditated
17 murder in the first degree cases and does support a basis to
18 impose a longer sentence.

19 I'm satisfied that the term that I imposed before,
20 504 months, or approximately 42 years, is an appropriate
21 period of incarceration and meets the purposes of the SRA,
22 both to protect the community and to impose a proportionate
23 and just punishment.

24 Do you have additional paperwork then for me to
25 sign?

1 MR. BRADSHAW: Yes, Your Honor.

2 THE COURT: And will you be offering some
3 additional findings for Mr. Quirk's review?

4 MR. BRADSHAW: Yes, Your Honor.

5 Your Honor, it's my inference, from the Court's
6 remarks, that with regard to the only explanation offered by
7 the defendant previous, this was to the detectives, was that
8 he snapped; is the Court making a finding that is
9 incredible?

10 THE COURT: No, I'm not making a finding that
11 it's incredible. The reason for mentioning it before, and
12 mentioning it again, is that it supports when he
13 explained -- let me ask you for clarification.

14 When he said "I just snapped" last time in terms
15 of explaining the murder of this young woman, I didn't
16 relate that particularly to the rape, I've related it more
17 to the length of the sentence and protection of the
18 community, there is no explanation for "I just snapped" in
19 terms of what I can do to look towards rehabilitation for
20 him. So that's the only explanation he has had for what he
21 did.

22 It's not something that, it's perhaps the best he
23 can do to explain, based on his upbringing and so on, what
24 he recalls happening to him. But I view my role is focused
25 as well in protection of the community, and that was the

1 reason of my comment.

2 MR. BRADSHAW: I see.

3 THE COURT: Mr. Beito, I will notify you of the
4 following: You have the right to appeal a sentence outside
5 the standard sentence range. As you know, the sentence that
6 I have imposed is outside the standard sentence range.

7 In addition, pursuant to RCW 10.73.090, you have
8 one year from this date to file a petition or a motion for
9 collateral attack on the judgment herein.

10 However, you are also advised that pursuant to RCW
11 10.73.100, the one-year time limit does not apply to certain
12 grounds that are more particularly set forth in that
13 statute; that statute is set forth on the back of this
14 notice.

15 Mr. Quirk, do you waive my formal reading of the
16 actual statute to your client?

17 MR. QUIRK: Yes, Your Honor.

18 I've reviewed the proposed judgment and sentence,
19 it accurately reflects the Court's decision. I'll hand that
20 up to the Court.

21 And Your Honor, I'll also hand up an order
22 allowing an appeal at public expense for the defendant, he
23 has previously qualified for representation at public
24 expense. And I have a notice of appeal, a copy of which
25 I've given to the prosecutor.

1 MR. BRADSHAW: Your Honor, court costs, no
2 contact order, those types of things remain consistent with
3 your previous order?

4 THE COURT: Yes.

5 And I'll, as a routine matter, I'll notify you
6 again, Mr. Beito, that you're ineligible to possess a
7 firearm unless your right to do so is restored by a court of
8 record as I told you last time.

9 Mr. Quirk, if there is any need for presentation
10 of findings, is there any issue with respect to you being
11 able to represent your client?

12 MR. QUIRK: I don't think so, just let me confirm
13 that with the defendant.

14 THE COURT: Okay.

15 MR. QUIRK: Your Honor, the defendant would waive
16 his presence at the presentation of findings.

17 THE COURT: Thank you.

18 MR. QUIRK: Do we also have a restitution
19 question, Your Honor?

20 MR. BRADSHAW: I did. There was a previous
21 hearing scheduled for May 17th of last year, I was wondering
22 if the record shows whether that occurred.

23 THE COURT: Apparently none has previously been
24 entered, Counsel.

25 MR. BRADSHAW: I would ask for a date then to

1 have a chance to present that.

2 THE COURT: How long?

3 MR. BRADSHAW: Thirty days.

4 THE COURT: Any problem with that, Mr. Quirk?

5 MR. QUIRK: This is presentation on the findings,
6 Your Honor?

7 THE COURT: No, restitution. Perhaps we can have
8 them both scheduled at the same time.

9 MR. QUIRK: No, that would not be a problem.

10 THE COURT: And in terms of your client's
11 presence for the restitution hearing?

12 MR. QUIRK: Your Honor, he's indicated to me he's
13 aware of his right to be present at the restitution hearing,
14 however, he chooses to waive that right.

15 THE COURT: All right. Mr. Quirk, with respect
16 to the judgment and sentence, I have not, on this occasion,
17 reviewed the Appendix H on the record; is there a need in
18 your mind, to have me do so?

19 MR. QUIRK: No, Your Honor, there's no need.

20 THE COURT: I have signed it again and so it's
21 got two signatures on it, and dated it.

22 I have now signed the judgment and sentence, as
23 well as the order of indigency, and will hand those down for
24 filing, together with the original of your notice of
25 appeal.

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If there's nothing further --

MR. BRADSHAW: Just one other thing, on the restitution, if there's a need to set a restitution hearing, I will call the Court. Seems like Crime Victims may have already paid for the funeral expenses.

THE COURT: So you're then setting something in 30 days. If you're satisfied to just proceed, contact Mr. Quirk if you need one and let us know.

MR. BRADSHAW: Right.

THE COURT: We'll be at recess.

(Whereupon, proceedings concluded.)

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STATE OF WASHINGTON)
) ss. Reporter's Certificate
COUNTY OF KING)

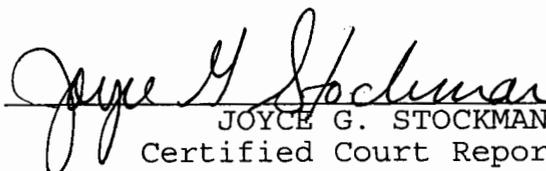
I, Joyce G. Stockman, Certified Court Reporter in and
for the State of Washington;

Do hereby certify:

That to the best of my ability, the foregoing
is a true and correct transcription of my shorthand notes as
taken in the cause of STATE of WASHINGTON vs COREY BEITO, on
the date and place as shown on page 1 hereto;

That I am not related to any of the parties
to this litigation and have no interest in the outcome of
said litigation;

Dated this 11th day of February, 2002


JOYCE G. STOCKMAN
Certified Court Reporter
CCR No. ST-OC-KJ-G383RP

WITNESS STATEMENT
MICHAEL CORBELL

APPENDIX C

NO 98-1-00243-OKNT

STATE OF WASHINGTON

Plaintiff

VS

Beito

Defendant

FILED

KING COUNTY, WASHINGTON

NOV 16 2001

SUPERIOR COURT CLERK
BY CAROL K. INCH
DEPUTY

- Continuation
- Statement
- Officers Witness Statement
- Officers Report



King County Police
Continuation/Statement/O.R.

Incident Number
98-021784
Date
01-25-98 Time
0008

Name (Last, First, Middle)
CORBELL, MICHAEL DAVID
Residence Address
12231 76TH AVE. S. City
SEATTLE State
WA Zip
98178 Residence Phone
206 772-9664 Business Phone
N/A. Occupation
UNEMPLOYED Race
W Sex
M DOB
08-10-78

To
CASE Via
DIRECT Subject
DEATH INVESTIGATION

ON 01-21-98 AT APPROX. 1100^{PM} 1200 AM I CAME OVER TO 12231 76TH AVE. S. THERE WERE APPROX SIX PEOPLE DRINKING AT THE HOUSE. NICK GASCHE, CORY (THE OWNER OF THE HOUSE) JESSICA WHO IS NICK'S EX GIRLFRIEND, SETH BILLY WHO IS JESSICA CURRENT BOYFRIEND AND TWO OR THREE OTHER GUYS THAT I DON'T KNOW WERE THERE. I CAME IN THE HOUSE PUT MY COAT AWAY AND JESSICA FOLLOWED ME INTO THE KITCHEN. JESSICA KEPT TRYING TO HUG ME, JESSICA WAS DRUNK. JESSICA HAS SHORT BLONVE HAIR, A DRK COLORED SHIRT ON BAGGY BLU. JEANS. JESSICA TOLD ME THAT SHE WANTED TO HAVE SEX WITH ME, I RAISED MY SHIRT AND SHOWED JESSICA MY STOMACH AREA AND SAID "IS THIS WHAT YOU WANT", JESSICA PULLED HER PANTS DOWN ALITTLE AND SHOWED ME HER BOXERS (DRK COLORED BLU OR BLK. AND SHE WAS WEARING PINK G-STRETCH PANTIES. THE PARTY WENT ON FOR ABOUT A HOUR AND A HALF. SETH, BILLY AND THE OTHER GUYS THAT I DON'T KNOW LEFT LEAVING ME NICK, CORY AND JESSICA AT THE HOUSE. JESSICA WAS VERY DRUNK SHE COULDN'T HARDLY WALK OR TALK. NICK AND JESSICA WERE TALKING THEY WERE TALKING ABOUT THEIR RELATIONSHIP. JESSICA BECAME UPSET. JESSICA PICKED UP A KNIFE AND RAN INTO THE BATHROOM SAYING SHE WAS^{MD} LOVES NICK AND CANT DEAL WITH IT ANYMORE. I WENT TO THE BATHROOM AND I SAW THAT JESSICA HAD CUT HER LEFT WRIST. I TOLD JESSICA THAT THIS IS YOUR FIRST LOVE AND ITS NOT WORTH THIS. I TOOK THE KNIFE AND PUT IT IN MY PANTS POCKET. I TOLD HER TO THINK OF THE FUTURE. I CALMED JESSICA DOWN AND SHE STARTED CRYING. JESSICA STARTED KISSING ME AND PUT ME AGAINST THE WALL. JESSICA WAS PLAYING WITH MY GENITALS. JESSICA AND I HAD SEX IN THE BATHROOM. I USED A CONDOM. AFTER SEX JESSICA AND I WENT BACK INTO THE KITCHEN WHERE NICK AND CORY WERE. NICK WAS BEING CALMED DOWN BY CORY BECAUSE NICK WAS UPSET. NICK AND JESSICA WENT INTO CORY'S BEDROOM CORY TOLD ME THAT WE NEED TO GET NICK OUT OF THERE AND LEAVE JESSICA IN THERE. THIS WAS AROUND 300 AM AND 330 AM JESSICA TOLD NICK ABOUT US HAVING

Officer(s) reporting
ATTERBERRY, BOBBY G. Serial No.
01852 Unit No.
4-K-88 Supervisor reviewing
Date
Copies to
171

- Continuation
- Statement
- Officers Witness Statement
- Officers Report



King County Police
Continuation/Statement/O.R.

Incident Number
98-021764
Date
01-25-98 Time
0841

Name (Last, First, Middle) **CORBELL, MICHAEL DAVID** Residence Phone **(206) 772-9664** Business Phone
 Residence Address **12231 76TH AVE. S** City **SPACUE** State **WA.** Zip **98178** Occupation **UNEMPLOYED** Race **W** Sex **M** DOB **08-10-78**
 To **CASE** Via **DIRECT** Subject **DEATH INVESTIGATION**

MAL SEX IN THE BATHROOM, I WALKED INTO THE BEDROOM WITH CORY TO TRY AND GET NICK OUT OF THERE BECAUSE CORY REALLY WANTED NICK TO LEAVE BAD. JESSICA LOOKED AT ME AND SAID WHY DID YOU TELL CORY ABOUT US, NICK GOT MAD AT ME SAYING I STABBED HIM IN THE BACK, CORY KEPT TRYING TO GET ME TO GET NICK TO LEAVE. NICK LEFT THE RESIDENCE AT ABOUT 4:15 AM. I WENT AND TOOK A SHOWER, WHILE I WAS SHOWERING CORY AND JESSICA WERE MAKING BEEF STEW. I GOT OUT OF THE SHOWER WEARING ONLY BOXERS AND A PAIR OF SHORTS OVER THE BOXERS. I GOT MY SLEEPING BAG AND PILLOW. I WENT AND LAYED DOWN ON THE COUCH WHERE I SLEEP. IT IS NOW ABOUT 4:30 AM, JESSICA SAID ON TOP OF ME AND BEGAN TO KISS ME. JESSICA WANTED TO HAVE SEX AGAIN, I GOT A CONDOM AND WE HAD SEX, CORY WAS LAYING ON THE FLOOR BETWEEN THE WALL AND THE COUCH SO HE COULD GET A FEEL. CORY WANTED TO GET INTO THE ACTION AND HAVE SEX WITH JESSICA. I FINISHED WITH JESSICA AND I WENT TO THE BATHROOM. WHEN I CAME OUT OF THE BATHROOM JESSICA WAS ASLEEP ON THE COUCH. CORY ASKED ME WHAT WOULD I DO IF HE RAPED HER, CORY ASKED ME IF HE RAPED HER DID I THINK THAT SHE WOULD SAY ANYTHING. I TOLD HIM "OF COURSE ARE YOU OUT OF YOUR MIND?" CORY THEN SAID "SO THEN I'D HAVE TO KILL HER." CORY ASKED ME WHAT WOULD I DO, "HELP HIM OR TURN HIM IN." I TOLD CORY I'M IN ENOUGH TROUBLE AS IT IS AND I'M NOT TRYING TO GET INTO ANY TROUBLE LIKE THIS, I TOLD CORY THAT I NEED TO GO TO BED. I TOLD CORY TO GO TO BED, I HAD TO GET UP AND BE DOWNTOWN BY 11:00 AM, I AGAIN TOLD CORY TO GO TO BED, I WENT TO SLEEP ON THE FLOOR BY THE HEATER. I SLEPT TILL APPROX 8:30 AM THE NEXT MORNING, CORY WOKED ME UP. CORY SAID ITS TIME FOR YOU TO GO BUDDY, I LOOKED OVER JESSICA WASN'T ON THE COUCH I ASKED CORY DID JESSICA LEAVE? CORY TOLD ME THAT HE HAD TRIED TO FEEL HER BREAST, CORY SAID HE HAD STARTED KISSING HER AND JESSICA OPENED HER EYES AND SAID "CORY!!" CORY SAID JESSICA

Officer(s) reporting **ATTERBERY BOBBY G.** Serial No. **01852** Unit No. **4K-88** Supervisor reviewing **MA** Date **1/22** Copies to **172**

- Continuation
- Statement
- Officers Witness Statement
- Officers Report



King County Police
Continuation/Statement/O.R.

Incident Number
98-021764

Date
01-25-98

Time
0112

Name (Last, First, Middle)
W CORBELL, MICHAEL DAVID

Residence Address
2231 76TH AVE. S

City
SEATTLE

State
WA

Zip
98178

Residence Phone
01-25-98

Business Phone

Occupation
UNEMPLOYED W

Race
W

Sex
M

DOB
08-10-78

To
CASE

Via
DIRECT

Subject
DEATH, INVESTIGATION

WHEN GOT UP AND LEFT. CORY WENT INTO HIS BEDROOM THEN CAME BACK OUT AND SHUT THE BEDROOM DOOR. I NOTICED THAT JESSICA'S SHOES (BULK SHOES WITH WHITE BOTTOMS. METAL ON SHOE LACES) WERE STILL IN FRONT OF THE T.V. I ASKED CORY ABOUT THE SHOES AND HE SAID JESSICA LEFT WITHOUT THEM. I DIDN'T THINK ANYTHING OF IT AND I LEFT TO GO TO MY MEETING. I CAME BACK AT ABOUT 1300 IN THE AFTERNOON. THE DEADBOLT WAS LOCKED (WHICH IT NEVER IS UNLESS CORY'S THERE.) I ONLY HAD A KEY FOR THE BOTTOM LOCK. I KNOCKED ON THE DOOR AND NOONE ANSWERED. I KNOCKED ON CORY'S BEDROOM WINDOW AND CORY ANSWERED. I WENT INSIDE AND GOT MY SLEEPING-BAG AND LAID DOWN ON THE COUCH AND WENT TO SLEEP. I WOKE UP AT ABOUT 4:30 IN THE AFTERNOON AND MARK COFFEY WAS AT THE RESIDENCE. I THOUGHT IT WAS WEIRD THAT WHEN CORY ENTERED HIS BEDROOM HE WOULD SHUT AND LOCK THE DOOR. WHEN CORY LEFT HIS BEDROOM HE WOULD SHUT THE DOOR. CORY NEVER DID THIS BEFORE. WHEN I WOKE UP IT WAS 430 IN THE AFTERNOON ON 01-22-98. WHEN I WOKE UP MARK AND CORY WERE IN CORY'S BEDROOM TALKING WITH THE DOOR SHUT. I WENT TO THE BATHROOM I HEARD CORY'S VOICE AND A OTHER MALES VOICE. I ASKED IF IT IS BOB'S NIGHT. CORY LAUGHED AND SAID OPEN THE DOOR. I OPENED CORY'S BEDROOM DOOR AND I SAW CORY AND MARK SITTING ON CORY'S BED. CORY, MARK AND I WERE JUST TALKING AND JOKING IN THE BEDROOM. MARK AND I STEPPED OUT ONTO THE PORCH TO HAVE A SMOKE. I GOT MY COAT AND SHOES ON AND I LEFT AT ABOUT 500PM. I CAME BACK AT ABOUT 700PM AND CORYS DAD AND COUSIN CAME BY WITH ABOUT FIFTEEN BAGS OF CEMENT. WE WERE DRINKING AND TALKING. THE NEXT DAY WHICH WOULD BE THE 23RD CORY AND I GOT UP ABOUT 1100 TOOK SHOWERS. WE THEN WENT TO THE FRED MYERS IN RENTON. CORY BOUGHT A NEW GARBAGE CAN. CORY SAID THE DOG HAD CHEWED THE HANDLES OFF THE OLD ONE. THE NEW CAN WAS TAN WITH A GREEN LID AND THE OLD ONE WAS GREEN WITH A GREEN LID. THAT NIGHT I LEFT AND CORYS EX-GIRLFRIEND AND CORYS DAUGHTER CAME OVER TO WATCH MOVIES. I GOT BACK AROUND 200AM.

Officer(s) reporting
ATTERBERY BOBBY G. 01852 HKJ88

Serial No.

Unit No.

Supervisor reviewing

Date

Copies to
173

- Continuation
- Statement
- Officers Witness Statement
- Officers Report



King County Police
Continuation/Statement/O.R.

Incident Number
98-021764
Date
01-25-98 Time
0136

Name (Last, First, Middle)
CORBELL, MICHAEL DAVID
Residence Phone
(206) 722-9664 Business Phone

Residence Address
12231 76th AVE. S. City
SEATTLE State
WA Zip
98178 Occupation
UNEMPLOYED Race
W Sex
M DOB
08-10-78

To
CASE Via
DIRECT Subject

AND WENT TO SLEEP. THE NEXT MORNING CORY'S BUDDIES CAME OVER AT ABOUT 1130 AM AND CORY LEFT WITH THEM, CORY'S GIRLFRIEND AND DAUGHTER LEFT. I WENT TO DO LAUNDRY AT MY AUNT'S. THEN I CAME HOME AT ABOUT 830 PM. I WAS GETTING READY TO GO TO SLEEP AND MARK AND BRENT CAME OVER. MARK SAT ON THE COUCH AND ASKED ME WHAT THE PENALTY WAS FOR ACCESSORY TO MURDER. I DIDN'T KNOW WHAT HE WAS TALKING ABOUT. MARK THEN TOLD ME THE REASON HE WAS HERE ON THE 22ND TALKED TO CORY. MARK TOLD ME THAT CORY HAD RAPED JESSICA PUNCHED HER IN HER FACE JESSICA STARTED SCREAMING AND THAT CORY HAD TOOK HIS BELT AND CHOKED JESSICA TO DEATH. MARK AND I AND BRENT WENT OUT TO THE SHED TO LOOK INTO THE SHED. ~~MARK SAID THAT CORY HAD TOLD HIM THAT HE HAD PUT JESSICA IN~~ WE WERE LOOKING FOR ^{THE} OLD GARBAGE CAN. WE Pried open the shed door and saw ^{the} the old garbage can on the shed with the lid duct tape taped. MARK TOOK THE TAPE OFF AND I OPENED THE LID. I SAW BLONDE HAIR IN THE TRASH BAG. MARK AND I MOVED THE CAN TO SEE HOW HEAVY IT WAS, IT WAS HEAVY. WE WENT INTO THE HOUSE AND CALLED 911. THIS STATEMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND I WILL ASSIST IN PROSECUTION. *K. Michael David Corbell*

1-25-98
1:52 AM

Officer(s) reporting
ATTERBERY BOBBY G. Serial No.
0852 Unit No.
4K-88 Supervisor reviewing
Date
Copies to
174

WITNESS STATEMENT
MARK COFFEY

APPENDIX D

Continuation		 King County Police Continuation/Statement/O.R.	Incident Number								
<input checked="" type="checkbox"/> Statement			9	7	—	0	2	1	7	6	4
<input type="checkbox"/> Officer's Witness Statement			Date				Time				
<input type="checkbox"/> Officer's Report			1/25/98				0156 hrs.				
Name, (Last, First, Middle)		Residence Phone		Business Phone							
✓ COFFEY, MARK A.											
Residence Address			City	State	Zip	Occupation	Race	Sex	DOB		
									110973		
To		Via		Subject							
CASE FILE		DIRECT		WITNESS STATEMENT							

OFF: This tape concerns the investigation of a death investigation which occurred on or about January 24, 1998. Interviewing officer is MPO SCOTT CLICK, C-L-I-C-K. King County Police case number is 98-021764. I'm interviewing MARK A. COFFEY, DOB: 11/09 of '73. The date now is January 25th; the time is 0156 hrs.

MARK, are you aware that this statement is being recorded?

WIT: Yes I am.

OFF: And do I have your permission to record this statement?

WIT: Yes you do.

OFF: Okay. You told me that, uh, a couple of days ago you got a call -- or you, uh -- you called, uh, your friend CORY BATO(sp?). Is that right?

WIT: No. He called me.

OFF: He called you? Okay. What, uh -- what day was that?

WIT: Two days ago (unintelligible).

OFF: So -- so, uh, Thursday? Does that sound right?

WIT: It's pretty much so.

OFF: Okay. And, uh, what did he call you for?

WIT: He called me and told me that there was somethin' important that he had to say.

OFF: Okay. I need you to talk, uh -- talk a little louder for me.

WIT: Uh, he -- he called me and said there was somethin' important that he had to say.

OFF: Okay. Did he tell you what it was he wanted to talk to you about?

WIT: Um, no he did not. He just said he wanted to talk in person.

OFF: Okay. Uh, did you go meet him then?

Officer(s) Reporting	Serial No.	Unit No.	Supervisor Reviewing	Date	Copies to
OFF. SCOTT CLICK					183

KCP (C-102) 11/92
pm 1/27/98

WIT: Um, I did not then, at that time.

OFF: Okay. Uh, did he call you again later or did you call him?

WIT: I called him back.

OFF: Okay. When did you call him back?

WIT: Uh, about twenty minutes. And then he called me back.

OFF: Okay. Let's get back to the date, uh, when he first called you. What was the date of the first call? Do you remember? Was it a -- on a Thursday or Friday?

WIT: I think it was Friday.

OFF: Okay.

WIT: I don't know for sure.

OFF: Okay. Um, about what time of the day was it he called you?

WIT: 11:00 o'clock.

OFF: In the morning or the evening?

WIT: Morning.

OFF: Okay. And so then you called him back about twenty minutes after that?

WIT: Yeah.

OFF: Okay. And what did he say to you?

WIT: He said I needed to call back. Actually, let me kinda just tell you how it went down.

OFF: Okay.

WIT: 'Cuz this is -- th -- that would make it easier.

OFF: Okay.

WIT: Okay? CORY called me over at, um, the house over here -- at LORETTA's on Saturday night or somethin'.

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OFF: Okay.

WIT: And I was -- he asked me -- to meet me at Skyway Market. And I didn't know what for.

OFF: Okay.

WIT: And he said it was real important. But I didn't wanna meet him. And then I didn't have any contact with him until the next day. And then...

OFF: Okay. The next day would've been Saturday?

WIT: I do believe so.

OFF: Okay.

WIT: And he told me to come over and I came over.

OFF: Came over to CORY's house?

WIT: Came over to CORY's house.

OFF: Okay.

WIT: CORY brought me in his room and he told me that he had killed somebody. And I said, "What do you mean, killed somebody?" And he said, "I killed somebody. I need your help." And I said, "I don't want no part..."

OFF: Did he tell you who he killed?

WIT: He said he killed a girl named JESSICA.

OFF: Okay. Do you know JESSICA?

WIT: Only as somebody that I've seen two or three times in my life.

OFF: Okay. Where have you seen her at before?

WIT: At CORY's's house.

OFF: Okay. So what happened then?

WIT: Um, I proceeded to think it was a joke. And I didn't know really what to -- what to think at all. Um -- can you stop this for a second 'cuz I'm gettin' nervous.

OFF: Well, that's okay. No, we -- we've got -- actually we have to keep the tape going.

WIT: Oh.

OFF: Take your time, though. It's no -- no hurry.

WIT: (Sigh).

OFF: So he -- he told you that he -- he killed somebody.

WIT: Yeah he did.

OFF: He told you that it was JESSICA.

WIT: Right.

OFF: Okay. And, at that point, you thought it was a joke. Is that right?

WIT: Yeah, I thought it was a joke.

OFF: Okay.

WIT: And then I said I didn't believe him. And we went back out in the room and, uh -- in the living room. And then we came back and we were talkin' in there for a little while. And MIKE was in there. And then we...

OFF: MIKE -- MIKE who?

WIT: MIKE CORVELLE(sp?).

OFF: Okay.

WIT: His roommate. And then we walked back in the room. He was tryin' to play secrets and stuff. He kept bringin' me back into CORY's room -- or CORY brought me into his room and he said, uh, uh, "I really did it." And I said, "I don't believe you." And he opened the closet door. And there was a garbage sack with, uh, gray -- it looked gray.

OFF: Okay. Was this in CORY's bedroom?

WIT: Yes. It was in CORY's bedroom.

OFF: Okay.

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WIT: And, uh -- this is hard for me.

OFF: That's okay.

WIT: Um...

OFF: So, he opened the closet and you saw a gray...

WIT: I saw a gray bag.

OFF: Okay. Was there anything in the bag? Could you tell?

WIT: It looked -- he kicked it and it looked kinda lumpy; but I thought it was clothes.

OFF: Okay. CORY kicked the bag you said?

WIT: Yes he did.

OFF: Okay.

WIT: And then he shut it and he asked me for my help.

OFF: Okay. Did...

WIT: He said, "I gotta get rid of the body."

OFF: Okay. Did CORY tell you that the body was in the garbage bag?

WIT: Yeah. He did.

OFF: Okay.

WIT: And then I said, "I don't believe you. I think that's just a sack of clothes." And he said, "Whatever." And, um, I was real nervous because I didn't know whether it really was or really wasn't.

OFF: Okay.

WIT: Because when I looked at the garbage sack, I thought I saw hair protruding. I mean, you could look through and you could see, um, like if you were to hold up a letter to a light, you can see the outline of it. But that's the way it looked and you could see the hair...

OFF: Okay.

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WIT: ...on the other side of the -- and I saw -- that's what I thought I saw. And I was real scared. And then I just backed up and played cool. And then me and CORY started just talkin' some more. And then, that night, we went out and we just -- in the living room, we just watched TV for awhile. And I was there until about, uh, 4:00 o'clock in the morning. And I was listening to the music and stuff. And CORY kept askin' me all kinds of questions and...

OFF: What kind of questions was he asking you?

WIT: He was askin' me, "What do I do? What do I do?" And I kept tellin' him, "I don't know what to do. I don't know what to do."

OFF: Okay.

WIT: And...

OFF: Did he ever tell you how he killed her?

WIT: He said he strangled her with his -- with her belt. At first he started with his hands and hit her -- first, I think, he said he hit her in the face.

OFF: Okay.

WIT: And then he strangled her. And that -- she was cryin' for help or somethin'. And then he used his belt. That's what he said to me.

OFF: Okay. Did he say why he killed her?

WIT: No he didn't.

OFF: Okay. Can you remember any other conversations you had with him about this while you were at the -- his house that first night?

WIT: Uh, can I -- what do you mean?

OFF: What did he tell -- you -- you told me he kept asking you, "What do I do? What do I do?"

WIT: He was askin' for ideas how to get rid of the body. I wouldn't give him any information.

OFF: Okay.

WIT: I mean, I wasn't -- I didn't wanna be a part of it, you know.

OFF: Okay. Okay. So then you left about 4:00 in the morning. Is that right?

WIT: Yeah. I left about 4:00 in the morning and went over to GARY's house. And GARY FRYLINGER(sp?) is my girlfriend's mom's boyfriend. He lives a few blocks over. Uh, I'd say, what is that? West of here?

OFF: Okay. That's okay.

WIT: Okay.

OFF: Um, did you talk to anybody over at GARY's house about this?

WIT: Um, yeah. I talked to my girlfriend AMY. Uh...

OFF: Okay. What's AMY's last name?

WIT: Uh, SILVERMORE(sp?)

OFF: Okay.

WIT: I told her what happened. And, uh, I was real scared and didn't know what to do. And then, uh, later that day I went home -- or actually, CORY kept callin'. And he wanted me to come over and help him. And I wouldn't come over. And, uh...

OFF: What did -- what did you say to you in these phone calls he was making to you?

WIT: Uh, CORY was like, "What I do? How do I get rid of the body?" And, uh, he -- he wanted me to help him, uh, get rid of it. And I didn't want no part of it.

OFF: Okay. And, uh, did he ever tell you how it -- how he was gonna get rid of the body?

WIT: Yeah, he did.

OFF: What did he tell you?

WIT: He told me that he was gonna bury it, um, under a concrete in his backyard. And, uh, I said, "Whatever," you know. And, um, his girlfriend was gonna come over that day. And the day was the day that I -- he called me and his girlfriend was gonna be (unintelligible) Friday. His girlfriend was gonna get out of school, JAMIE, and, um, he -- she -- oh, man, this is hard.

OFF: That's okay. Let's -- we're kinda -- we're kinda drifting here. So you -- you told your girlfriend about this. And then you went back home. Did you tell anybody at home about this?

WIT: Yeah. Yeah. I told my mom.

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OFF: Okay. Did you tell anybody else?

WIT: Um, no.

OFF: You told me earlier that you told your -- your friend BRENT.

WIT: I told BRENT YOUNG.

OFF: Okay. BRENT?

WIT: Yeah. I called BRENT YOUNG and asked for some advice.

OFF: And what did he tell you?

WIT: He said call the cops.

OFF: Okay. Did you call the cops?

WIT: Um, I -- I called OFF. SHIRLEY and tried to get ahold of him.

OFF: Di -- were you able to?

WIT: Uh, I was not able to get ahold of OFF. SHIRLEY.

OFF: Okay.

WIT: Uh, 'cuz I was scared.

OFF: Okay. Did you leave a message for him?

WIT: Yes I did.

OFF: Okay. Did he ev -- did he ever call you back?

WIT: No he did not.

OFF: Okay. Uh, you told me that later that day you went back over to GARY's house.

WIT: Yes I did.

OFF: Okay. And, uh, you met, uh, BRENT over there. Is that right?

WIT: Yeah.

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OFF: Okay. What did you and BRENT talk about?

WIT: Uh, me and BRENT -- I told him about what happened. I mean, I called him before and BRENT came over.

OFF: Okay.

WIT: And, uh, me and BRENT decided to go over and make sure that facts were facts and to make sure that they were true...

OFF: Okay.

WIT: ...before we called the cops because, uh, we didn't think it was -- make sure it was a joke, you know.

OFF: Okay.

WIT: 'Cuz that was the truth is the truth. Uh, we didn't wanna make sure -- we, uh -- we wanted to make sure that he wasn't tryin' to play some kinda hide seek kinda fun game with us...

OFF: Right.

WIT: ... or whatever.

OFF: Okay. So you went, uh -- so you came over to CORY's house. Was CORY there?

WIT: Uh, no he was not.

OFF: Okay.

WIT: MIKE RAVELLE was.

OFF: Okay. And -- and MIKE is CORY's roommate. Right?

WIT: Yes he was.

OFF: Okay. Did, uh -- did you talk to MIKE about it?

WIT: Yeah I did for a little bit. I hinted it. And then I laid it out on the line. And then I told him that, um, he probably put it in the garbage can 'cuz was that what he told me he would do.

OFF: Okay. Did MIKE tell you that, uh, he -- he already knew about this?

WIT: He didn't know anything about it.

OFF: Okay. So after you talked to MIKE, what happened?

WIT: Um, I said, "Let's go out in the back and check it out."

OFF: Okay.

WIT: Um, and I said, "Do you know what happened to JESSICA?" And he goes, "No." And I says, "Man, CORY told me what happened." And I told him about what he did in the bedroom.

OFF: Okay. So you guys went out? Out back?

WIT: Yeah. We went out back and we un -- un -- broke into the shed and loo...

OFF: Was the sh -- the shed was locked?

WIT: The shed was locked.

OFF: Okay.

WIT: And we looked at the garbage can. And this garbage can was duct taped. And...

OFF: What -- you -- you said it was duct taped. The lid was duct taped?

WIT: Yeah. The lid was duct taped.

OFF: Okay.

WIT: And I unraveled the duct tape.

OFF: Okay.

WIT: And I opened it up and there was a garbage bag the same as the garbage bag that was in the closet...

OFF: Okay.

WIT: ...it looked like. And then I believed that there was a dead body and then that's when we called the cops.

OFF: Okay. Could you -- what made you believe there was a dead body in the bag?

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WIT: Because it looked like there was hair.

OFF: Could you see hair sticking out of the bag or you could just see hair pressing against it?

WIT: Uh, I didn't really look for sure.

OFF: Okay.

WIT: Um, BRENT YOUNG was the one that went in and looked. I said -- I opened the lid and I walked off and I looked. And -- and I mean I left. And after that, that's when I said, "You go look."

OFF: Okay.

WIT: 'Cuz I was too scared to look.

OFF: Okay. So after you guys left the shed, what did you do next?

WIT: Um, we went back in the house and called the cops.

OFF: Okay.

WIT: Have you, uh, talked to CORY anymore today about this? Has he tried to contact you or...

OFF: No.

WIT: Okay. When's the last time you heard from CORY?

OFF: Um, yesterday.

WIT: Okay. So yesterday would be Saturday or Friday? This...

OFF: It would be Friday.

WIT: O -- okay. Is there anything else you can think of to add to this statement?

OFF: Uh, no. Not that I know of.

WIT: Anything else you can think of that CORY told you about this that, uh, you haven't already told me?

OFF: No.

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WIT: Okay. This statement ends on 1/25 1998 at 0209 hrs.

End of statement.

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Continuation		King County Police			Incident Number				
X	Statement				9	8	0	2	1
	Officer's Witness Statement	Continuation/Statement/O.R.			Date			Time	
	Officer's Report				01/28/98			0904	
V	Name, (Last, First, Middle)			Residence Phone		Business Phone			
	COFFEY, MARK ANDREW			425/271-1304					
Residence Address		City	State	Zip	Occupation	Race	Sex	DOB	
12844 SE 168TH ST/P.O. BOX 58262		RENTON	WA	98058		W	M	11/09/73	
To		Via		Subject					

DET: Are you aware this statement is being tape recorded?
WIT: Yes I am.

DET: Do I have your permission to record this statement
WIT: Yes you do.

DET: Were going to talk again about uh, the situation surrounding COREY BEITO...
WIT: Okay.

DET: ...and as you know he's been arrested for a homicide, correct?
WIT: Uh huh.

DET: You're going to have to speak up and answer in yes and no if you can...
WIT: Yes.

DET: ...'cause our typist is going to type this.
WIT: Okay.

DET: When did you first become aware of this situation?
WIT: Um...

DET: And I got a calendar out here, which, for January which may help you.
WIT: Okay well I do believe it would have been, I don't remember if it was Wednesday night or Thursday night, but it was um, or not, not at night but about 2:00 in the afternoon I do believe is when he called me over at LORETTA's house.

DET: Okay what, what day do you believe that was in the afternoon?
WIT: I...

DET: Do you work?
WIT: No...

DET: Let's try to figure it...
WIT: ...I don't, I don't work see that's...

DET: Okay.
WIT: ...why my days are all messed up.

DET: Do you remember what you were doing uh, Martin Luther King Day?

Officer(s) Reporting	Serial No.	Unit No.	Supervisor Reviewing	Date	Copies to
DET. SUE PETERS	05802	174			

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WIT: No.

DET: Okay.
WIT: I can, I think it was uh, the 22nd.

DET: You think he called you on the 22nd?
WIT: Or the 23rd, one of the two, I'm sorry.

DET: Okay. At about 2:00 in the afternoon?
WIT: Uh, something like that.

DET: All right.
WIT: And uh, he called me and he said there was really something important he had to tell me and um, I say what, why can't you just tell me, he says man you got a, you just, I can't tell you over the phone, I said all right, whatever, you know, and I'm sitting there and I'm over at LORETTA's and I'm just sitting there and I didn't really think much of it and uh, I called him back and I said I'll be over in a little while and uh, I came over there and the time I came over there was probably around uh, 3:30 maybe.

DET: So you went to COREY's house...
WIT: Yeah, well...

DET: ...anybody there?
WIT: ...um, MIKE CORBELL was there um, he was just waking up kind of half awake on the couch, um, COREY was trying to get some sleep uh, he looked like he was really not, didn't have any rest of any kind.

DET: Was he in the living room or the bedroom?
WIT: Um, he was in the living room...

DET: Okay.
WIT: ...when we...

DET: What happened next?
WIT: Um, he brought me into his bedroom and he started to talk a little bit and uh, he said I killed somebody and I said you got to be joking, and uh, he says I'm not joking about nothing and uh...

DET: Now were you sitting on the bed or were you standing or?
WIT: At first I was standing...

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DET: Okay.
WIT: ...and I was uh, looking towards his window and um, he was facing towards me and I was just sitting there and...

DET: Let me ask you, were the sheets on the bed, do you remember?
WIT: Uh, no there, the sheets weren't on the bed.

DET: Okay.
WIT: Um...

DET: Anything else different about his bedroom or...
WIT: Um...

DET: ...something you noticed?
WIT: Um, he did tell me that he washed his sheets.

DET: Okay.
WIT: But that's later on in the, in the day, how he said what he did but um...

DET: So at that point the conversation is just he's telling you that he killed somebody?
WIT: Right, basically yeah, I said I don't believe you and um, um, I said I'm not kidding and he says well do you remember who JESSICA is, and I go, he goes do you remember who JESSICA is and I go yes I do and um, he's, I said she's that girl that LUKE used to go out with and he, and we agreed on you know, that I knew who that was...

DET: Okay.
WIT: ...you know, basically and um, he s...basically said that, that that night um, um, he got really drunk and did something stupid and I said well what happened, and he was real hesitant at first and um, um, we were sitting in his room and I didn't even, I thought it was kind of a jokey story or whatever and then he started telling me a little bit, little bits and pieces here and there, that there really weren't any kind of major things and then...

DET: But, okay...
WIT: ...but...

DET: ...let's hear 'em though.
WIT: ...okay, I know...

DET: What'd he tell you?
WIT: ...about five or ten, ten minutes later you know, he started shooting the breeze a little bit with me and then five or ten minutes later um, he started to tell me the facts and the

things that happened and these are the, I'm going to tell the facts how they happened it's like...

DET: Okay.

WIT: ...can best remember them, and what I remember is he said he went out into the living room that, earlier that evening um, and MIKE CORBELL was having sex with JESSICA on the couch.

DET: Uh huh.

WIT: And um, COREY walked into the bedroom, I mean into the living room and looked at MIKE from the edge of the couch where the door was looking towards the couch, um, and he was sitting there for a few minutes and um, MIKE uh, as MIKE was having sex and stuff and I guess, I don't really know what happened he didn't tell me what happened between um, the time uh, where he was you know, standing there, what he was doing at that time, but what he told me next was that um, she was basically asleep or you know, in a real good sleep in the, in, in the living room of some kind and he was like, she was not really coherent and she would, or he tried to bring her in the room and um...

DET: Into his bedroom?

WIT: ...into his bedroom, yes, and uh, he uh, he, all I, I don't, I can't give you the details of his, to be, doing, threw her down or what he did then because I don't know that, but I do know that he told me he, she was on the bed and um, he wanted to have sex with her and he hit her in the eye and that, that's one thing I do know he told me is he hit her in the eye and um, I asked him why did you hit her and he didn't really give me an, a reply of why he did it other than she was making some noise and she did um, tell him and this is what he told me is that she said it's okay, you can just let me go it doesn't matter um, there's people, I mean, it's just things like this has happened to me before and it won't matter, I just, I just want to go home and I want to see my mom, I want to see my dad, I want see my family and I mean the way he explained it obviously it felt like she was in fear kind of a thing, but um...

DET: Did he tell you he raped her?

WIT: Um, he said he had sex with her, I don't know whether he was forceful um, when he did that or not I can't say that he uh, physically raped her. I do know that he did have sex, sexual intercourse with her because he did say that his semen was inside the body and he was scared of that um, um, that was one of his big concerns um, when he was talking to me. Um, anyway's he was on the bed and everything and she was making noise and um...

DET: What kind of noise, what was your impression of that?

WIT: ...she would, I, I don't, I don't know, she j...all I know is she was starting to make noise and um, COREY told me that she had better stay quiet or something, something of that

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nature, I don't really grasp all the details as he was telling me, trying to picture it in my mind but um, that's when he said he started to strangle her with his hand, hands I mean and then um, he said he (unint..) he didn't, that didn't work all the way he didn't think so he used his belt, that's what he thought, he used his belt or I mean that's not what he thought but that's what he told me is he used his belt and then um...

DET: So is your impression it was COREY'S belt?
WIT: ...I'm pretty sure it was COREY's belt...

DET: Okay...
WIT: ...I mean...

DET: ...but he...
WIT: ...I mean he didn't...

DET: ...he said it was his belt, is that correct?
WIT: Yeah, yeah.

DET: Okay.
WIT: He did.

DET: Go on.
WIT: And um, uh, strangled, strangle her with the belt and then um, he didn't really give me any details of what happened after the whole thing you know, what had happened right afterwards, after he had did the thing but the one thing that really, I forgot to say it the last time was, the thing he forgot to do or the thing he did is he told me is he checked by breaking her finger, he checked one of her fingers he said I wanted to make sure she was dead by, and I checked it by breaking her finger or something like that.

DET: So he, did he motion that he pulled back on a finger, is that...
WIT: Yeah, he said he was, he didn't do it to the body because I didn't see the body yet, he...

DET: Right.
WIT: ...he just said, he just grabbed the, like his finger and he said he snapped it to see if the body would, was going to move or anything, like to see if it was really physically dead and that, that's what he had told me and um, this is starting to get...

DET2: It's okay, just take a deep breathe, you're doing fine.
WIT: ...um...

DET: So this conversation is still occurring in the bedroom, correct?

WIT: Right.

DET: Okay.

WIT: Right, that's what he, and that's, this is all occurring in the bedroom, this is all taking probably five minutes time or so.

DET: Okay.

WIT: You know, and um, he was pretty quick when he was talking and uh, I said I, and then I said man, I really don't believe you, you know, and he, he's like whatever you know, and he kind of shrugged his shoulders and he kind of, down look on his face and um, that's when uh, MIKE woke up in the other room, he knew I was there and stuff and he was up moving around and, and COREY kind of opened his door, you know, of his room and we uh, sat there for awhile and MIKE came in, the phone rang, COREY answered the phone and talked to somebody, I don't remember who it was and um, then I went out and talked to MIKE for a little while and...

DET: Did you have any conversation with MIKE?

WIT: ...oh...

DET: I mean at that point...

WIT: ...no.

DET: ...what you were hearing?

WIT: About what I was, what, what, about...

DET: What COREY had told you?

WIT: No I didn't say anything.

DET: Okay.

WIT: I was still trying to piece it all together and I didn't know if it was true, is it a joke or...

DET: Did you know if MIKE knew anything at that point?

WIT: Uh uh, I didn't know anything.

DET: Okay.

WIT: Um, I just sat there and tried to, it was all the information to me basically and um, uh, we sat there for awhile and um, I went back into the room later and then...

DET: To the bedroom?

WIT: Yeah, this is about probably about ten minutes later and then it was, well I went back in, COREY said I, COREY says man I'm serious man I'm serious, I said man you really got to

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WITNESS STATEMENT OF
MARK COFFEY

be joking and he goes look and he opened the closet door and there was like grey garbage sack and, and I couldn't see a body, I couldn't see any physical features really of any kind but he did try to pull the bag apart and it looked like there was something, looked like flesh but he didn't like, he didn't show any significant body part, it could have looked like a shirt coat, it could've looked like anything so I, I just thought it was like a bag of clothes or something I thought it was like a sick joke, I didn't know, and um, uh, I said man you could, it's just stupid you know, just whatever you know, 'cause it, I figured he just probably like (unint..) and say look man it's a, there's a body there but you know, he wasn't, he was just like see you know, like he didn't really want to show it but he did but he didn't and um, he gave me, showed enough to make me think that it might be but I didn't know enough that it was for sure.

DET: Okay.

WIT: You know, I, and so then that was, made me think it was even more screwy, that maybe there's more truth to this story and stuff and then um, I went back out and I started to talking to him and we were just blowing off steam in the other room and stuff and then COREY started running back and forth into the room, just I don't know what he was doing just, open and shutting, he's locking the door. Everywhere he, every time he left the room he'd lock the door, you know.

DET: Did you ever see any shoes out in the living room that may have belonged to JESSICA?

WIT: I never saw any...

DET: Okay.

WIT: ...at any time, no.

DET: Any of her clothing, did you ever see any of her clothing?

WIT: No I never saw any personally.

DET: Okay. Keep going what happened next?

WIT: Um, I did notice um, uh, oh wait, wait, what am I talking about, that's later, um, that, that's the time, let's see that was, yeah, that would have been well, I left, that's when I left, I think I left then, a little bit I said okay man it's cool, everything's cool I'll be back in a little bit, you know, and that's when I remember I came back and then his dad was there and he, and his brother had came over and...

DET: What's his brother's name?

WIT: Um, JOHN, JOHN (unint..) I think, I just, I don't know, his little brother, and um, his um, let's see what I did, he called his brother and asked for some money for some concrete for, to do the driveway, I think, that's, and that's what we was talking about and then um, that kind of even made me more suspicious you know what I'm saying, and uh, he came over

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and his dad was there and stuff and...

DET: Were you there when his dad was there?

WIT: Yeah I was there.

DET: Okay.

WIT: Um, and we went down to get uh, um, concrete and stuff...

DET: Were you there when they went to get concrete?

WIT: Yeah.

DET: Okay, who drove?

WIT: Um, COREY's dad.

DET: All right, and you were in a truck or what?

WIT: Uh, we were in a Jeep.

DET: Okay so there was just the, how many people were there? COREY's dad...

WIT: It was uh, COREY's dad, um, myself, uh, COREY's cousin, I don't know his name, um, I think it's RANDY, um, and COREY's dad's name of course is COREY Sr.

DET: And where did you go to get the cement?

WIT: Uh, Fred Meyer.

DET: Down in Renton?

WIT: Yeah, we got fifteen bags of it and we came back up and COREY seemed real like, it was real important to get it, you know...

DET: The cement?

WIT: Yeah. He seemed like it was real important to get it.

DET: So was he actually going to start on the project or, or what was...

WIT: Um...

DET: ...he telling his dad?

WIT: ...well he, he said he wanted to go get this concrete, it was like a \$1.99 a bag and me and uh, RANDY were saying hey man you know you can get it cheaper, you just wait a little bit and then you can find it on sale and he's like no, I just need it now, need it now. I was like well you didn't even get the timber to lay the forms and he was like I just need to get the concrete, and so um, anyway we got the concrete and we brought it up and um, that made me even think more.

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WITNESS STATEMENT OF
MARK COFFEY

DET: Do you know what time this would have been about?
WIT: Oh it was about 11:30, by the time we done doing all that.

DET: Now is this the following day or is this the same day where you had...
WIT: It was the same day that um, I had...

DET: ...your first conversation about the body?
WIT: Yeah, I think...

DET: Which is either Wednesday or Thursday?
WIT: Yeah I think it was ac...believe it was Thursday now, now that I've recollect. I don't...

DET: Well we, KATHY had taken a statement from AMY and she thought you had told her Wednesday night about all this stuff going on during the day, during the Promised Land or you had, is that the night...
WIT: Well she...

DET: ...she watches TV, a certain show?
WIT: No, she watches that show yes, but I remember telling her in LORETTA's bedroom, that's when I told her, I remember specific, I remember it was day time, when I came over and it was morning and LORETTA was gone at the time and MIKE was laying down on the, on the recliner and everybody was pretty much gone, so it had to be in, in the middle of the day that I had told AMY, um, that this had happened.

DET: Okay.
WIT: So um, that's what makes me think that Wednesday night is when the party was and that um, Thursday...

DET: Thursday...
WIT: ...morning is when she told, or COREY told me and then I told uh, AMY Thursday morning.

DET: Okay.
WIT: Is when I told her in LORETTA's room, because that's, that's when I told her 'cause I remember sitting on the bed and I was changing my baby's diaper and I said you know, this is real serious and I don't want you telling anybody, I was like I don't know if it's a joke or not and stuff and...

DET: Okay well let's get back, so it would have been Thursday morning around 11:30, twelve, when you...
WIT: Yeah.

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WITNESS STATEMENT OF
MARK COFFEY

DET: ...went and got the concrete?

WIT: Yeah.

DET: Okay.

WIT: No, not, well that we got the concrete? No, it was the night before that they did.

DET: So you got the concrete at night?

WIT: Well, yeah.

DET: Okay.

WIT: It was like 8:00, was weird day, earlier.

DET: 8:00 at night?

WIT: Yeah about that.

DET: Okay and you believe that was Thursday night?

WIT: Yeah.

DET: Okay.

WIT: Something, I don't know.

DET: So what happens after you get the concrete? What do you do with it?

WIT: Um...

DET: Who unloads it, where do you put it?

WIT: Well we just unloaded it and put it in the kitchen, all of us, me, his cousin, his dad...

DET: Okay.

WIT: ...um...

DET: Then where does everybody go, does his dad stay or?

WIT: His dad was there for awhile and uh, his cousin or whatever was there for awhile and um, MIKE was there and uh...

DET: MIKE CORBELL?

WIT: CORBELL, yeah, we all drank some beer and um, uh, I remember COREY didn't want his dad to drive because he was a little tipsy, but then his dad drove home and he was fine, he, he decided he was fine at that time, he drove home and um, he called and that was about 1:00 in the morning, I do believe, um, that he called and now that's when I...

DET: So that would have been early Friday morning?

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WIT: Yeah.

DET: Okay.

WIT: About Friday, something like that and then um...

DET: Did you end up going home or?

WIT: ...um, yeah at about an hour later.

DET: Okay.

WIT: I just sat around for a little while and MIKE kind of went to sleep and COREY was just sitting there in a chair in this little broken chair in a corner and I said man I got to go, so I went back to LORETTA's and uh, um...

DET: Now have you had any more conversation with COREY, you know, what's he going to do with the body, is he worried or is there any more conversation going on?

WIT: Um, not during this time, no.

DET: Okay.

WIT: Um, but what he did do is he called me and he was worried um, he called, he kept, he kept asking me um, called me the next day um, that Friday morning um, he was calling me to say my girlfriend's coming over and I got a problem and I need help moving the body and I said what are you talking about, I says, I said you got to be joking you know what I'm saying, I said no way you're joking and that's when I really, really got suspicious that it was really truly a murder that had happened and um...

DET: So he was telling you his girlfriend JAMIE was coming over Friday?

WIT: Yeah.

DET: And he needed to get the body basically out of the closet?

WIT: Out of the closet.

DET: Okay.

WIT: Okay um...

DET: So what were you advising him or what did you do?

WIT: I didn't, I didn't advise him of anything, I said I don't know what to do.

DET: Okay.

WIT: Okay um, because uh...

DET: Was he making any suggestions what he wanted to do with it?

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WIT: Yeah he says uh...

DET: What was he saying?

WIT: ...he said I need to bury her or put her in the backyard or do something and uh, um, I said well do whatever you know, and uh, um, yeah, and then I was, said you know, well whatever and then that's when I hung up and then I said, I go and then he called back again and said uh, no well hey what's going on you know, can you come over and you know JAMIE's going to be coming over and then I said no I don't really want to come over you know, he says yeah I bought a new garbage can and stuff and, and he didn't really, and he, and he said he bought a new garbage can and said that the body was heavy, that's all I kind of really remember, so that made me think something you know, it doesn't all fit in my brain yet, I mean all the pieces yet, but that's kind of where, kind of where it went.

DET: Okay.

WIT: Um, and then that next night um, or that day I called BRENT, my friend BRENT YOUNG and told him and actually before that I told AMY and all that and my mom and, and I was...

DET: Now let's talk about the note you gave your mom, why don't you tell us about that.

WIT: Yeah I was, after I told, told uh, AMY you know, and she was the first person I told.

DET: Okay.

WIT: And she was all really scared, really, really, scared, I didn't know what to do, and I didn't know for sure uh, of anything or whatever or, and then I said uh, um, uh, I told her what, what was going on um, and then I told um, my mom when we were driving home, I said...

DET: Okay tell me what you remember telling you mom, when?

WIT: We were driving down, we just came across from down from Skyway and we came right by the um, Sound Ford place and...

DET: What day was this?

WIT: Um, Friday morning.

DET: Or was it the day the body was found, Saturday?

WIT: No it was...

DET: Okay, Friday.

WIT: Friday morning.

DET: That's correct.

WIT: Friday morning.

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DET: Because that night was the night you guys called the police, correct?

WIT: Right.

DET: Okay so Friday you had a conversation with your mom?

WIT: Yeah.

DET: All right, what time was that about?

WIT: Um, it was in the morning...

DET: Okay.

WIT: ...I think, uh, 12:30 or so, you know in the mid noon sometime...

DET: All right.

WIT: ...whenever she picked me up, 11:30, uh, somewhere right around there and uh, I said man mom I'm really spooked, she goes what are you talking about, I had, and I hold up her gas mileage log book and I wrote it in there and...

DET: Okay...

WIT: ...that's what this note is.

DET: ...and this is this note you've turned over to us?

WIT: Yeah.

DET: Why don't you go ahead and read what you wrote.

WIT: It says: a fourteen or fifteen year old girl was raped and killed, this is not a joke of any kind.

DET: Okay. What, why did you use the word rape?

WIT: I just, it just the way...

DET: Was it from what...

WIT: ...maybe I pictured it...

DET: ...COREY was telling you...

WIT: ...and I...

DET: ...and that was...

WIT: ...yeah.

DET: ...the picture you came up with?

WIT: Yeah, that's the way I pictured it in my head, probably at the time, I don't, I don't really, I don't, just a lot facts I don't even think of right now that are probably hidden back in my

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brain somewhere but um, I don't...

DET: Okay. So you told your mom and then did she advise you what to do or?
WIT: Um, she said that I should call somebody and that's when I said okay, I'm going to call somebody and I left a message for SAM SHIRLEY and I said, 'cause that, that's somebody I know and...

DET: An Officer.
WIT: ...an officer and uh, I, I left a message with somebody at a 2-0 something number and they said that he doesn't get on, on, get on work until 2:00 and I told them that it was urgent and he never replied and then uh, later that night I went over to LORETTA's house and uh, I had my friend BRENT come over and I told him what was going on again and, and me and BRENT went over and investigated it and that's when we called the police.

DET: Okay so is BRENT a buddy of yours?
WIT: Yeah he's someone from my church.

DET: Okay so tell me the details of that, start from the beginning when BRENT came over, what did you guys do?
WIT: Um...

DET: You went back to COREY's, correct?
WIT: No BRENT, BRENT came to um, LORETTA's house...

DET: All right.
WIT: ...right, and we sat there for a few minutes and then um...

DET: Did you tell him what was going on?
WIT: ...um, he knew what was going on, I called him before.

DET: Okay, earlier.
WIT: Okay and I told him because I was scared, you know, and he didn't believe me on the phone you know, um, and then he didn't believe it was true you know, when I called him before because I, I didn't know what to do um...

DET: Okay.
WIT: ...earlier and um, then I um, and we were at LORETTA's and stuff, we sat around for about ten minutes and then we went over to COREY's house and BRENT's like well we're just going to go over there, BRENT was pretty forceful...

DET: And who drove?

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WIT: ...uh, BRENT.

DET: Okay.

WIT: Uh, BRENT drove over there and...

DET: And were you the only one with him?

WIT: Yeah.

DET: Okay.

WIT: Me and BRENT and uh, me and BRENT went over there and we knocked on the door and MIKE (unint..) answers the door and, and BRENT told me to um, say hey MARK if any of this is true, you know, um, I want you to see how um, uh, MIKE reacts when you ask him uh, how an accessory to murder will be and you know what I'm saying, and I, I asked him, we started to ask him a few hints and questions and stuff and um...

DET: Were you trying to figure out if MIKE knew anything?

WIT: Yeah, I was trying to figure out if MIKE knew anything or if this was, like if COREY had said anything um, that night or, or he had been bothering about it and um, um, MIKE...

DET: What was your impression of MIKE?

WIT: MIKE was like well gee, you know MIKE, COREY's been asking a lot of questions you know, that, that's, that's what MIKE was leading up to basically um, because uh, I didn't give any details of anything that COREY had said and then I said um, uh, and MIKE goes, and I says well how is accessory to homicide look and he goes what do you mean, I said you don't know do you, he goes no I don't, that's what MIKE says, he goes no I don't and I go well supposedly the other night COREY killed somebody, raped and killed her, he goes oh my God and I go, I go and this flat out the deal is, and this is what COREY told me and we were standing in the living room, me and BRENT and MIKE were standing in the living room, I said okay, from the facts that I've gathered here you know, in the ca...past couple days and this is leading me to believe in, um, I said okay um, you didn't see COREY leave with anybody and then we started talking and leading everything up to where he was and follow his tracks and made sure that, because we were really, really concerned and then um...

DET: Did you know COREY was gone over to LADD'S at this point?

WIT: Yeah we, um, MIKE had told me and...

DET: Okay.

WIT: ...not be..not when we came over but...

DET: At some point that night?

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WIT: Yeah we just came over and it, by the grace of God, he was gone. Um...

DET: Okay go ahead.

WIT: ...is that...

DET: All right, we'll go ahead and turn this over, the time is uh, 9:34 hours, I'm going to shut it off.

DET: Okay we're back on tape uh, the time is 0935 hours. You're still aware this is being tape recorded?

WIT: Yes I am.

DET: And I have your permission to record your statement?

WIT: Yes you do.

DET: Okay so you and BRENT have just arrived and you're talking with MIKE okay what do you guys, what do you do next?

WIT: Um, we were sitting there in the house and uh, we, talking to MIKE and we started, we, we wanted to see how MIKE was going to react of when we asked him some questions to see if we, he was involved, 'cause he was there at the night of the party from what COREY said and I wanted to confirm facts before I started (unint...) do some investigating and uh, from what I had gathered from MIKE, I had asked him um, so did you see JESSICA and he says yeah he, she was here that night and, and then I said um, did you see her leave and he said no.

DET: Were you there for that party, did you ever stop in?

WIT: No I was never there.

DET: Okay.

WIT: No, um, uh, MIKE said no and um, um, that just threw me off...

DET: Okay so you guys were talking with MIKE about if he had seen JESSICA Wednesday night...

WIT: Oh...

DET: ...and he told you he did see her at the party.

WIT: Huh?

DET: MIKE told you he saw JESSICA Wednesday night at their party?

WIT: Yeah.

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DET: Okay.
WIT: And uh, oh man...

DET: All right, take a break, did you ever go into the bedroom? How did you guys begin to investigate, what rooms did you go into in the house? Were you looking for something in particular?
WIT: Um, not really, we were just...

DET: Okay.
WIT: ...looking for clues and...

DET: All right.
WIT: ...just investigating.

DET: Did you go into COREY's bedroom?
WIT: No, we didn't go into COREY's bedroom.

DET: Okay.
WIT: 'Cause COREY called me and said did his girlfriend come over, before that, you know what I'm saying and said he had to get rid of the body and uh, that's what made me believe and I, and I saw the new garbage can outside on his back porch, because we were walking a lot back and forth in the house and BRENT was the guy that flipped the back, you know, BRENT went to the back thing, or the back porch and flipped the light on, said oh COREY bought a new garbage can and that made me really, really suspicious.

DET: Did MIKE tell you he was with COREY when he bought the new garbage can?
WIT: Uh...

DET: Did you find that out?
WIT: ...no I don't, I didn't...

DET: Okay.
WIT: ...know, I didn't know anything about that, of whether MIKE was there or not, um...

DET: So how did you end up at the back shed?
WIT: Um, I asked MIKE where the other garbage can was, he said he put it behind the shed and um, we went looking for the garbage can and uh, it wasn't behind the shed and then we wanted to see if it was in the shed and it was locked and we stuck a screwdriver or was it a screwdriver or like a knife, something, we stuck I don't remember what it was, we stuck it in the, between the shed doors, pried it open and we looked in there with a flashlight um, and we were looking around we could see that the top of the um, uh, what

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do you call that, the garbage can was duct taped and that was real suspicious so that's when we opened the doors, we unscrewed the latches and then uh, I undid the duct tape and then I turned away, I said you guys can open the lid and then um, I don't really remember between BRENT and MIKE doing it and then all I heard was oh my God and then that's when I called the cops.

DET: All right.

WIT: So...

DET: Did COREY ever ask you to help bury her or did that ever come up, did he directly ask you to help bury her?

WIT: He tried to but we, I mean not, not like directly, directly, but he wanted to but...

DET: And what was his plan, what, what was he coming up with?

WIT: I, he didn't really have any one plan, he was trying to fish for information and I didn't really give him any information. He was just kept telling me all this stuff and I just, it just kept, to me it kept, I just thought it was a bunch of nonsense you know and...

DET: What about the bags of cement, did he ever say that...

WIT: Well...

DET: ...any mention of digging a hole and putting cement on her?

WIT: Um, not really because it, he did and then he didn't in a way because I knew he was planning on doing his carport for a long time you know, so that really didn't blow me away, you know, but um...

DET: So you just thought the timing was weird, it was...

WIT: Yeah and...

DET: ...not so much that he said anything, is that correct?

WIT: ...well it's just that he's impatience, impatience with the um, concrete, is, is, is why do you have to have it right then, I mean, you have to have a known, when I went to Job Form Building and Apartment Maintenance and you have to build the forms first before you can even buy the concrete to put it in, why do you buy the concrete before you get the forms in, it just didn't go together, one, you can't put the puzzle in the square if there's no square to put it in...:

DET: Right.

WIT: ...you know whatever.

DET: But COREY never verbally said let's dig a hole and put cement on top of her though?

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WIT: No, no.

DET: Okay.

WIT: But just, just...

DET: He did mention though maybe burying her though, is that correct?

WIT: Yeah, yeah.

DET: Okay. Now you've known COREY how many years?

WIT: I would say twelve.

DET: And what, how would you describe his behavior, his personality, what have you seen?

WIT: Well, I've known him since when I was fourteen or fifteen, um, at first we were real good friends and he never, he was, he got in a lot of fights with his dad you know, back and forth, um, uh...

DET: Actual physical fights or just verbal?

WIT: Uh, most of it was verbal, verbal kind of fights um, his dad would call the police a lot and me and him got uh, in trouble a lot, not really a whole lot but we got a, in trouble for uh, a couple burglary's and uh, or and theft things and, and possession of burglary tools and things like that, growing up with years but um, his behavior as far as I'm concerned he really wasn't, wasn't violent um, for four or five years but for the last six years he's been real abusive um, he's been abusive towards his girlfriend JAMIE. I do know that um, he put a gun to JAMIE's head um, awhile ago, um...

DET: Is that gun still around or...

WIT: I don't...

DET: ...do you know if he could...

WIT: ...I'm pretty sure it's gone. Um, but I know he put a gun to JAMIE's head um, for some power control deal that he was doing um, and uh, that's what he told me and I believe he hit her a couple times but um, he really wasn't like real, real violent, he wouldn't like beat her down to where she was black and blue but I know he hit her a couple times, I mean that's about enough, if you ask me in my book, one hit's too much if, if you think about it, so.

DET: Okay, what about drugs?

WIT: Um, he used to do crank a long time ago, but um, that was before he went to prison, um...

DET: So with, what about this last year and have you known him to use any drugs?

WIT: Just alcohol.

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DET: Alcohol.
WIT: Severely.

DET: Okay how much does he drink or have you seen him drink?
WIT: It's not how much does he drink it's how much can he drink.

DET: Okay.
WIT: He can drink, he can consume a lot of alcohol um, uh, everyone including myself could probably verify that he's a fish. I mean he just drinks and drinks and drinks and drinks and drinks.

DET: Now how does he become when he drinks or when he's drunk, I mean, is he...
WIT: Um...

DET: ...stumbling drunk and uh, funny drunk or a mellow drunk?
WIT: ...with, with me, he's pretty nice but with some other people he becomes controlling and I see that uh, probably just because he knows me and he's known me and he can see I probably, you know, not, he feels like there's a security thing for him um, but uh, he knows me well enough not to mess with me pretty much but other people he kind of messes with them when he's drunk. He, he tries to prove his manhood or you know, tries to show off and show his Ti-Kwan-Do stuff, he's uh, tries to be pretty controlling sometimes um, even with MIKE. I've seen him be controlling like you know, you do the dishes, do the dishes you know, I've seen just little simple things...

DET: He'll order people around?
WIT: ...kind of ordering, yeah, yeah.

DET: Now when he has had this much alcohol to drink which you know, a large amount, is he falling down or does, is, 'cause he's so used to drinking that he's you know, can handle it?

WIT: Um, he's usually coherent, to a point, I mean you can't, I don't, I don't know how coherent coherent would be considering the fact that he tried to commit suicide before in his house and I was there and he'd been drinking and I tried to get him to stop doing what he was doing before I called 911 um, I don't know, I...

DET: How often does he drink?
WIT: Three to four, maybe five times a week. You know, I mean it's, you split it in half and you get another on so it's like two-thirds, you, two-thirds of the week.

DET: Okay and what does he drink usually?
WIT: Hard alcohol, he like prefers it.

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DET: What type, if you know?
WIT: Whiskey.

DET: Whiskey, straight or with coke or?
WIT: Anyway he can have it.

DET: Okay.
WIT: So I don't, I don't know.

DET: What about uh, in his bedroom there's some incense and all different sorts of things on that table...
WIT: Yeah.

DET: ...what, what is that to him, or what do you know about that?
WIT: Uh, he's in witchcraft.

DET: Okay, deeply or just tinkers in it?
WIT: Um, he never really got really involved in it, um...

DET: Does he um, meditate and stuff like that or?
WIT: He did, we all did at one time.

DET: Uh huh.
WIT: Um, uh...

DET: So has he been tinkering it lately or is just something...
WIT: I don't know.

DET: ...that sits there?
WIT: I don't know, uh, that's something I gave about four or five years ago, I leave it to God.

DET: Did he...
WIT: I, I used to be in witchcraft too and we all were together but I never, I mean knowing what it was before, I never seen, I know how he used to be with it and now I think it, with it having on his, the alls are out the way he did it was more like decoration to what the way I thought, the way it was set up and stuff, so...

DET: So he hasn't been talking about it regularly or anything?
WIT: Oh no, no, it's not a regular thing because um, I could go running and I could touch his altar and he wouldn't, it wouldn't bother him and um, uh, if he was really, really gratifying in something he would've definitely not let me get near it, you know what I'm saying, and

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it really wasn't an important thing to him, the witchcraft function.

DET: Was there any men...mention that this thing with JESSICA was over any of that witchcraft stuff or?

WIT: No, no, none what so ever.

DET: All right uh...

DET2: Just a quick question along those same lines MARK, at anytime during uh, the practice of the witchcraft did it ever involve hearing of voices or following voices of, that you were...

WIT: No it uh, the, the kind of (unint..) that we did, at the time I did, I don't, can't speak for him, but it was basically just we were trying to get our, get to know ourselves and that, that was all it was, um, it was just basically meditating.

DET2: Okay.

WIT: Um, we didn't really try and do spells or anything. It was basically you know, making (unint..) feel special, that's, that's basically it you know. Uh, I gave it, gave it up to God.

DET2: Right.

WIT: A few years ago so I don't know what it is for COREY, but I can see the difference of when he was practicing and that he isn't practicing...

DET2: Right.

WIT: ...okay right now at this time, he is not practicing I can, I can you know, I can see that mentally where he was before and now, he isn't practicing now, he doesn't have nothing to do with it. And I think it...

DET: Did uh, COREY show any signs of remorse or did he, did you ever see him cry about JESSICA or you know...

WIT: Yeah he um...

DET: ...any comments like you know, I screwed up or anything like that?

WIT: ...yeah he did, um, uh, the night uh, I can't, actually I really don't remember what night it was to be honest with you it was the night before JAMIE came over.

DET: Thursday night, she came over Friday, that's what she told me.

WIT: Okay Thursday night um, yeah Thursday night again um, let's see, COREY was telling me that he didn't know what, what he'd done you know and he said to me basically I don't know what I did, what did I do and he, I can remember him sitting on the couch because I was gathering all my CD's, you know I was getting all my CD's together and I remember COREY sitting on the couch and he was looking at his hands right in front of him and his, both of his eyes were real wide and he, he was almost in a blank stare for a second and

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then, then he was just going to, he kind of cupped his blanket and held it for a little bit and just sat back like this, you know, that's, that's what he did, probably for a little while, you know, so.

DET: Okay.

WIT: That, I mean, he did, that's kind of the remorse he did, he didn't know what he was feeling and I mean that's how, I don't think COREY intentionally did what he did. I don't think that was what his purpose was, I don't think he wanted to do any of this. Of course, you know...

DET: Well looking back, I'm sure he didn't.

WIT: ...I think it's uh, alcohol that did it, basically you know, the rage inside somewhere, I don't know.

DET: All right, anything else you'd like to add to your statement MARK?

WIT: Not really.

DET: Okay, we're going to end this statement at 0950 hours.

WITNESS STATEMENT
NICHOLAS GASCHE

APPENDIX E

Continuation <input checked="" type="checkbox"/> Statement <input type="checkbox"/> Officer's Witness Statement <input type="checkbox"/> Officer's Report	 King County Police Continuation/Statement/O.R.	Incident Number								
		9	8	0	0	2	1	7	6	4
		Date				Time				
02/04/98				1420 HRS.						
W	Name, (Last, First, Middle) GASCHE, NICHOLAS J.			Residence Phone 206-772-1548			Business Phone			
Residence Address 12805 84TH AVE. S		City SEATTLE	State WA	Zip 98178	Occupation student	Race W	Sex M	DOB 10/25/79		
To		Via			Subject					

DET: NICK, are you aware this statement is being tape recorded?

WIT: Yes.

DET: Do I have your permission to record this statement?

WIT: Yes, you do.

DET: On... February (January).... 22nd which was a ... Thursday, did you go over to a.. a residence up in Skyway?

WIT: Yeah.

DET: And whose house was that?

WIT: It was... uh.. COREY.

DET: And do you remember what time you went to COREY's?

WIT: Um... I stopped, the first time I went over there... I stopped by like 8:30 or so. And then.. I took off to go to AA meeting and then came back around 10:30 or so.

DET: And are you positive it was Thursday and not Wednesday night?

WIT: No, I can't.. when I was over there, it was Wednesday night.

DET: Okay.

WIT: And I left at 4 o'clock in the morning Thursday.

DET: Okay.

WIT: (Unintelligible.)

DET: So.... what were you doing Wednesday? Did you go to school on Wednesday?

WIT: No.

Officer(s) Reporting Det. Sue Peters	Serial No. 05802	Unit No. 174	Supervisor Reviewing	Date	Copies to
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DET: The 21st?

WIT: No. I didn't have school that day.

DET: Any reason why or?

WIT: Nah, it's .. Renton Alternative, but we only go to school four days a week. And we get Wednesdays off.

DET: Okay. So...

WIT: And...

DET: What time did you end up going over to COREY's that day?

WIT: Uh...I was there just when I got there and stood there. I was there at from.. 10:30.

DET: At night?

WIT: Yeah.

DET: Okay.And how did you get over there?

WIT: I walked.

DET: From your grandparents' here?

WIT: Yes.

DET: And that's approximately about a mile? A mile and a half?

WIT: About that.

DET: Okay. How long have you known COREY?

WIT: Um.... about four years.

DET: And what about JESSICA? How long have you known her?

WIT: Um,about a year and a half.

DET: And it's true she was an ex-girlfriend of yours, correct?

WIT: Yes.

DET: Okay. Let's talk about.. Wednesday the 21st,you got over there about 4:30. And who was at the house?

WIT: Um, there's... when I got there, there was COREY, JESSICA, her boyfriend... and..

DET: It's her new boyfriend?

WIT: Yes.

DET: Had you ever seen him before?

WIT: No.

DET: Does the name BILLY sound familiar?

WIT: Yes.

DET: Okay. Who else was there?

WIT: Uh.... a kid named SETH.

DET: Do you know him?

WIT: Yes.

DET: Okay.

WIT; And then... about five, ten minutes after I showed up uh... MIKE or MIKE CORBELL showed up.

DET: Alright.

WIT: And...

DET: Did any other kids drop in or?

WIT: Um, ADAMS, MIKE ADAMS stopped by. And then he was only there for like five minutes. And then he took off , 'cuz he had to go to work.

DET: Now, how's it end up that you go to COREY's house? Did you know something was going on there ? Or is that something normal for you?

WIT: Nah, I just, just it's kinda normal for me.I'm in that area just to stop by and see what he was doing.

DET: Okay.

WIT: And the main reason I stopped by was to see if... MIKE CORBELL had my , he had my five bucks. And I stopped by to see if he had it.

DET: Okay. Now, when you arrived... did you go in the front door or the back door?

WIT: The front door.

DET: And who let you in?

WIT: JESSICA.

DET: Alright. And...what was going on? What do you remember seeing when you went in the house?

WIT: Um.... COREY was sitting on the chair over by the fireplace.Uh... SETH was sitting by the bar. And... uh, BILLY was sitting on the couch.

DET: Right.And JESSICA?

WIT: JESSICA she, she like tackled me as I was trying to walk in the door.

DET: So,she was happy to see you?

WIT: Yeah.

DET: Alright. Now, did you see any alcohol there when you arrived?

WIT: Uh, there was uh... a .. fifth on the bar. There was like, a... maybe a quarter of it left.

DET: Alright. And do you remember what kind of alcohol that was?

WIT: It was some kind of vodka.

DET: Okay. Was everybody now drinking some of that vodka? Or what was, what was happening as far as ...

WIT: I....

DET: ... alcohol?

WIT: I'm not sure.

DET: Okay.

WIT: 'Cuz I know, I know COREY wasn't drinking it.

DET: He was or wasn't?

WIT: Wasn't at that time.

DET: Okay.

WIT: And... I think SETH was. And I'm pretty sure JESSICA was, 'cuz she looked kinda drunk. And I don't know about BILLY, 'cuz he was driving. I'm not sure about him.

DET: Okay. And did you have any alcohol?

WIT: No.

DET: Were they just drinking shots or were they mixing it or?

WIT: Um..... I couldn't tell. They had a.. two liter Coke sitting next to it. But (unintelligible) they didn't ,they're either mixing it or using it for chasers.

DET: Okay.

WIT: So...

DET: Now, how long were you there the first time? or did you stay one time?

WIT: No, uh... before I stayed there, I was there for about 15 minutes.

DET: Okay. So roughly 10:30 to 10:45 you were there?

WIT: No, uh... I was, I showed up earlier to see if MIKE was there.

DET: What time was that?

WIT: Um... that was about 8:30.

DET: Was this group there yet?

WIT: No. It was just COREY.

DET: Alright. So, that was the first time.

WIT: Yeah.

DET: And the second time is about 10:30?

WIT: Yes.

DET: And.... how long did you stay that... ?

WIT: The second time?

DET: Yeah.

WIT: Um... ta, I left there uh.. 4:00 around 4 o'clock in the morning.

DET: Alright. Now, tell me... what you remember going on while you were there? When you,let's start with JESSICA. What do you remember JESSICA doing? Or did she ever leave?

WIT: Um.. when I first got there she answered the door. And she,she came... like... tackled me kind of as I was walking in. And... she was... Oh, I'm so happy to see you. This and that. And just like... oh happy, happy. Real happy to see me. And she like Do you wanna go for a walk? And I was like, Sure. I didn't know her boyfriend was there. I didn't know she had a boyfriend. So me and her, we walked around the block. Talking and stuff.

DET: Now, how was she acting as far as was she able to walk and keep talking to you?

WIT: Yes.

DET: Okay. Could you tell she was slightly buzzed or was she drunk? Or describe her at that point.

WIT: Uh..I'd say that she had.... a good beginning of a buzz going.

DET: Okay. And go ahead. So you guys went on a walk. What did you talk about?

WIT: Um,she... she talked about getting back together. But I've,I... have a girlfriend now. And at the time she had a boyfriend. And... but she was just like I wanna get back with you and I still love you. And all this. And... I was just like.. Well, I'm sorry. I'm 18 and you're 14. I could go to jail and that's really not worth it. And I, plus, I had a girlfriend right now, too. That she got mad at me for that. And then she...

DET: When she got mad at you, where were you? Were you walking or was she...?

WIT: Yeah, we were walking.

DET: Okay.

WIT: And then... she was kinda... like kinda blew it off. You know it's not really that big a deal. I guess it was to her or whatever. And we just walked around the block and then we got back to the house.... COREY, BILL... BILLY and... SETH were gonna run down to the... liquor store.

DET: Okay.

WIT: Before it closed. And get like another fifth or something like that.

DET: Did you see them leave?

WIT: Yes.

DET: Okay. So... who was driving them?

WIT: BILLY.

DET: Okay. And COREY , SETH and BILLY left?

WIT: Yes.

DET: Alright. So , who's that leave at the house then?

WIT: Um, at first I was ...it was just gonna be me alone and JESSICA was gonna go with 'em.

DET: Uh-hmm.

WIT: But she found out I was staying , so she wanted to stay.

DET: Okay. So were you two there by yourselves?

WIT: Yes.

DET: Okay. How long were they gone to the liquor store?

WIT: Um..... roughly about 20 minutes.

DET: Okay. And... do you remember what time period this would have been?

WIT: Um.... no. It was...

DET: Was it after midnight or before midnight?

WIT: It was before midnight.

DET: Before midnight.

WIT: Yeah.

DET: Okay. I don't exact, expect you to be exact, but...

WIT: Yeah.

DET: ...you know just...

WIT: It was..

DET: ...give me a rough.

WIT: It was probably like 11:00, 11:15.

DET: Right.

WIT: By the time they left.

DET: Now, did... JESSICA continue to drink while you guys were at the house or?

WIT: No, there's... no alcohol there when we got back.

DET: Okay. So the vodka was gone?

WIT: Yes.

DET: Okay. And.. what did you guys do? Did you go.. did you talk somewhere or?

WIT: Well, we just... we sat in the living room and she got... she, me and her started talking. And I was like, no, I don't want to get back together with you. And she started getting really mad, started screaming and yelling at me. And I was just sitting there. And I was like, Hey, you don't need to yell at me. You know I was trying to calm her down. You know and... so when COREY got home we wouldn't all be pissed off. Or whatever. And.. like that. And I got her calmed down. And then she said something else, then... I can't remember.

DET: Do you remember what?

WIT: I dunno. It was something like...um, she wanted to go back out with me. And she'd do anything to be with me. And I was like, There's no possible way for us to go back out. And she was, she just got really mad after that. And like the rest of the night was... me and her arguing back and forth. Screaming at each other. Stuff like that. Her trying to get me to hit her. After that it was... and...

DET: Did you ever hit her?

WIT: No.

DET: Okay. Did she have any... injuries to her face? when you were there?

WIT: No.

DET: Okay. Would you have noticed if she had like a ,a bloody nose or a black eye?

WIT: Oh yea.

DET: Okay. So... she had no injuries?

WIT: No.

DET: And you saw?

WIT: She had some scars on her wrists.

DET: Okay. NICK...

WIT: And that was from... the previous suicide attempt.

DET: Okay. Now, tell me about the knife incident? There were several of them, right?

WIT: Right.

DET: Where she got a knife? Now, what time... did that happen when the group comes back? Or does that happen while you .. were there alone?

WIT: The first time hap, the first time she tried to... grab a knife and slit her wrist was right before everybody got back.

DET: Okay. Tell me what lead up to that? Was she just upset that?

WIT: Yeah, I was..

DET: You guys weren't gonna get back?

WIT: Yeah.

DET: Okay.

WIT: And she ran into the kitchen and I heard her pull the knife out.

DET: Now, where would she have got a knife?

WIT: Um, in the kitchen, there's a... that little block, it has little slits in it for the different size knives.

DET: Right.

WIT: And it was full of knives.

DET: Okay. So she took one outta there?

WIT: Yeah, she took it out, the big... uh.. chopping... so.. fillet knife.

DET: Okay.

WIT: Out of it.

DET: And what happened next?

WIT: And as I, I heard her pulling it out. So I ran in there and I grabbed it outta her hand. And uh.. stepped in front of her. And put the knife back and turned around. And she was just standing there trying to reach for the knife, so I, I wouldn't let her. And I... finally got her to go back into the living room. And then... we're sitting there. And then she starts screaming at me, again. And COREY came walking in the house. And was like,... and COREY was like, kinda like laughing. He goes Man, I thought JESS, JESSICA was beating the crap outta you or something like that. I was like, Nope, she's... just all pissed off 'cuz I won't go back out with her. And COREY was like, Oh, oh well, like that. And he walked in the kitchen and opened up the refrigerator and I dunno if he put something in or grabbed something outta there. I'm not sure. But he came walking back in. And set the... another fifth vodka down on the bar.

DET: Now, do you know if they bought vodka or whiskey?

WIT: Um.....it might have been whiskey.

DET: What color was the bottle?

WIT: Uh, a brown color.

DET: Okay. Did you have any ... of it to drink?

WIT: I had like a shot.

DET: Okay. Did you know if it was... vodka or whiskey?

WIT: Uh....

DET: If you don't know, that's fine.

WIT: I'm not quite sure.

DET: Okay. But a brown bottle definitely?

WIT: Yes, and it had a.. brown and white.. label on it.

DET: Alright. And were other people sharing that , too, as well?

WIT: Yes. Ever, everybody there was, including COREY.

DET: Okay. And JESSICA, did she have something to drink outta that too?

WIT: Yes.

DET: Okay. Now, what happens next? Does JESSICA ..

WIT: Um...

DET: ... grab the knife while the group's home? Or?

WIT: Um...

DET: Did they miss that?

WIT: At first.. after they got back, at first, I went outside and smoked a cigarette. And... with ...MIKE...

DET: MIKE? Which one?

WIT: CORBELL.

DET: Okay. So how, how does he get there? Does he come..

WIT: And... he just...

DET: ... at this point?

WIT: Yeah, he just like walked in... to the picture.

DET: Alright.

WIT: Just like off the side, just kinda... barged in the door type deal.

DET: Okay.

WIT: And then... he asked me for a cigarette. I was like, yes, let's smoke one. That me and him went outside and started smoking a cigarette. And... he was like, god, I wish JESSICA would leave. 'Cuz he doesn't like JESSICA at all.

DET: MIKE doesn't?

WIT: No.

DET: Okay.

WIT: And.... me and him were talking. And then I was like, yeah, she's all pissed off at me, 'cuz I won't go back out with her. And this and that and he's like Oh, don't worry about it. And... you know and... I was like, I'm not going to, because I have another girlfriend right now. Like that and... I really, I wasn't really worried about it.

DET: Uh-hmm.

WIT: You know and then.. she came out and it was like, Look, I need to talk to you. It was like, right before I finished my cigarette. So I put my cigarette out. And then me and her went into COREY's bedroom. And we're talking. Eh, 'cuz it's in private. And we're just sitting in there like that. And then she was ,and her boyfriend was sitting out in the living room. And while we're in there, she's like I'll do anything to get back with you. I'll go dump my boyfriend right now. All this. And... and she's like I'll do anything. I'll do anything. And, and.. she was just... like just like.. trying to do everything to get back with me. And I was just No, no I don't want to get back with you. No, no, no,no, no. It's like everything she asked me was no.

DET: Okay.

WIT: And... she got all pissed off and ran back out and ran to the kitchen. And then I followed her. She grabbed a knife. And... I... grabbed the knife outta her hand. And then put it back. And I was like, All you're doing .. by grabbing knives it trying to piss me off. I already know you are. And it's not working. And, and then we're, and then she stormed off and as I was walking out of the kitchen she came back walking in. I stopped so I was standing right next to the stove and she couldn't get by. And so she jumped over the stove and grabbed a knife. And, and... turned one of the burners on. And.. I grabbed the knife outta her hand again. And I put it back in and.. I... uh.. she went and pushed me. I put my hand down on a burner. And burnt it right here.

DET: So you had a.... burn mark..on your hand?

WIT: It was, it wasn't very hot but... it's like all right there.

DET: Okay. You're showing me your left.. hand. The under...

WIT: Yes.

DET: The underneath area?

WIT: Yes.

DET: Okay.

WIT: And... sh, and I was like, awww... 'cuz it like kinda scared me. And I reached up and turned it off. And she looked at me. And then she's like.. Fuck you. And just.. turned around and walked off. And I was like, Man. You know and.. I was like,... well.. I'm gonna leave here pretty soon, 'cuz I didn't want to stay there that long with JESSICA there. And me and her fighting all the time.

DET: Do you remember what time this might have been at this point?

WIT: Um.... it was about 12:30.

DET: Alright.

WIT: And after that.. she was just like No, you can't leave.No,you can't leave. Like that.And MIKE was like, NICK, I need to talk to you. So me and MIKE walked into the kitchen.

DET: And that's MIKE CORBELL?

WIT: Yes.

DET: Okay.

WIT: And me and him walked into the kitchen. We're sitting there talking. And he was talking about... wanting to have sex with her.

DET: Okay, Can you remember what MIKE was saying? His words? Or how was he phrasing it?

WIT: Um... he was just..like God, I just... like he was trying to get me to convince her to have sex with him. And I was like,... I don't wanna have any part with it you know. If you want to have sex with her,it's all on your own. You know like that. And... he's just like Come on. Come on. I know you don't care if I did. And this and that. And... I was just like... You know do whatever you want to. And it's your... butt going to jail if you get caught for it. Not mine.

DET: Uh-hmm.

WIT: So... and he was like, Alright, man. Fine. And he walked out and JESSICA came walking in, walking in, and then it was like, What are you guys talking about? And I was like, and I was like, Nothing. You know I didn't want to tell her that. Uh, 'cuz she would have got pissed off at MIKE and then tried to, start something with him. And... then there would be, and then for... MIKE or COREY would have had to get into it. And try to break it up. And then that would have pissed COREY off. So I just thought No, I don't want to tell you. Was you know.. trying to play it off like it was nothing about her. But she got pissed off at me for that and... stormed off. Went to the.... uh.. living room. And...

DET: What's COREY during do, dur,doing during this time period?

WIT: Um,he just... putting CDs in the CD player.

DET: In the living room area?

WIT: Yes.

DET: Okay.

WIT: It's right next to the... TV. Where the TV was.

DET: Alright.

WIT: And... yeah, and... like that. And she stormed off and COREY came walking in. And was like, God, what was that all about? I was like, Ah, nothing. MIKE was just talking about something. And COREY got er.... uh.. JESSICA got pissed off at me for not telling her. And COREY's like Oh, like... it was not a big deal to COREY. So he turned around and walked off. But and then... about.... 1 o'clock, BILLY was like, I have to go. 'Cuz he had to get up and go to work in the morning. That and... he had to go drop SETH off at his house. And...um... BILLY was trying to get JESSICA to leave, but and like JESSICA like No,no. I don't wanna leave. I wanna stay here. I wanna stay here. And he started getting mad because sh, I don't, I don't know if he knew that she still liked me and wanted to get back together with me or what. But he kept giving me mean looks and stuff like that. And I was just like whatever you know. And he was like, Well, fine. Then he left. And he was gone for about half an hour, 45 minutes. And I guess he like went down and dropped SETH off. Stayed there for a little bit, then came back.

DET: So him and SETH at that point left together?

WIT: Yes.

DET: And then BILL came back?

WIT: Yes.

DET: Okay.

WIT: And BILL was alone. And then he came back and JESSICA was sitting on the couch and he came in and was trying to get her to leave. And you know just like C'mon. Let's go. C'mon. Let's go. I need to take you home. And... all this and... she was like No, no, I want to stay. I want to stay. I want to stay. And.. with my friends. And stuff like that. And COREY and MIKE were telling BILLY that nothing was gonna happen to her. While she was here. You know, and they'd make sure that she was safe. And everything.

DET: You heard that conversation?

WIT: And I was standing right, I was sitting in the chair right next to 'em.

DET: Okay.

WIT: And... he's like Alright. Well, fine. Um... call.. I'm gonna.. call you after I get home from work. Like that. And she was like, Alright. And.... he walked out and he hopped in his car and drove off. And... she was like,... God, I hate him, you know. I want to break up with him. And stuff like that. And.. then she looked over at me and I was just like.. So? They do. I dunno that's your problem, not mine. Like that. And... going out and having another cigarette and she came walking out. So I talked to her. And she was like, C'mon. You want to go out with me? C'mon, I know you still like me and I know you wanna go out with me. And you still care for me. And I was like, Well, I may still care for you and stuff, but it doesn't mean I want to go out with ya.

DET: Did she ever ask you, you know to have sex that night or anything like of that...

WIT: No.

DET: ... nature?

WIT: No. And... we're just sitting there. And talking. And I was smoking my cigarette and... I gave her like half of it. And we're just sitting there talking and the whole time she was trying to convince me to go back out with her. I was just like No, I gotta a girlfriend. She's like Well, break up with your girlfriend. I was like, No. No. And then.. like that. She ... we finished our cigarettes and walked back in. She went into the bathroom. And... immediately COREY and MIKE were talking. Just like about .. cars and just whatever. You know. Just conversation. Then she came back out it was like, COREY, I need to talk to you. And they went into the bedroom. And I dunno what they were doing in there. And then COREY came walking back out. And... like that. And .. COREY's like... NICK, this girl wants to talk to ya. So ... I was like, Alright. I walked in there. And me and her

started talking.

DET: In the back bedroom?

WIT: Yes, in COREY's room. And me and her were in there talking. And she was just... C'mon, you know you want to go out with me. And this..and that. It was just like the same thing over and over and over again.

DET: Okay.

WIT: Like that. And then... um, I was suppose to get together with my girlfriend that night. And I called her up to see if she, to see if she was home,so she could come pick me up. And like that. And.. me and my girlfriend were talking. That and... JESSICA was like walking around real mad and everything. Like that. And JESSICA's like Who are you talking to? And I was like, My girlfriend. And she's like Oh, kill that fucking bitch. Like that. And my girlfriend was like, What? Who was that? And I was like, Well, that was my ex-girlfriend. She's pissed off at me. But and... I was sitting there and talking to my girlfriend and... like that and... JESSICA was walking around and saying.. stuff like Oh,I'm gonna get my uncle to beat your girlfriend up and beat you up. And stuff like that. She was like, threatening me. And I was,I was paying no attention to her. Well,I heard what she was saying,but it didn't matter to me. And.. I was just.. like just sitting there talking to my girlfriend. Like that. And...my girlfriend's too tired to go... come out and get me. So I was like, Well, that's fine. We'll get together tomorrow you know. And... said our good-byes. And I hung up the phone. And JESSICA was like, I need to talk to you. Like that. So I was like, Well,I'm gonna, gonna go have a cigarette. And I went out and had a cigarette and she followed me out there. And then MIKE came out. And she got pissed off at MIKE for coming out when she was trying to talk to me in private.

DET: Uh-hmm.

WIT: And 'cuz you're not allowed to smoke in the house. And... MIKE wanted a cigarette. And I gave him one. And she got pissed off. And she walked in the house and slammed the door. And walked over and turned up the music. Like that. And then... every now and then,she'd walk over and open up the door and she'd like C'mere. And I'm, I was like, I'm still smoking a cigarette. And she'd be like Fuck you.And slam the door,again. And,and... COREY's kinda getting... mad at her for slamming the door. Like that. And then... but, she'd open up the door and was like, C'mere. And I was like, I was talking to MIKE. I'll be in in just a second. Just... she'd get pissed off at me and slam the door. And I was like, Well, I'm gonna go talk to her. So I'll be back out. And we'll get and..

DET: MIKE said that?

WIT: Nah, I said that to MIKE.

DET: Oh,okay.

WIT: And MIKE was like, alright. And he was still smoking his cigarette. And I, I walked in and... COREY's like Well, you guys can't go in my bedroom anymore. I was like, Alright. Well we'll go in the kitchen. And she's like No, let's go in the bathroom. Then that, I didn't think nothing of it. You know she just wanted to talk. So I was like, Alright, well, we could go in the bathroom. We just sat in there and talked. But she's... and... she, like she knows how to make me mad, you know, by saying certain things. Like that. And... she was saying stuff like... Oh, I'm gonna kill myself. And do this.. to me. And, and I'm gonna do this... to you. And I'm gonna kill your girlfriend. And she started making me really mad. Like that. And she was, I was like, Alright, whatever. And every time I'm trying to walk out of the bathroom, she'd step in front of the door. Was like, No, you can't leave unless you hit me. And I was like, I'm not gonna hit you. And I was like, I can't hit ya. I can't hit a girl. No matter what reason. And she was just like Well, then you can't leave. So I was like, Alright. Whatever. I'm standing... in front of the mirror like that. And... she was like,... grabbed my arm and like turned, like turned me around a little bit and was trying to kiss me. And I was like, No, no. She's like I know you want to. I was like, No, actually, I don't. And I pissed her off more and she went to hit me. I stuck my arm out and blocked it. And she was like, Well, hit me. Hit me. And, and... I was like, no. COREY came walking up and knocked on the door, and was like, I have to use the bathroom. And so she, me and her walked out. And she went and sat down on the couch. And I walked over and started talking to MIKE again. And she grabbed my arm and like yanked me over, like I need to talk to you, again. And COREY came out of the bathroom. And we went back in there. And we're talking. And... she was just sitting there. I'm gonna kill your girlfriend. And.. this and that. And... and... I was like, Whatever. I'm gonna go home now. 'Cuz I'm tired of this bullshit. And.. tried to walk out and she stood in front of me, pushed me back away from the door. Was like, The only way you're leaving this house is if you hit me. I was like, You know I can't hit you. She was like, Well, I guess you're not leaving then. But ..and.. she was just sitting there. (Cough) And she starts saying again that she was gonna kill herself, if she doesn't get back with me. And how much she loves me and how much she'll do anything for me. And I was just like Alright, whatever. Whatever. You know just... do what you want to do. And she... like that. And that pissed her off even more. So she started pushing me around more. And started making me a little bit madder.

DET: Where was this going on? Do you know...

WIT: In the bathroom.

DET: The bathroom?

WIT: Yeah. And, and she was like,... Well, hit me. Hit me. And I was like, no. And I like kinda just like... reached, grabbed the door knob and opened it up and like... pushed her with the door.

DET: Uh-hmm.

WIT: Then I walked out. And COREY's like... Man, you can tell her to be quiet. And all she's doing is yelling. And ... she's starting to annoy me a little bit. And MIKE was like, Yeah, it's starting to annoy me. Like that. And then... me and her were talking... again. I don't remember and..she was just... kinda like.. yeah, well, you know I'll do anything for you. And I'll do anything for you to get back with you. And I'll quit using drugs. And I was like, You need to quit using drugs anyways. Like that. And ... she's just like Yeah, yeah, yeah. Whatever. Whatever. I'm only smoking weed and drinking now. I was like, So that's still just as bad as the others. And you quit doing it no matter what. And she was like,.. Alright. Whatever. And she.. and COREY's like Well, I'm gonna go to the store. And I was like, Alright. And, and me and MIKE were gonna stay there and then COREY made MIKE go. And then me and JESSICA stayed there. And...

DET: So MIKE get to the store?

WIT: Right, they walked.

DET: Okay. Who left?

WIT: Just MIKE and COREY.

DET: Okay. Do you know what store they went to?

WIT: Um.... I believe it was Sky Market.

DET: And what did they get?

WIT: Um... nah, they went down to 7-11, 'cuz they got alcohol. Beer.

DET: Okay. How much beer?

WIT: And... um... like four or five 22's.

DET: What .. brand? do you know?

WIT: Um... I think they're Mickey's Ice.

DET: Okay.

WIT: Uh, and... uh, because... Sky Market was closed. So it had to have been 7-11. That, and they're gone for like..

DET: So I assume this is before 2:00 a.m?

WIT: Yes.

DET: Right?

WIT: It was like, about.... about a quarter to 2:00.

DET: Okay.

WIT: Or something like that. And...

DET: Did they come back with the beer?

WIT: Yeah.

DET: You saw it?

WIT: Yeah.

DET: Did you have any of that to drink?

WIT: No, I can't... stand beer.

DET: Okay. JESSICA?

WIT: Um, yeah, she ... drank .. one herself and then... she was drinking off of COREY and MIKE's.

DET: Okay. So is the fifth gone now? Or is there some... alcohol left?

WIT: No, the fifth is gone.

DET: Okay.

WIT: It was gone a long time ago. And.. like that. And while they were gone... she... attempted to kill herself like two or three more times.

DET: With the knife? Or?

WIT: Yeah, she like kept running in the kitchen and grabbing the knives. And.. the last time she tried to kill herself, um, she had a... a knife... in her right hand. And, and... she, she had a tight grip on it, like she was holding it. I couldn't get it out of her hand. So I grabbed the pressure point right here.

DET: Uh-hmm.

WIT: And squeezed on it, 'cuz it makes you, makes your hand open up a little bit. And I squeezed it. Now, I don't know if I left a bruise or not, 'cuz I was squeezing pretty hard. 'Cuz she had clenched real hard. And so I squeezed it pretty hard. But I grabbed the knife out and she was just like.. Fuck you. Fuck you. And COREY and MIKE came walking back in the door ...

DET: Okay. I'm gonna turn the tape over. It's... 1449 hours.

end of side one of the cassette tape

Side two.

DET: We're back on tape. It's still 1449 hours. You're aware we're still taping this... NICK?

WIT: Yes.

DET: Okay. Go ahead. Okay. And... when... COREY and MIKE came walking back in the door, me and her, she was screaming at me in the kitchen. I was just kinda like standing there. And I was just like Yeah, yeah, whatever. Let her yell in my face you know and just .. hopefully, she'd calm down after that. That, and COREY came walking up and like punched me in the arm. 'Cuz he's just.. me and him... just do that like walk in the house and he'll be like standing there. I'll just walk up to him and punch him and he'll punch me back. And, and... oh yeh, he came out and punched me in the arm. And she got pissed off at COREY for hitting me. And I was like, you know maybe if you like sock me in the jaw and knocked me on my ass, you know, I'd be mad myself. And that. But he just like came up and hit me in the arm. And not hard or nothing. Then she got pissed off at COREY for that. And then... she started yelling at COREY. And I was like, I was just like Why don't you shut up for a while. you've been screaming for the past I don't know how many hours. And she was just, she turned around and started screaming at me. And she walked over and grabbed the knife again and COREY walked up and grabbed it outta her hand. She, COREY was like, Oh, you don't want to do that. You know. You got so many friends here. And you got your family and all this and all that. And she's like Well, I don't see the point in living, if I can't get back with you. And she was talking to me.

DET: Uh-hmm.

WIT: And I heard like... like... um... um.. like she was talking to COREY, but she was letting me like the way she said it. And... she was just... like... yeah, yeah, whatever, you know. And I can't get back with him, I might as well kill myself. And... and that. And I was like, Alright, whatever. Like that. And MIKE was like, C'mere. I need to talk to you. So me and MIKE went into COREY's bedroom. And we're talking. And... he was, COREY was just, er MIKE was like, yeah, I'm gonna.. like see if I can get her in the bedroom or get her

in the bathroom or something like that.

DET: Okay. Now that's COREY talking to you?

WIT: No, it's MIKE.

DET: MIKE talking to you?

WIT: Yes.

DET: Okay.

WIT: And COREY and JESSICA were still in the kitchen talking at that time.

DET: Alright.

WIT: And I was like, Whatever you know. Whatever. Just I don't care what you do. Just... go ahead and do it. And if you're gonna do it. But he was like, Yeah, I'm gonna do it. And I was like, Alright. Like that. And... I was like, Alright. Well, I'm gonna leave. And I started to put on my jacket. And JESSICA ran up and shut and locked the door. And stood in front of it. On ... leaned up against the locks. And she was like, The only way you're leaving is unless you hit me. And MIKE and COREY were standing there. And I was like, I can't hit you. And... uh... COREY was like, Even if he did hit ya, I'd have to get the cop out here for hitting a girl. And she was like, No, you wouldn't 'cuz I'd beat the crap outta you. But and... just...and COREY and MIKE and me just kinda like.. laughed because the size of COREY and all the... the... like karate or whatever, like... stuff like that he's taken. Like martial arts type.. whatever that he's taken. And, and how small she was it was.. just kinda funny, like hearing somebody say that to somebody his size. And so we just kinda like.. laughed a little bit. She got pissed off with that. And...

DET: Was she more intoxicated now as the night...?

WIT: Yes.

DET: ...proceeds?

WIT: Yeah, she, she was... drinking. We stopped drinking about 2:30.

DET: Okay.

WIT: And, and then.. everybody was just kinda like yeah, yeah, whatever. You know and..

DET: So how did those guys end up in the bathroom? What, how does that take place?

WIT: Um... MIKE and JESSICA?

DET: Yes.

WIT: Um, me and her were in there talking. And, and... at first she wouldn't let me outta the bathroom. And she was like, well, if .. the only way you're getting out is if you hit me. And... she was like, pushing me and like trying to hit me and stuff. And like , like would put my hand up and knock her hand away. And like that. She was making real mad. 'Cuz she was leaning up against the door, with her head against it. And I was , was gonna act like I was gonna hit her, but I punched the door and my ring left an indent in the door. Right there. And.. she got real scared, so she opened up the door and let me out.

DET: Okay.

WIT: And..

DET: What happens next?

WIT: Like that and.. COREY's like What the hell is that? She was like,... and I was like, Well, she wouldn't let me out unless I hit her. So punched the door next to her head. And scared the crap outta her , so she'd let me out. Out of the... the bathroom like that. And COREY was like, You didn't break my door, did you? And he ran over there. And was looking at it. He was like Man, there's a whole indentation of your ring in the door. And I was like, I know I hit it pretty hard. She pissed me off pretty bad. Like that. And she was like, Oh, er, he was like, alright. And.. she, I guess she was like, sitting in there. Sitting on the toilet or.. sitting up on the bathtub and just sitting there doing whatever. Like that. And me and COREY walked into the kitchen. And he was drinking a beer. And, and..I was sitting on the counter and he was sitting on the other counter. Across from it. Like that. And I heard MIKE... walk into the bathroom and shut and lock the door. That and... I was just like.. well.. he said he was gonna do it. And he's doing it. And COREY's like Yeah, that little prick. He'll probably go to jail.. if anybody finds out about it. And... I was like, Yep, that's why I broke up with her before I turned 18. And COREY's like Yeah, you're smart. You're pretty smart. And I was like, yeah. And me and him started talking about his... uh.. uh.. ex-fiancee. Uh.. JAMIE.

DET: Uh-hmm.

WIT: And... like that. Me and him were like talking about her and stuff like that. And then like when we used to party together all the time and... then my older brother used to come up there and party with us. And... stuff like that. And.. just like well, we're like... threw a big giant parties and we're just talking about that. Just rambling on. Like that. And...

DET: How long were they in the bathroom?

WIT: Hmm... about half an hour.

DET: Okay. So... as far as you know what was going on in the bathroom? was consensual between the two?

WIT: Yes.

DET: Okay. You didn't hear her scream or yelling or?

WIT: No.

DET: She wasn't... forced to do anything as far as you knew?

WIT: As far as I know she wasn't.

DET: Okay.

WIT: Eh, and then...MIKE came walking out and I was like, Well, I'm gonna go to the bathroom,then I'm gonna leave. And I went walking in there,she was still standing in there.And I was like Look, I have to go to the bathroom. Can you leave?

DET: Was she dressed?

WIT: Yes.

DET: Okay.

WIT: And she's like Yeah. Alright. So I went to the bathroom just as I opened up the door,she came walking in and pushed me back and shut and locked the door again. It was like, Listen, I have to leave. And.. at that time, it was about 2:30. And she was like, No, no, you can't leave.You can't leave. And... I was just like... Alright.Whatever. You know and I was sitting there like that. And I was like, and... I was just like I don't want to talk to you anymore. She's like Well, fine. She walked out of the bathroom. And just as I was walking out, COREY came up to me and was like Yeah, MIKE had sex with her. Like said it real quiet,so JESSICA wouldn't hear. And .. 'cuz she told MIKE not to tell anybody. But then MIKE right away went up and told COREY. And COREY came and told me. And... I was just like he told me he was gonna do it. You know I mean... I really don't care.

DET: Okay. Did you talk to MIKE about that? If he..

WIT: Yeah, I walked..

DET: ... had sex?

WIT: Yeah,I walked up to him. At first, before I confronted MIKE about it.... I was like, .. JESSICA, I need to talk to you. And me and her went into COREY's room, and I was like,

So what did you and MIKE do in there? She's like Nothing. I was like, You're lying. She's like We didn't do nothing. She was like, Why? And I was just like You know if you think I'm gonna get mad at you, I'm not. The only thing you have to be is truthful with me about it.

DET: Uh-himm.

WIT: And she was like, Yeah, me and MIKE had sex. And I was like, I'm not mad at you. You know you're truthful. I knew you guys were having sex in there. And she was like, Yeah, yeah, whatever. Whatever. Like that. And then... I walked out and it was like, you know MIKE, you may not think I care about you doing what she did. But I still have, I still care about her and what happens to her. And, and I told him that it was... it was kinda like him like sticking a knife in my back. You know. And... he was just like.. well, you know the way you're talking it seemed like you didn't care what I did with her. And I was like, yeah, but you know when it came down to it, it kinda did matter. And he was like, Yeah, I understand you. And I'm sorry man. And I hope it doesn't ruin our friendship. And I was like, it's not gonna ruin our friendship you know. Just... it.. it's already done and over with. And you can't change it now. And he was like, yeah. And I was just like Don't worry about it. Uh, and... we're sitting there and... me and COREY were talking for about 20, 25 minutes. And.. like that. And it was around...

DET: What was COREY's state of mind at this point? Is he able to carry on a conversation?

WIT: Oh yeah. He..

DET: Was he , was he drunk or slightly intoxicated? Or...

WIT: Uh...

DET: .. what would you classify him as?

WIT: I wouldn't..say he was drunk. But he had a... real good strong buzz going.

DET: Okay.

WIT: And, and.. he's talking like a hundred miles an hour.

DET: Okay.

WIT: And ..like I'd be like two words in for every one, for every 50 words he said.

DET: Alright.

WIT: And... me and him were just sitting there talking. And talking and talking. And MIKE was outside having a cigarette and JESSICA was playing around with the CD player. And

trying to figure out how like move the CDs around. See which ones are in there. And... me and COREY were just sitting there talking at that. And... he said something about JESSICA. And I'm not sure what he said. But , but JESSICA stood up and was like, What? And she got pissed off at him. Or made her even more mad. And she was just like... yeah, yeah, whatever, whatever. And I was like, No, it's not that big of a deal to get mad over .. what he said. And, and she was like, yeah, yeah, whatever, and whatever. And I was like, Alright. I'm gonna leave. So she jumped from the door and locked MIKE out. 'Cuz he was just finishing his cigarette or something. And that, and... shut and locked the door. And stood in front of. And MIKE was pounding on it, trying to get in and I was trying to get out to leave. And she was like, I don't give a crap that MIKE's out there. You're not leaving unless you hit me. And I was like, I'm not gonna hit ya. I'm not gonna hit ya, no matter what. I'm not gonna hit ya. Then she was just like Well, you're gonna have to hit me. You're gonna have to hit me. And I was like, I'm not gonna hit you. So I just turned around and walked in the kitchen ... you know, the kitchen and I was standing there. COREY came in and was like, God, she's being a bitch. You know. I was like, Yeah, she is. She needs to leave. Like that. And... me and COREY sat in there and talked for a little bit. And JESSICA came in and started talking to us. And she was calmed down a little bit. But not much. And she was still pretty calm. Or still pretty mad, but she was calmed down. And we started talking. And COREY was standing or .. leaning up against the counter and I was sitting on it. And she came walking in. And grabbed me. And was like, You know ,NICK, I'll do anything for ya. I'll do anything for you. And she was just like just totally trying to convince me that I need to go back out with her. And I was like, No, I don't wanna go back out with ya. I don't want to go back out with you. And this is around 3:30 or so.

DET: Okay.

WIT: Uh, and...

DET: Did you ever after this point hear COREY make any comments about wanting to have his way with her or have sex with her?

WIT: Um... he mentioned it a couple of times. But he said it's not worth it. He said that he wouldn't mind having sex with her. Just because of her body. And, and I was like, It's not worth it, dude. You know and.. he was like, Yeah, I know. But I wouldn't mind it, you know, 'cuz she has one of those like.. nice little bodies. And I was just.. yeah, but it's not worth it, dude. It's not worth going to jail or whatever for. And he was like, Yeah, I know. I know. Like that. And then he only mentioned it a couple of times.

DET: Okay.

WIT: But and..

DET: Is that later in the evening or earlier on?

WIT: Um.... that was after they went to the store, to 7-11 and got a... those 22's.

DET: So when he got back?

WIT: Yes.

DET: Okay.

WIT: And...

DET: So how do you end ,end up? Do you eventually leave?

WIT: Yeah, I just ... she was in the... um.. I got COREY, I was like COREY, dude, I need to leave. I,I got to wake up and go to school in the morning. I need to leave. I need to get out. And, and he was like, Alright, well, I'll take,I'm gonna talk to JESSICA in the kitchen. While I'm talking to her you can leave. Like that. And MIKE ,I gave MIKE a cigarette before that and he was outside smoking it. And I walked out the door and I had my jacket on. And I was like,.. alright. Well, I'm gonna take off,MIKE. And he's like Alright, man. Like that. And he's like I'm sorry for .. if I hurt you with what I did earlier. And I was like, Man, it's alright , man. You know. Time will take care of it. And I was like, I'll get over it. It's not that. It's really not that big of a deal. But you know I still.. do care about her. And.... he was like, Yeah, I understand.I understand. And, and... we're sitting out there and I took a couple drags off his cigarette like that. And I heard JESSICA inside the house 'cuz the door shut, and I heard her like standing next to the door bell, Did NICK leave? And she, and like right before she opened up the door, I ran around the side of the house so she wouldn't see me. Like that. And... she opened up the door and came walking out. Was like, Did NICK leave? And MIKE was like, Yeah, he took off about ten minutes ago. 'Cuz I was sitting on the side of the house. And she was like, Goddammit, that punk. And she started like... saying that she was gonna threaten me. And like beat me up or have her uncle beat me up. And stuff like that. Well, she walked back inside the house. So I walk, came walking around the corner and I was like, Alright, MIKE, well, I'm taking off. Like that. And MIKE was like, Did you hear what she was saying about you? And I was like, Yeah. I was like, I really don't care. I know it's not that big of a deal to me. And she was.. and he was like, Alright. Well... I'm gonna go in and go to sleep. And I was like, Alright. Well.. just tell COREY ... I'll talk to him tomorrow. And, and... and that's when I left. It was about 4 o'clock when I left.

DET: Okay. Do you remember what time you got home?

WIT: Um...

DET: Did you look at clock or set an alarm or anything?

WIT: No, when I got home my grandma said it was like,... 4:05, something like that.

DET: Okay.

WIT: So...

DET: And that was early Thursday morning?

WIT: Yes.

DET: Okay. Now, that was the last time you saw JESSICA or talked to her?

WIT: Yes.

DET: Okay. Do you remember what she was wearing? that night? I mean like her shoes? Do you remember what kind of shoes she was wearing?

WIT: Uh..... a pair of white shoes.

DET: Okay.

WIT: I think... they, they were either... Filas or Nikes.

DET: Alright. What about.. what kind of pants did she have on?

WIT: Um, just... I think they were regular blue jeans.

DET: Okay.

WIT: They might have been shorter.

DET: Did she wear a belt with her pants?

WIT: Um...

DET: If you remember.

WIT: Yeah, she was..

DET: Okay.

WIT: That night.

DET: Do you remember what color belt?

WIT: Um... I'm not quite sure.

DET: Okay. What about... her top? Do you remember what color shirt?

WIT: Um... no.

DET: Okay. What about a bra? Do you know if she had a bra on?

WIT: Have no idea.

DET: Okay. Underwear? Do you know anything about her underwear?

WIT: No.

DET: Okay. And what about jewelry?

WIT: She had... a few necklaces on.

DET: Okay.

WIT: And... she had... um.. some earrings in her ear. And I'm not sure if she had any rings or not.

DET: So... when was the next time... you go back to COREY's?

WIT: Um.... I called COREY up um... on Thursday after I got home from school.

DET: Which is about what time?

WIT: Um... that was about... 2:30.

DET: Okay.

WIT: And, and I was like,... and he was like, When are you gonna come over? And I was like, No, I have to go down to treatment. 'Cuz I, I'm down, I go down to Lakeside Treatment Center... for... um... recovery.

DET: Alright.

WIT: Uh, and... I was like, No, I have to be down there at a certain time. But I was just calling 'cuz I just called up there to see if.... if he found one of my necklaces laying around. It was a skull.

DET: Uh-hmm.

WIT: And it was made out of Phenodon, it was on a black string. And it ..

DET: Did you lose it there the night before?

WIT: Yes. On Thursday morning.

DET: Uh-hmm.

WIT: Some (unintelligible- where?).It was.. um... I'd say in between... 2:30 and the time I left. And he's prob, and ... I was like, Well, if you find it rolling around anywhere's will you just hold it for me? Like that. And he was like, Yeah, which one was it? I was like, it was one with the skull that my mom made me. And he was like, Wow, you don't take none off like for six,seven years. I was like, Yeah, I know. It's gone. When I woke up this morning to get in the shower I didn't know, it wasn't around my neck. So... But he was like, Yeah, well, if I find it for ya, I'll hold it for ya, to make sure nothing happens to it.

DET: Was there any conversation on that about JESSICA on that phone call?

WIT: No, he's.. he was,he just.. uh, he was talking about the night before. And about me and her arguing and... just kinda like Yeah, she was just hell pissed off when you left and ... 'cuz you didn't say good-bye to her. And.. stuff like that. And I was like, yeah, well... you know she had me.. pretty mad , too. And I was like, I just wanted to leave and get outta there.

DET: Okay. So .. does that conversation basically end or?

WIT: Yeah. And I was like, Well, I gotta get going. He was like, Alright. Well, if I find your necklace, I'll hold on to it for ya.

DET: Okay.

WIT: And.. we hung up the phone.

DET: That was Thursday. Any other calls to his..

WIT: Right...

DET: ... house Thursday night?

WIT: No.

DET: Okay. Friday?

WIT: Um..... I think I called over there to see if MIKE was there.

DET: Did anybody answer the phone?

WIT: Um.. MIKE did.

DET: Okay.

WIT: And .. I was gonna see if he had that five bucks. And he was like, no. And I was like, Alright. Well... then don't worry about it. He's like I'll have it tomorrow, 'cuz I'm gonna see my dad... get my pay check from him.

DET: Okay. So.. there was...

WIT: And then..

DET: any mention of JESSICA with MIKE?

WIT: No.

DET: Okay. So when's the next time you connect up with...

WIT: Uh..

DET: .. the house? Are you over there on Saturday?

WIT: Yeah, I show, I just like showed up Saturday night. Just to stop by...

DET: What...

WIT: ... 'cuz he said he might have my money then.

DET: Okay. So you were going over to get your money from MIKE?

WIT: Yeah.

DET: What time did you go over there about?

WIT: Um....

DET: The police were called around 11:00, so if that helps ya out.

WIT: Yeah. I was there.. about... uh... I'd say like... 11:30.

DET: Okay.

WIT: That and the... police weren't there yet.

DET: Okay.

NICK GASCHE

WIT: Uh, and... when I got there MIKE was inside talking on the phone. And.. MARK COFFEY and .. BRENT, I'm not sure about BRENT's last name. Were standing outside talking, smoking, just.. MARK was smoking a cigarette. And as I was pulling up they started walking into the street. Then I pulled up and they're like Man, JESSICA killed JES, or ... COREY killed JESSICA. And I was like No, whatever, whatever. And I thought they were playing with me.

DET: Uh-hmm.

WIT: Like that and... I was like, yeah, whatever. And he's like they're like no, I'm serious. I was like, Alright, well, let me... pull in. And so... 'cuz there's a car coming. They're like Alright. And I pulled in and got out and MIKE was like, Dude, I'm so serious, I've never been so serious in my life. It's... COREY really.. killed JESSICA. And I was like, Really. And, and I like... You know where MIKE's at? And.. er like Yeah, he's inside talking on the phone. And I was like, Alright. And I went in there. I walked in and I was like, Hey. Hey, how's it going, MIKE? And he was like, Hold on. Hold on. Like that. And he was like Yeah, yeah, I live at this address. And I live .. and... this is what we found. And....

DET: So he's talking to the police?

WIT: Yes, and he was like, and... he called like once before that when I got there and was like, Well, they're still, the cops still aren't here yet. So I need to run an estimated time 'cuz COREY could come home at any time. Eh, and.. we were like and... I was like I wonder who he's talking to? Then and... he was... just and.. and he was like, , Alright. And he hung up the phone and I was like, What's going on? And he was like, COREY killed JESSICA. And I was like, Really? That's.. you guys are sure? And he was like, Yeah, I'm positive. Her body's out in the garbage can in the shed. And I was like, and, and... like that. And um... the cops showed up like right after. Like... maybe five minutes after I did. Like that and they walked back there in there. They came back out and they're like Well, we need to call the paramedics, 'cuz we can't confirm that it's a dead body. And right away I knew that... COREY really killed her. Right when they said that.

DET: Did you ever walk in the back yard? And..

WIT: No.

DET: .. see the bucket?

WIT: No.

DET: Okay. Did you ever hear anything about COREY buying some bags of cement or was there any conversation about that?

WIT: Um, MIKE mentioned it. He's..

DET: Is there any reason why ..what the cement bags were for?

WIT: I have no idea.

DET: Has COREY ever talked to you about building a sidewalk or a ramp in the back yard?

WIT: No.

DET: Alright. How long have you know JESSICA?

WIT: Oh, about a year and a half.

DET: And... can you describe kinda what she was like,?

WIT: Um.... I met her up at COREY's house at a party. And... she was... she was just like kinda... outgoing. You know,Hi, my name's JESSICA to everybody type person. You know real friendly. Real, in a happy mood.. And just like... running around having a good time. And then... that's when me and.. and then or .. I met her before that. But that was one of the night me and her were going out.. Started going out. And while we were going out, she got into doing like heroin. And a lot of speed. A lot of crank. Stuff like that. She was hanging around up on Broadway all the time and doing it.

DET: Uh-hmm.

WIT: And...

DET: Was she sexually active?

WIT: Uh, yes.

DET: Okay. So... back at least a year and a half ago?

WIT: Yes.

DET: Okay. With a lot of different people or just certain people?

WIT: I'm not sure. 'Cuz she lived over in Spokane.

DET: Okay.

WIT: For a while.

DET: But it's nothing you guys ever really talked about?

WIT: No. It was... just me and her. And I remember right after we broke up she had ... um..

uh... she was up on Broadway like that. And.. she was.. and my friend SETH was up there with her. Like that and stuff. And SETH was like, Yeah, she's gotten like four or five guys for drugs, so if you're... And I was like, I don't even want to hear it, dude. Me and her aren't going out no more. She, she can do whatever she wants now.

DET: What about... recently? In the last month or two? Do you know if she was still heavily involved...

WIT: Well...

DET: ... into drugs?

WIT: Not that... not that I know of.

DET: Okay. What about alcohol? She drank obviously.

WIT: Yeah, she drank, smoked weed. I saw her one night and she was on acid. I stopped by SETH's house to drop off his sister from work. And I just stopped by and she was there with a few people. And they're all on acid.

DET: How long ago was that?

WIT: Um... that's about... maybe.. two, two and a half weeks before.

DET: This happened?

WIT: Yes.

DET: Okay.

WIT: And... and then after that I didn't see her until that night. That .. it happened.

DET: How often would she go over to COREY's house? Had you ever seen her there before ? Or?

WIT: Yeah, she was... she only lived a couple blocks away.

DET: At her uncle's?

WIT: Yea. So she, she just kinda like you know.. while she's walking to the store to stop by and see what was going on. And stuff like that. So...

DET: Did, did both of COREY's cars run? that are at his house?

WIT: Um, the red one that ran off and on.

DET: Uh-hmm.

WIT: And I don't think it was running at that time.

DET: Okay.

WIT: 'Cuz .. he had a hole in his like oil.. or his gas tank or something like that.And... it was rusting and going through his engine.

DET: Okay. What about the blue Camaro?

WIT: And the blue Camaro... um... it, it.. ran, but he didn't want to drive it because .. the rear axle was bent. And he was afraid that the tire was gonna fall off. And, and...

DET: Had he been driving it up until that point or do you know?

WIT: Um, for a while he was driving it for a while. Like everyday, 'cuz it was like, his normal car to drive. And then he was going down on Renton Avenue when it was raining and he like... he had turtle and he had a bald tire on the right side of his car. And he did a 180. And slammed it into the curb and uh.. knocked the front wheel off. And bent the axle. And.. when he slammed into the curb, he slid down the curb and up on a rockery and it put a big hole in his gas tank. And so... we got it all fixed up and um.. Officer... ALEX.. was there. And I'm not sure about his last name.

DET: QUIRIT?

WIT: QUIRIT? Yeah, I think so. And,and....

DET: Hispanic?

WIT: Yeah.

DET: Okay.

WIT: And he was there and...I, I've known ... Officer ALEX for... a while, 'cuz he , I got in trouble a while ago and he's the cop that was taking care of it. Like that. And.. he's helped me out through a lot of stuff.

DET: Okay.

WIT: You know like certain situations and stuff like that. And.. all .. me, it was uh.. me, COREY and MIKE were like... fixing up the car , so we could get, at least try to get it outta there. And, and... he pulled up and ... like that and then we're just kinda like all three talking...

like that. And then we , we got the... car jacked up and we could put the... two tires, we put the spare tires on it. And there's just enough gas to pull , to get it into his driveway. Like that. And...

DET: How long ago was that?

WIT: Um... oh, about a month ago.

DET: And has he driven it since then?

WIT: Yeah, he repaired,he got the gas tank fixed. And he got... two new tires and put 'em on.

DET: So he can drive it if he wants to?

WIT: Yeah.

DET: Okay.

WIT: 'Cuz he, he didn't want to drive it, because he, he was driving it um... like two days before that. And .. he was like,... he was pulling in his driveway and after he got out and he was like, sitting in his uh.. house for a while and he has a ,his car alarm. And .. he was sitting in there and it went off. And so he ran out there and there's nothing wrong with his car that he could see. So he walked up and started walking around it and his tire was laying like this. And like the... the bolts in it broke that hold on the tire.

DET: Uh-hmm.

WIT: And,and... that and he said uh, he went and bought a new one of those and put it on there.

DET: Okay.

WIT: So...

DET: What's COREY like? Describe his ... personality?

WIT: COREY? Is... real friendly.. a real nice guy. Talk about anything. Uh...

DET: What about , have you ever seen him , seen him with a temper? or anger?

WIT: Oh.. one of the worst tempers I've seen. Yeah.

DET: Small things set him off or, or what?

WIT: Um... well, with... with um... like his ex-girlfriend, she'd say anything like.. like a stupid thing. No, not meaning nothing, you know, just to be a smart ass. And, and... he'd, his

temper would rise radical, real quick. And with, with like me, I couldn't.... I'd tell him to go fuck off and... just stupid stuff like that. And.. go jump off a bridge or drive your car off a cliff and... he goes) Yeah, you want to go and you know just... totally joke around about it. But, you know it didn't bother him. And, and then .. and it was just like with certain people that

DET: Like his ex-girlfriend?

WIT: Yea.

DET: Okay.

WIT: Yea, and... just with certain people that his temper would just go off.

DET: What about... as far as... weapons or physical... violence? Have you ever seen him assault anyone or?

WIT: Um..

DET: Use a weapon against anyone?

WIT: No.

DET: What about his ex-girlfriend? Have you ever heard.....

The second tape did not record the conclusion of the interview.

end of statement

AUTOPSY REPORT

APPENDIX F

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PATHOLOGICAL DIAGNOSES:

1. Asphyxia due to strangulation.
2. Blunt impact to the head with cutaneous abrasions and contusions.
3. Cutaneous abrasions and lacerations of the perineum.
4. Scattered cutaneous abrasions.

OPINION:

This 14 year old woman's death is attributed to asphyxia due to strangulation. In view of the scene and circumstances surrounding the death, the manner of death is classified as homicide.

Norman Thiersch M.D.

Norman Thiersch, M.D.
Associate Medical Examiner



Donald T. Reay, M.D.
Chief Medical Examiner

18 Jul 98

Date Signed

NT:bw

King County Medical Examiner

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DATE AND TIME OF EXAMINATION:

25 January 1998 at 0707 hours.

EXTERNAL EXAMINATION:

IDENTIFICATION:

The body is present in a green body bag. The body bag is open. The body is present inside a gray garbage bag inside a heavy plastic garbage can. The body is removed from the garbage can and removed from the garbage bag.

CLOTHING:

Present within the garbage bag are the following articles of clothing:

1. A pair of gray corduroy long trousers. The trousers have a black belt appropriately positioned in the belt loops. The fly is down and the waistband is unfastened. Present on the right front pocket is a pager showing the current time. A small amount of blood is present on the lower portions of the pants. In addition, the right pantleg has been cut. The garment is damp. The pager is turned over the King County Sheriff's Office.
2. A pair of gray athletic style pants. There is a black elastic at the waist. The pants show irregular areas of fecal staining.
3. A pair of black boxer style briefs.
4. A pair of pink-tan bikini style women's briefs. The garment has been previously cut and/or torn. There is a small amount of blood staining of the garment.
5. A single right shoe. The shoe has laces. The upper appears to be made out of black to dark blue material. The sole shows a moderate amount of wear. The shoe lace is tied in simple knots.
6. A plastic covered note pad. The note pad has numerous pages, some with writing on them.
7. A second shoe, the left shoe. The shoe has laces and is tied in simple knots. On the very lowest lace is a safety pin with small metallic beads. The shoe shows fecal staining. The sole shows a moderate to minimal amount of wear and is similar to the previously described shoe.

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The following articles of clothing are on the body:

1. A black pullover style top. The top has three ornamental buttons on the midline.
2. A black brassiere.
3. Present on the feet are two pairs of above the ankle white socks. The socks show black/blue discoloration of the heels as well as ground in dirt.

There is the following jewelry on the body:

1. In the right nostril is a yellow metal nose ring.
2. In the right ear lobe is a yellow metal stud type earring.
3. In the left ear lobe is a yellow metal stud type earring.
4. Present about the neck are two necklaces. First is a black synthetic fiber cord. The cord shows a white metal pendant in the shape of a frog. Next is a white metal necklace that has been looped twice about the neck. The necklace has two white metal pendants, one is a heart with a cross and the other is a second heart with a hole through its center.
5. Present about the right wrist is a white metal bracelet.
6. Present about the left wrist is a synthetic fiber bracelet.
7. On the right ring finger is a white to yellow metal ring.
8. On the left middle finger is a white metal ring with a blue-green stone.

GENERAL DESCRIPTION:

The body is that of a well developed, well nourished adult Caucasian woman appearing to be in her teens. The length is 5 feet 6 inches and the weight is 104 pounds. The body is well preserved and has not been embalmed. Lividity is purple-red, present in the anterior portions of the body and does not blanch to pressure. Rigidity is 1 to 2+ and is easily broken. The body is cold to the touch and has been refrigerated.

The head shows blond bleached straight hair measuring up to 4 inches in length. The eyebrows and eyelashes are dark brown and symmetric. The dark brown body hair is present in an unremarkable adult female distribution. No evidence of injury is noted in the scalp. The ears are well formed and symmetric. Both ear lobes show two well healed pierce holes each. The irides appear blue-gray. The pupils measure 0.3 cm bilaterally. The sclerae are anicteric but are extensively congested and show focal hemorrhages on the right. The conjunctivae show petechial hemorrhages particularly prominent on the right. There is evidence of injury to the left orbital region as noted

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below. The skeleton of the nose is intact to palpation and the nares are patent. There is dried blood present in the nostrils. The mouth demonstrates the natural dentition in fair to good repair. Petechial hemorrhages are noted in the oral mucosa particularly prominent at the base of the anterior mandibular alveolar ridge, also present in the buccal mucosa of the maxilla. The tongue is present between the teeth. There are faint petechiae present over the surfaces of the face particularly prominent on the right and in the right periorbital region. The neck demonstrates a midline trachea with evidence of injury as noted below. The chest is well formed and symmetric showing evidence of injury as noted below. The breasts are without palpable masses. The abdomen is flat without palpable mass.

The hands and arms are well formed and symmetric showing evidence of injury as noted below. The hands show irregularly trimmed fingernails overhanging up to 1/8 inch. There are small irregular amounts of iridescent nail polish present on the fingernails of the right hand. The left hand shows irregular amounts of iridescent nail polish present on all the nails of the left hand. The feet and legs are well formed and symmetric. The toenails are closely trimmed and overhang up to 1/16 inch. There are irregular amounts of iridescent nail polish present on the 1st, 2nd, 3rd, and 4th toenails on the right and 1st, 2nd and 3rd toenails on the left. The soles of the feet are unremarkable. The back demonstrates a midline vertebral column and the anus demonstrates fecal staining with blood admixed. The anus appears dilated. The external genitalia are those of a normally developed adult woman. A small amount of blood is present over the vaginal opening. There are small superficial abrasions present over the dorsal portions of the labia majora and minora. There is a small tear approximately 1/8 inch at the vaginal opening.

Scars and distinguishing marks include: 1) on the right lower chest is a 1/8 inch hyperpigmented region; 2) on the left upper abdomen is a 1/2 inch tan colored region; 3) on the left upper arm on the distal portion covering a 4 x 3 inch area are scattered irregular hyperpigmented small scars having greatest dimension of 1/2 inch; 4) on the medial aspect of the proximal left forearm is an ovoid 3/4 inch in diameter hypopigmented scar; 5) on the mid to distal left forearm is an ovoid 3/4 inch hypo- to hyperpigmented scar. This scar is present on an approximate 3-1/2 x 2 inch area of multiple irregular hypopigmented scars having greatest dimension of 1-1/4 inches; 6) on the anterior right thigh is a faint transversely oriented 1-1/2 inch hypopigmented scar; 7) on the anterior portion of the right knee and proximal right lower leg is a 1/4 inch hypopigmented scar; 8) on the anterior surface of the right knee is an irregular 1/2 inch hypopigmented scar; 9) on the anterior surface of the left leg is a 1/4 inch depressed hypopigmented scar also present covering a 5 x approximately 1-1/2 inch

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area of scattered irregular hypopigmented scars having greatest dimension of 3/4 inch. There is a faint apparently remote needle puncture in the left antecubital fossa with surrounding brown to purple-yellow discoloration.

Tattoos include the following: 1) on the left upper arm are 4 faint dark ink spots. These cover an approximate 3/4 x 1/4 inch area; 2) on the interdigital web between the left thumb and left index finger are 3 dark ink dots; 3) on the right hand on the dorsal surface on the interdigital web between the right thumb and right index finger is a dark ink cross. It has greatest dimension of 1/4 inch; 4) on the mid to distal portion of the left lower leg on the medial aspect are 3 dark ink dots covering a 1/4 x 1/4 inch area. No needle tracks are identified. No medications accompany the body. The appearance and condition of the body are consistent with the date and time of death as listed in the investigator's report.

EXTERNAL EVIDENCE OF INJURY:

1. Present on the mid forehead centered 7 inches from the vertex and on the midline is a 1/2 inch contusion.
2. On the left forehead centered 6-1/4 inches from the vertex and 1-3/4 inches left of midline is a 1/2 inch contusion.
3. On the left face on the left orbital region centered 8 inches from the vertex and 2 inches to the left of midline is a 2-1/2 x 3 inch area of multiple purple to red to blue contusions. These contusions are present on the upper eyelid, lower eyelid and extending out onto the face overlying the left zygoma. In addition contusions are present on the left side of the bridge of the nose with a small 1/8 inch superficial abrasion. There are the previously described diffuse petechial hemorrhages present over the right periorbital region.
4. On the left neck just below the left mandibular ramus is a 3/8 x 1/4 inch abrasion. This is located 10 inches from the vertex and 5 inches to the left of midline.
5. On the neck centered 14-1/2 to 15 inches from the vertex extending from the right neck onto the anterior neck is a band-like 1-1/2 inch area of contusion and abrasion. This area of abrasion measures 6-1/2 inches long and starts on the lateral to posterior right neck and extends anteriorly. This area of contusion and abrasion has a red color and extends across the anterior neck. There is a linear band lying more inferior on the anterior neck made up of faint contusions and

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abrasions. These abrasions and contusions coalesce on left anterior neck in a 2-1/2 x 1-1/4 inch area of confluent abrasions and contusions. This area has a prominent red color with a pattern of abrasion of small arcs on the left neck. Below this region is an area of petechial or Tardieu type hemorrhages on the left neck and extending onto the supraclavicular area of the left chest and over the left clavicle.

6. On the left neck there is an area of abrasion and contusion extending from the base of the neck onto the left posterior neck covering a 4 inch area. The band of abrasion and contusion is located 11 inches from the vertex. On the right posterior neck centered 10-1/2 inches from the vertex is a linear approximately 3/4 inch abrasion, roughly a continuation of the previously described abrasions and contusions of the right neck centered approximately 1 inch to the right of midline.
7. On the mid anterior chest overlying the right clavicle and at the sternoclavicular junction centered 53-1/2 inches above the right heel and 1-1/2 inches to the right of midline are 3 faint abrasions each measuring 1/2 inch. The more medial is the most prominent.
8. On the left anterior chest centered 52-1/2 inches above the left heel and 3/4 inches left of midline is a 3/4 x 1/4 inch abrasion. This abrasion has a red to purple color with drying.
9. On the distal left forearm and left wrist is a transversely oriented 1-3/4 inch abrasion. This abrasion is located 19-1/2 inches from the left shoulder.
10. On the dorsal surface of the distal right arm and right wrist centered 21 inches from the right shoulder is a 3/4 inch irregular abrasion with adherent scab.
11. On the dorsal surface of the right hand centered 22-1/2 inches from the right shoulder is an irregular 1/2 inch abrasion with a yellow color consistent with a postmortem injury.
12. On the medial aspect of the proximal left lower leg and left knee 15-1/2 inches above the left heel is a 1/2 x 3/8 inch abrasion.

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INTERNAL EVIDENCE OF INJURY:

1. There is focal 1/2 inch area of hemorrhage of the tip of the tongue.
2. There is hemorrhage about the bilateral greater horns of the thyroid cartilage. Hemorrhage is also present bilaterally on the posterior to mid portions of the greater horns of the hyoid bone. Hemorrhage is also present in the soft tissues of the anterior neck.
3. There is a focal 1 x 1 inch area of subgaleal hemorrhage over the vertex.

INTERNAL EXAMINATION:

HEAD:

Reflection of the SCALP shows the usual scattered reflection petechiae and the previously described area of subgaleal hemorrhage. The calvarium is intact. Removal of the calvarium in the usual fashion shows the epidural space to be normal. Likewise, no collections of subdural blood are present. The BRAIN is removed in the usual manner and weighs 1440 grams. The leptomeninges are smooth and glistening and the gyri demonstrate their usual orientation and configuration. The vessels at the base of the brain are normally disposed and no anomalies are identified. Serial sections of the brain show the cerebral cortical ribbon to be intact. The usual anatomical landmarks of the cerebrum, midbrain, cerebellum, pons and medulla demonstrate no abnormalities. Removal of the DURA from the base of the SKULL shows the usual anatomical features without abnormalities. The pituitary fossa is unremarkable. The foramen magnum demonstrates the normal orientation and the first portion of the SPINAL CORD at the level of the transection viewed through the foramen magnum is unremarkable.

NECK:

The organs of the neck are removed en bloc and a layered dissection is performed. There are the previously described hemorrhages in the structures of the anterior neck.

BODY CAVITIES:

The body cavities are opened in the usual manner. The PLEURAL and PERITONEAL SURFACES are smooth and glistening. The PERICARDIUM is unremarkable. The

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MEDIASTINUM and RETROPERITONEUM show the usual anatomical features. The leaves of the DIAPHRAGM are intact and the organs are anatomically disposed. There is no internal evidence of injury.

ORGAN SYSTEMS:

CARDIOVASCULAR SYSTEM:

The HEART weighs 250 grams. Examination of the epicardium shows it to be intact. The chambers demonstrate their usual shape and configuration with no gross hypertrophy. The CORONARY ARTERIES are normally disposed and are otherwise unremarkable. Cut surfaces of the MYOCARDIUM show a normal color and no thickening of the ventricular walls is identified. The VALVES are intact with the usual anatomical relationships and the ATRIA are unremarkable. The AORTA follows its usual course and the origin of the MAJOR VESSELS are normally disposed and unremarkable. The GREAT VESSELS of the venous return are in their usual positions and unremarkable.

RESPIRATORY SYSTEM:

The LARYNX and TRACHEA show no abnormalities and are continuous in the usual manner with the primary BRONCHI. The secondary and tertiary BRONCHI likewise are unremarkable. The RIGHT LUNG weighs 470 grams and the LEFT LUNG weighs 460 grams. The PLEURAL SURFACES are smooth and glistening. Cut surfaces show the usual crepitant, deep red to pink parenchyma with no evidence of natural disease or injury. There is no consolidation or enlargement of the air spaces. The PULMONARY VESSELS are normally disposed and unremarkable.

HEPATO-BILIARY SYSTEM:

The LIVER weighs 1480 grams with a smooth, glistening surface. Cut surfaces show the usual anatomical landmarks with a deep red cut surface. The GALLBLADDER contains 10 ccs of bile and no abnormalities are demonstrated in the BILIARY TREE.

LYMPHO-RETICULAR SYSTEM:

The SPLEEN weighs 170 grams with a smooth, glistening capsule and an unremarkable parenchyma with the usual anatomical features. The THYMUS has an appropriate appearance for age. The LYMPH NODES where noted show no pathological change.

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URINARY SYSTEM:

The RIGHT KIDNEY weighs 150 grams and the LEFT KIDNEY weighs 135 grams. The cortical surfaces are smooth and glistening with good preservation of the cortex and good cortico-medullary differentiation. The Pelves show the usual anatomical relationships and are continuous into normal appearing URETERS which insert into an unremarkable BLADDER containing no urine.

INTERNAL GENITALIA:

Examination of the VAGINAL VAULT internally shows the usual rugal pattern without abnormalities. The UTERUS occupies the usual position and is of normal size. The CERVIX is unremarkable. The ENDOMETRIUM is unremarkable. The ADNEXA lie in their usual position with normal gross anatomical features.

GASTRO-INTESTINAL SYSTEM:

The PHARYNX and ESOPHAGUS are unremarkable and the STOMACH contains 20 ccs of brown fluid. The mucosal lining of the stomach is intact and is continuous into a normal duodenum and small bowel. The SMALL and LARGE INTESTINE are unremarkable and the APPENDIX is present.

ENDOCRINE SYSTEM:

The PITUITARY, THYROID, ADRENALS, and PANCREAS are unremarkable.

MUSCULO-SKELETAL SYSTEM:

The musculature is normally developed and the bony structures demonstrate their usual relationships. The abdominal FAT measures 3/4 inch at the level of the umbilicus. No other abnormalities are noted.

MICROSCOPIC:

CORONARY ARTERIES: No significant diagnostic abnormality.

HEART: No significant diagnostic abnormality.

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LIVER:	Congestion.
LUNG:	Congestion.
KIDNEY:	No significant diagnostic abnormality.
BRAIN:	No significant diagnostic abnormality.
VAGINAL SWAB AND WASH:	Spermatozoa
ORAL AND ANAL SWABS:	No spermatozoa identified.
VAGINAL MUCOSA:	Dilated vessels.
ANAL MUCOSA:	Dilated vessels, submucosal hemorrhage.

MT

PHONE (206) 343 5435

FAX (206) 731 8564

Death Investigation Toxicology Report

ST 980403

Agency case # 98-0107

attn.

date received 1-26-98

agency King Co. Medical Examiner

date completed 1-30-98

Box 359792

325 9th Ave

Seattle WA 98104-2499

Last name	First name	middle initial
UWF		

sample blood

container YG

labelled Y

BLOOD ETHANOL neg

MT

BLOOD TEST RESULTS

caffeine

nicotine/cotinine

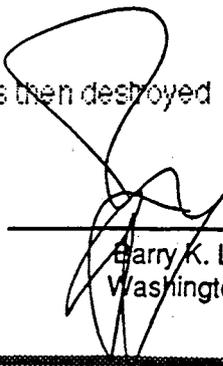
URINE TEST RESULTS

not performed

COMMENTS

Note: samples will be retained for nine months then destroyed


Ed Formoso, Analyst


Barry K. Logan Ph.D., DABFT
Washington State Toxicologist

CONFESSION OF COREY BEITO

APPENDIX G

DET G: The following is a tape recorded statement. Case number is 98-021764. Today's date is 01/25 of 1998. The time now is...

DET P: 1355.

DET G: 1355 hours. This is a statement of last name BEITO, first name COREY. This interview is being.. conducted at Bonney Lake Police Department. This statement concerns an investigation of the crime of Murder. Which occurred on or about ,do you have the date?

DET P: Thursday. And the date is... January 21st.

DET G: Thursday, January 21st. The interviewing officers are Detective DENNY GULLA and Detective SUSAN PETERS and we're interviewing COREY BEITO. COREY, are you aware this statement is being recorded?

SUS: Yea.

DET G: Do we have your permission to record it?

SUS: (Throat clearing) yes.

DET G: Okay. Um.. you understand you have the right to remain silent? Y-Yes?

SUS: Yes.

DET G: Okay. You understand anything you say or sign can be used as evidence against you in a court of law?

SUS: Yes.

DET G: And do you understand that you have the right at this time to an attorney of your own choosing, and to have him present before saying or signing anything? Or making any statements?

SUS: Yes.

DET G: Okay. Do you understand if you cannot afford an attorney, you're entitled to have one appointed for you without cost to you, before answering any questioning or making any statements? Do you understand that?

SUS: Yes.

DET G: Okay. Um, do you understand you can exercise any of these rights at any time ? Do you understand that?

SUS: Uh-hmm.

DET G: Okay. And keeping these rights in mind, do you wish to talk to us about... what happened to this girl?

SUS: (Sniff) Okay, yes.

DET G: Okay. Is this statement voluntary on your part?

SUS: Yes.

DET G: We haven't threatened you or anything? We've been pretty cool?

SUS: Yea.

DET G: Okay. COREY, um, let's start off tell us what happened... that night that... the first time.. the first night when you guys had the party and, and she showed up?

SUS: (Sniff).

DET P: Can you start out , COREY, telling us where you were at? Was it at your house? Or somebody else's house?

SUS: (Throat clearing) My house.

DET P: And were you there by yourself or were other occupants there?

SUS: I was there, oh.. home alone at first. And SETH. Uh, first name's BILL. JESSICA.. showed up. (Sniff) They, we're sitting around drinking.

DET P: Do you remember what they were drinking?

SUS: Vodka, I think. Vodka.

DET P: Is that something you were giving them? Or did they bring it themselves?

SUS: They had vodka.

DET P: Okay. At that time were you partying with 'em or?

SUS: Uh, we just sitting around drinking, like it was party. But....

DET P: What were you drinking?

SUS: R and R.

DET G: R and R?

SUS: Yeah.

DET G: How long.. were you drinking ... before ?

SUS: Before they showed up, I was ...yeah.

DET G: So you had your own bottle of...

SUS: (Sniff)

DET G: ... R and R?

SUS: I went and bought my own.

DET G: Okay.

SUS: I usually drink a fifth , a fifth and a half or so a day.

DET P: Now, did they show up. I know you're not very good on your times you said. But... was it morning? Afternoon? Evening?

SUS: It was .. evening. I don't know what time.

DET P: Okay.

SUS: (Sniff) And... oh... man...

DET P: Did MIKE eventually come home or what was the scoop on him?

SUS: MIKE.... or NICK... came there before MIKE I think. (Sniff) Stopped by. Everybody always stops by. Uh... and MIKE... came home... late at night. (Sniff) And I was already just... wasted. And.... they start arguing.

DET P: Who was arguing?

SUS: JESSICA and NICK and BILL.

DET P: Can you tell us a little bit about the relationship between those three people?

SUS: (Sniff) I never met BILL before, that's the first time I ever met him.

DET P: Was JESSICA seeing BILL, was that your impression?

SUS: Yea.

DET P: Okay. And how does NICK fit in?

SUS: NICK is her exe... or one of her exes, I guess.

DET P: And who's...

SUS: And she still cared about him. And she let it to be known, and BILL got upset and pissed off. Because they were suppose to be together.

DET P: So did BILL end up staying or did he leave?

SUS: BILL...left, I don't think BILL didn't want anymore.

DET P: And how is...

SUS: And SETH left with him, he drives. BILL drives.

DET P: Okay. So now, it's NICK and...

SUS: And JESSICA .

DET P: And you?

SUS: And MIKE.

DET P: And MIKE? And JESSICA and you have a problem or an argument or ? or what happened?

SUS: Yeah, he went... after that. happened with BILL. JESSICA and NICK. Oh... MIKE.. and JESSICA used to like each other. Or JESSICA used to like MIKE. And they was in the bathroom. (Sniff) And then NICK got mad about that.

DET G: What were they doing in the bathroom?

SUS: I guess having sex. I dunno. I wasn't... at the door or nothing, I, I came...

DET P: Didn't want to (unintelligible)...

SUS: That's what I was told, yeah.

DET P: Which one told you?

SUS: MIKE... (throat clearing) and so then... NICK got upset and started arguing. Then he left. Then it was MIKE and JESSICA. I just kept drinking and drinking and drinking.

DET P: Where were you sitting?

SUS: I was bouncing all over the whole house I'm sure. Um, mainly , probably just in the living room.

DET G: Uh,you said that the ,they brought their own booze?

SUS: They had... like some vodka or something, yeah.

DET G: How,how much did they bring?

SUS: Not very much.

DET G: A fifth? A half gallon?

SUS: A pint.

DET G: A pint. Did they bring,did they bring any beer?

SUS: That's all I know of unless it's in the car or something. But I didn't see any.

DET G: But....

SUS: (Sniff)

DET G: there came a point in the evening that you had to leave to go get some more R and R?

SUS: Yeah. Before BILL and them left. Yeah. He drove, he drove me... down to the Fred Meyer liquor store and I bought myself another fifth of R and R. I... I'm pretty sure it was R and R.

DET G: Okay. So when you came back to the house did you... did you share the alcohol with them or did you drink it over a ride...

SUS: Uh-huh.

DET G: Okay. Not even with JESSICA?

SUS: No. MIKE probably had a little bit., other than that.... everybody else was minding the beer.

DET G: What was , what was... JESSICA drinking?

SUS: I didn't even know she was drunk. When they ... JESSICA showed up with BILL and , and SETH, and they had vodka. And I dunno if she was drunk or what, but they didn't have .. very much.

DET P: Well, was she able to talk and walk?

SUS: Yea.

DET G: Okay. So...

SUS: (Sniff)

DET G: Then what happened? They're there. Everybody's left except for you and MIKE and JESSICA.

SUS: (Sniff) Well, just sit around drinking. MIKE... was with her on the couch. So I went in the kitchen.

DET P: Did they end up having sex again?

SUS: After the bathroom incident?

DET P: Yes.

SUS: Yes.

DET P: Okay. What do you remember...

SUS: On the couch.

DET P: ... about that? On the couch?

SUS: Yeah, that's what, I was just sitting in the living room, they're just on the couch. And I was like hey. So I went back in the kitchen.

DET G: Sitting there..

SUS: Just drank more.

DET G: There on the couch having sex?

SUS: (Unintelligible) more.

DET G: And you walk in then?

SUS: Yeah, I was in. They're just started... while I was still there in the room, I was like... so I went in the kitchen and just sat at the table and drank. (Sniff)

DET G: So...

SUS: And then... I just sat there and drank. Came back out after a while and just sat around. And just watched TV and everybody was just passed out on the floor. She was on the couch. MIKE was on the floor. And I.... usually sleep on the couch. Then.. (sniff)...

DET G: Okay. So, MIKE's sleeping. Right?

SUS: Right.

DET G: Or is he passed out? What do you think?

SUS: Probably sleeping. I don't know if he was drunk or not. He had a little bit of R and R, but....

DET G: Okay. JESSICA's on the couch, is she asleep now?

SUS: Yes.

DET G: Okay. And you're up... what, what are you doing?

SUS: Turn the TV on, radio on. Drinking.

DET G: Uh-hmm. How long do you stay up by yourself drinking and stuff?

SUS: Until I fall down.

DET G: Uh-hmm. So.. then do you ,do you go to bed?

SUS: (Sniff) That night? I....

DET G: (Unintelligible) and you go to bed. And then come back out and get JESSICA?

SUS: I went in that room, felt like it. I don't know.

DET P: Where? The master bedroom?

SUS: Yea.

DET G: Okay.

SUS: I didn't go in.

DET P: Now, MIKE had mentioned you had started fondling her breasts out in the front room. Do you remember that?

SUS: I, I don't remember. All I remember is... I dunno, I just... something just... snapped. I don't know.

DET P: Okay. But you had told us that you took her into the... your bedroom?

SUS: In the other room later, yeah.

DET P: Okay. How did you get her in there?

SUS: (Sniff) I woke her up. And she's like all droggy or.. groggy or something. (Sniff) And we went in the room.

DET G: You went in the other room with her.

SUS: Yes.

DET P: What happened next?

SUS: (Sniff)

DET P: Somehow her underwear get ripped off or they're ripped. What do you remember about , COREY? Do you remember taking her clothes off? You gotta answer out loud.

SUS: Yes. (Sniff)

DET P: Okay. Were you laying on the bed or ? Was it before...

SUS: We were on the bed. Yes.

DET P: Do you remember if you were making out?

SUS: A little ...of.. she was....

DET P: Was she resisting you?

SUS: Not really.

DET P: Okay. Well, what were...

DET G: Was she awake?

SUS: Yeah, she was awake.

DET G: Okay. Talking to you?

SUS: (Sniff) Yea.

DET G: What did she say?

SUS: I don't know, we were talking. I know we were talking.

DET G: Okay.

SUS: I don't know if it was... I guess well, I don't know ... if it was good, bad, I dunno.

DET P: Tell me about her underwear. What do you remember about those? Did you get aggressive?

SUS: Obviously, I killed her.

DET P: Okay. Well, we know you killed her. But I want to know what happened as far as her clothes, COREY.

SUS: Uh.... god.

DET G: Were they ripped and you put 'em back in the bag or were they... already ripped when you picked 'em up?

SUS: I don't even remember ripping 'em. You guys are telling me I ripped 'em. I must have ripped them. I don't know.

DET G: Okay. Okay. But we just wanna know what, what you remember... okay?

DET P: COREY, I was letting you know when I saw 'em they were ripped.

SUS: I believe you. Okay? About that... beyond the story, I can't remember...

DET P: Okay.

SUS: I don't like not remembering...

DET G: Okay.

DET P: (Unintelligible) did she have a bra on? Do you remember?

SUS: Probably. (Sniff)

DET P: Okay. Do you know what color it was?

SUS: I don't.

DET P: Okay.

DET G: So.... you're, you're in the bed. Okay. She's awake. Right?

SUS: Yea.

DET G: Okay. She's sleeping on the bed. On which side?

SUS: Uh... wall...

DET G: Okay. And... you guys have... sex. Right?

SUS: Yea.

DET G: Does she tell you no at any time?

SUS: Uh.... no, she never did say no, but I ... (crying)... uh...

DET P: When...

DET G: Did she ever start yelling?

SUS: She never , never.. yelled nothing. Nope.

DET G: Okay.

SUS: I don't know (sniff)...

DET G: Okay. So COREY...

SUS: Uh...

DET G: You have sex with her, right? Right?

SUS: Yes.

DET G: Okay. And... you complete your, your.... your sex

SUS: Uh.... yes.

DET G: And... and then.....do you put your pants back on?

SUS: (Sniff) Probably my boxers.

DET G: Your boxers? Okay. What's she doing after you have sex?

SUS: We were talking still.

DET G: Still talking. Um...

SUS: Like everything was normal.

DET P: What kind of sex did you have with her?

SUS: (Sniff)

DET P: Normal?

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SUS: Normal, I guess, I don't , heh-heh. I don't either...

DET G: Okay.

DET P: Well, did you ever... enter her anus?

SUS: No.

DET P: Are you positive?

SUS: Positive. I didn't whatever.. anybody... (sniff)...

DET G: Okay. COREY. So you have... just normal sex with her. And you..

SUS: (Sniff)

DET G: You're laying down beside her, talking to her? Right?

SUS: No, I was sitting up again at that time.

DET G: So when's...

SUS: Huh?

DET G: Okay.

SUS: And she was like talking to me. It's like everything was going (unintelligible)... eh, I didn't do anything I.. I didn't hurt...

DET G: And you what?

SUS: Hurt her.

DET G: You hurt her?

SUS: Uh-hmm. And god, I mean she's... baby. I was hurting her regardless, whether she was resisting or not.

DET G: Okay. Did she resist at all?

SUS: Uh... no.

DET G: Okay.

SUS: I don't know why, but she didn't.

DET G: Well.. why did you decide... try to choke her?

SUS: (Unintelligible).. I don't know.

DET P: Did she make you mad?

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SUS: She didn't do anything (crying)... wrong. (Sniff)

DET G: COREY?

SUS: She didn't do nothing (crying)... god, I want to die.

DET G: What, what did you choke her with?

SUS: Couple of times...

DET G: What did you choke her with, COREY?

SUS: (Sniff)... uhh...

DET G: Your hands?

SUS: Yeah.

DET P: Okay. You're gonna have to speak up a little bit.

SUS: My hands (crying).

DET G: Okay.

SUS: (Sniff)

DET P: Did you use anything else ? Any ropes? Tapes? Belt? Any other type of ligature? Something around her neck?

SUS: Uh...

DET P: What do you remember?

SUS: I did have a belt.

DET P: Okay. What kind of belt?

SUS: (Sniff) Um..... black belt.

DET G: New one or old one?

SUS: Kinda an old... it was...

DET G: Where's your belt at now?

SUS: Uh... probably with the rest of my clothes.

DET G: Where?

SUS: (Sniff)

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DET G: At the house? Or?

SUS: At the house.

DET G: Okay.

SUS: I don't know where. (Unintelligible.) I was wearing black jeans and.. (sniff) and it's the only time I ever wear that black..

DET P: What kind of buckle does it have?

SUS: Uh... sss... silver... like.. brass?

DET G: Is it...

SUS: (Sniff)

DET G: Is it a relatively new belt? I mean ..

SUS: (Throat clearing).

DET G: ... do you wear it very often?

SUS: Once in, I got it from a friend.

DET G: Uh-huh.

SUS: So I don't know how old it is. (Sniff)

DET G: But I mean if I was looking at it would it look kinda new?

SUS: No, it was ragged.

DET G: Ragged. Okay. Was, was it straight, just like a leather belt? Or did it have a design on it? Or what?

SUS: (Sniff)

DET G: Okay.

SUS: It's a weaved.

DET G: Weaved?

SUS: Yea.

DET P: What did you do with the belt?

SUS: Uh.....(sniff).... I put it around her neck.

||

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DET P: And did you put it around the front or the back ? Where did the loop go? Around the front? Like this?

SUS: (Sniff) Uh...

DET P: Did you wrap it around her neck?

SUS: Yeah. Uh...uh... yes.

DET G: Just wrapped it around her neck?

SUS: (Sniff)

DET G: Is she laying down on the bed now or... So? How do you wrap her, wrap her around her neck? I mean do you just lift her head up? Is she, does she fight with you about this?

SUS: Uh...uh...

DET G: She's, she's fighting, though?

SUS: She never fought once. I don't know.

DET G: Okay.

DET P: COREY, did you hit her? She had some injuries on her face. Do you remember where you hit her? You also ...told.. some of the guys that we interviewed where you hit her. Where did you hit her on her face?

SUS: I don't even know if I did hit her, honestly..I probably did, I don't know.

DET P: Okay.

DET G: Okay.

SUS: (Sniff)

DET P: Do you remember...

SUS: I don't remember telling anybody.

DET P: ...giving her that?

SUS: I don't remember telling anybody I did anything to her really. I talked to....(sniff). MARK. And...MIKE a little bit.
I don't remember hitting her.

DET P: Okay.

DET G: Okay. Let's get back to this ... the belt thing.

SUS: (Sniff, sniff)

DET G: She's laying down on the bed, right?

SUS: Ahh.....

DET G: And you had the belt. Now, you... you loop it around her neck and you... choke her with it. Is that right?

SUS: Uhh..... (sniff).... yes.

DET G: Okay. Now, how long do you choke her with the belt?

SUS: I don't...even know,

DET G: You don't know?

SUS: (Sniff).... Until she stops moving...

DET G: Until she stops moving?

SUS: Ohhhkkk....yes. Uhh...

DET G: Okay.

SUS: (Sniff)

DET G: Did you choke her with your hands, also or before that? Or after that?

SUS: Ohhh..... before.

DET G: Okay. Why did you decide to use the belt?

SUS: Uhh...

DET G: Your hands didn't work?

SUS: I don't know. I just.... uhh..... (sniff)....

DET P: Where did you get the belt from? Was it on the floor or was it on the..?

SUS: It was on the floor, was it, it was....(sniff).... earlier I was wor....OH GOD!

DET G: Earlier you were in...

SUS: The black jeans with the belt, that's what I wore.

DET G: Okay.

DET P: And how is..

DET P: How were you dressed?

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SUS: And my pants were laying next to me.

DET P: Were you naked when you did this to her?

SUS: (Sniff)

DET P: You have to talk.

SUS: Yesss...

DET G: Okay. So you took your pants off and laid 'em beside the bed? Is that, is that what's going on?

SUS: If... yeah. When we first went in the room.

DET G: Uh-huh.

SUS: (Sniff)

DET G: So you..go on top. You get completely naked? Is she completely naked , too?

DET P: You have to speak up.

SUS: (Sniff)... yes.

DET G: Okay. And..

SUS: I... I..... her....?

DET G: Uh-hmmm.

SUS: (Sniff) I don't think so.

DET G: Did, what part, what clothes did you take off of her? Did you take her shirt and (unintelligible) what did you take off?

SUS: Um..... uhhh...

DET G: Did you take her shirt off?

SUS: Uhh.... I don't think I did. I don't know.

DET G: Do you lift her.. bra?

SUS: I don't know.

DET G: Do you lift her bra up?

SUS: Huh?

DET G: Do you lift her bra and shirt up? Or?

SUS: Um?

DET G: Yeah.

SUS: Probably.

DET G: Do you remember, did you take her shirt off?

SUS: I don't think I ever did take her shirt off.

DET G: Okay. What about... her pants?

SUS: Her pants. She took off on her... self.

DET G: Hm.

DET P: What kind of pants did she have on?

SUS: Uh..

DET P: Do you remember? Or were they light colored? Dark colored?

SUS: I don't remember. I don't know.

DET G: Okay.

SUS: (Sniff) I just remember she took her pants, I remember her ...

DET G: Did she take her panties off at the same time?

SUS: I dunno. She said they were ripped. So I must did .. I don't know.

DET G: Okay. What we're... COREY, what we want to know is...

SUS: I DON'T KNOW.

DET G: Okay.

SUS: I wasn't... (unintelligible)..

DET G: Alright. Is what you...you remember, okay?

SUS: (Sniff) -

DET G: We don't want to put ...

SUS: Believe me if I knew, I'd tell ya. I don't, don't want this anymore. *A*

DET G: Okay. COREY? What we just want to know is we just want to know what you remember. Okay?

SUS: (Sniff)

DET G: We don't want to put anything in your mouth, alright?

SUS: (Sniff)

DET G: So do you remember her pants..

SUS: Uhh.....

DET G: ... she took her own pants off. Did she... she..

SUS: I think she took 'em, I don't know if she took 'em off. But I'm.... for some reason I remember I think she took 'em off.

DET G: Okay. What about her underpants?

SUS: Uh, I would assumed she took 'em off. But she said that they were ripped. I don't think...

DET G: Okay.

SUS: I didn't mean that she would rip her own panties... (crying)...

DET P: COREY?

SUS: What...?

DET P: When we found them they were ripped. I'm not saying you ripped them. Okay? It was just a general question. Do you remember if...

SUS: I don't...

DET P: they were ripped?

SUS: I don't remember..

DET P: If you don't remember, that's fine.

SUS: I don't remember.

DET P: Okay.

SUS: I wished I did. I wished...

DET P: What about her shoes? Where were her shoes?

SUS: Uhhh..... where were they?

DET P: Yeah, were they in the bedroom? Or were they in the living room?

SUS: They were in the living room.

DET G: Okay. So...

SUS: (Sniff)

DET G: So then....you choke her with the belt.

SUS: (Sniff)

DET G: And you kill her. Right? She's not breathing anymore. And she's not moving, right?

SUS: No. She's not moving.

DET G: Okay.

SUS: Uhhhh.....

DET G: And.... you go to... you go to sleep

SUS: I must have (sniff)....

DET G: What's the next thing you remember?

SUS: Waking up.

DET G: Okay. Where is she at?

SUS: Laying next to me.

DET G: Okay.

DET P: Is she dead?

SUS: Yea.

DET G: Okay.

SUS: (Sob)

DET G: She have... what clothes does she have on?

SUS: (Sniff) (Cough) I don't think she had anything on. I don't.... I think.... I think she had her shirt on , still actually...
(sniff)...

DET G: What kind of shirt was it?

SUS: Uh.... just I don't know, it was a regular shirt. I don't know. (Sniff, sniff)

DET G: So what do you do? Once you.. discover that she's dead.

SUS: Well, I went out into the living room I was ... trying to talk to MIKE, I was gonna tell MIKE that it.... but then I called MARK. I was gonna tell MARK. Then I was going to call the cops. But... (sob)...

DET P: What you...

SUS: Huh?

DET P: What did you end up telling MIKE? Start there.

SUS: (Sniff) I didn't really tell him much. He... kinda looked at me funny. Like he already thought he knew or something.

DET P: Did he ask ?

SUS: I didn't tell him, that I killed. I told him or tried to tell him... I tried to start talking about it. And he's like... trying to brush me off , and brush me off. (Sniff)

DET P: What...

SUS: And then he looked down and he saw her she was...

DET P: Okay.

SUS: after.... we were talking for a little while and then he just, I think he just knew.

DET P: Did he ask where JESSICA was?

SUS: He never did.

DET P: Did you.... tell MIKE that JESSICA had left on her own?

SUS: I don't...

DET P: Did you ask MIKE if he wanted JESSICA's shoes?

SUS: If he wanted 'em?

DET P: Uh-hmmm.

SUS: No.

DET P: Did you end up talking to who next?

SUS: MARK.

DET P: Okay. Did you call him or did he call you?

SUS: I called him.

DET P: And what was that conversation? Did you ask him to come over or?

SUS: Yeah,so I could talk.

DET P: And what did he tell you?

SUS: To figure out what the hell to do. To deal with it. With anything.

DET G: What did you tell him?

SUS: Told him everything that I could remember. Everything I'm trying to remember now.

DET G: Okay. And he told you?

SUS: (Sniff) That he wanted to leave ,that he didn't want nothing to do with nothing. (Sniff) But I mean he sat around for a little while talking to me , he said he'd... whatever you know, he's my friend, but...

DET G: Did he come

SUS: (Unintelligible) yes. He come...

DET P: When was that ? What day? Was that the following day? Friday?

SUS: When I woke up . I guess it was Friday.

DET G: Okay. Did you show him,did you show him the body?

SUS: (Sniff, sniff).... he... didn't believe me. I don't think he really believe me.

DET G: Uh-huh. So what did you do? Did you show him the body?

SUS: (Sniff)... yeah.

DET G: What did he say then?

SUS: He didn't recognize it because it was in the bag already.

DET G: It was in the bag already? Let's, let's back up on... what.....so...

SUS: So god, when he got... there it was already like running through my head like what the hell to do.

DET G: Uh-huh.

SUS: (Sniff) So when he got there we.... we're talking about what I should do. Call the cops and whatever ,kill myself. Anything. I don't know.

DET G: Okay.

SUS: (Sniff) And then he said he'd help write...and then I said .. Look..... and he couldn't... it was in a bag even (unintelligible)..early..

DET G: It was in a gar, she was in the garbage bag already?

SUS: Uhhh... yes.

DET G: In your room?

DET P: Where at?

DET G: How? In the room?

SUS: Yes.

DET G: Okay. Where, where at in your room?

SUS: On the floor, by the closet.

DET G: Okay. Deposit at the foot of your bed?

SUS: Yes.

DET G: Okay.

SUS: (Sniff)

DET G: Is the garbage can in there?

SUS: No.

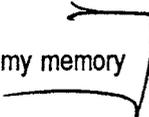
DET G: Just she's... she's just in a garbage bag?

SUS: Yes.

DET G: In your bedroom?

SUS: Didn't even.. huh?

DET G: Where have you put, where did you put in the garbage bag beside her about, besides her body?

SUS: Everything that I could find that belonged to her, that I could associate with that, just... wanted to get rid of my memory, I wanted to get rid of everything. 

DET G: What ,when did you put her in the bag?

SUS: (Sniff)

DET G: How long did she stay in the bag?

SUS: Uh...I woke up, I went and talked to MIKE . And then I talked to, called MARK. And by the time MARK got to my house I'd already put her in the bag.

DET P: Where did you get the bag from?

SUS: The kitchen.

DET P: And what kind of bag was it?

SUS: Um.... a plastic bag. Like a garbage bag.

DET P: What, what color?

SUS: Uh... black. Gray? I don't know. (Sniff)

DET G: Where was MIKE when this happened? When, when you put her in the garbage bag?

SUS: The living room.

DET G: The living room?

SUS: (Sniff, sniff, sniff)... ahhh.. yeah.

DET G: Okay. So then you

SUS: (Throat clearing)....

DET P: I'll get you a Kleenex.

DET G: Okay. What we'll do, is I'm gonna turn the tape over at this time anyway. It's, it's the time is uh... 14... 22 hours. And it's... 1...

SUS: (Unintelligible)..

DET G: ... 25 of 1998.

SUS: Ohhh....

end of side one of the cassette tape

Side two.

SUS: Shoot me, please....

DET G: We're... on... side two. It's 01/25 , 1998. The time now is 14..23 hours. MARK, you're aware we're still recording this?

SUS: Huh?

DET G: You're aware we're still recording this?

SUS: Yeah.

DET G: Okay. All we did was turn the tape over.

SUS: Yeah.

DET G: Okay. You're still willing to... have this recorded?

SUS: (Sniff) That's fine.

DET G: Okay. Um...

SUS: (Sniff)...

DET G: So....

SUS: (Sniff)

DET G: MARK comes over . You show him ,you..

SUS: (Sniff)

DET G: ... show him her body. What does MARK say about all this?

SUS: He didn't believe it still. I don't think.

DET G: I mean he's ..

SUS: (Sniff)..

DET G: ... looking at her body...

SUS: Well... she's in the bag.

DET G: Uh-huh.

SUS: It was a dark colored bag.

DET G: Uh-huh.

SUS: I don't think he believed it was actually a human in there.

DET G: Uh-huh. So what did he say? I mean what....

SUS: He asked me what the hell I was gonna do.

DET G: Uh-hmm.

SUS: And , and he asked... me what the hell IL was going to do and he asked...

DET G: What did you tell him you were gonna do?

SUS: I told him a lot of stories I'm sure. I don't know what the hell I was gonna do myself.

DET G: Alright. Okay. So what does MARK ultimately do?

SUS: What do you mean ultimately do?

DET G: I mean you tell you and then you're pointing out this bag.

SUS: We talked, we talked and talked and then he... had to get back to his ... wife, 'cuz they have a newborn.

DET G: Uh-huh.

SUS: (Sniff) and then I called him back later and talked to him some more. And then he left again. He didn't want nothing to nothing.

DET G: Okay. Now...

SUS: He drank cough syrup.

DET G: What's that? He drank cough syrup?

SUS: Yeah.

DET G: Okay.

DET P: MARK did?

SUS: Yeah.

DET P: What was the point of that?

SUS: It was just cough syrup.

DET P: To get high?

SUS: Yes. (Sniff)

DET P: Did he help you carry the bag?

SUS: No. He never touched it.

DET G: Okay.

SUS: He never touched it.

DET G: So you have... now, she's in the bag in your bedroom. You told MARK already. Uh... MIKE.... doesn't know yet?

SUS: Right, he suspects, I went out and talked to him.

DET G: Okay.

SUS: After I talked to MARK.

DET G: Did..

SUS: I didn't tell him that I killed her though.

DET G: Okay. Did you tell MIKE that you kill her?

SUS: No.

DET G: No?

DET P: Did he see the bag?

SUS: No, I don't think, I never showed it to him.

DET P: Okay. Earlier you thought he might have been in the shower. 

SUS: Yea.

DET P: At some point.

SUS: Yeah. There was... that's the point. When....that's even after MARK left.

DET G: Okay. So MARK leaves...

SUS: (Sniff)

DET G: Um....when do you put her body into the garbage can?

SUS: After (Sniff) MARK leaves. (Throat clearing) Then MIKE took a shower.

DET G: Yeah.

SUS: Sometime over there.

DET G: Okay. -

SUS: And then I did.

DET G: Okay. Do you then... I mean immediately take the garbage can with her body in it out to the backyard then? To

get...

SUS: While, while he was in the shower, yes.

DET G: Okay. And where did you, where did you put her body, body in the garbage can first, in your yard?

SUS: (Sniff) Near the dog house.

DET G: Okay. That's the dog house on the ... the... the far corner of the property where the dog was, was staked up to?

SUS: Yes.

DET G: Okay. And then....

DET P: How did you take the garbage out? The can out there? Did you lift it? I mean you're a pretty big guy. Or did you pull it?

SUS: I had to pull it. I couldn't pick it up.

DET P: Is there any handles on it?

SUS: No.

DET P: So how'd ya...

SUS: Drug it.

DET P: At what point did you tape up the lid?

SUS: 'Cuz it kept falling off.

DET G: In the house? or outside?

SUS: In... the kitchen area. Right before you get outside the back door.

DET G: Okay.

SUS: (Sniff)

DET G: So you... you're taping up the lid of the garbage can in the kitchen. And you've already taken this.... it's pretty heavy, right?

SUS: Uhh..... (unintelligible).

DET G: Okay. You have a tough time with it?

SUS: Yes.

DET G: Okay. So you.. tape up the lid in, in the kitchen. And.... MIKE still in the shower?

SUS: Yeah. Yes.

DET G: Okay.

SUS: (Sniff)

DET G: And, and then you.... you.. have to... drag this garbage can across the yard behind the, the dog... the dog..

SUS: (Sniff)

DET G: ... shed ,right?

SUS: Yes.

DET G: And...

SUS: (Sniff)

DET G: And then you go back in the house. Is MIKE still in the shower?

SUS: (Sniff) No, he was just getting out.

DET G: Okay. When do you.... next move her body?

SUS: Yesterday.

DET G: Okay. And you moved it from... behind the shed to where?

SUS: Near the (unintelligible) shed.

DET P: Okay. And yesterday was what day to you?

SUS: It's... say Saturday I guess.

DET P: Saturday.

SUS: If .. I dunno, today's Sunday.

DET P: Today's Sunday..

SUS: Then it was Saturday. Wait. Yea, Saturday.

DET G: Okay. Now, so Saturday you, you moved the garbage can to the shed. Why do you move the garbage can to the shed?

SUS: Because of the dog. (Sniff) Kept sniffing around. And...

DET G: Was he chewing on the garbage can?

SUS: No. No, I don't think he could reach in there and do something. It made me sick to my stomach. (Sniff) To see that.

DET P: Did you get sick?

SUS: (Sniff)

DET G: Yes?

SUS: Yes.

DET G: This bothers you doesn't it?

SUS: (Sniff) Yes. Uhhhh....

DET G: So...

SUS: (Sniff) So then...

DET G: Okay.

SUS: Ohhh.....

DET G: That's okay, we're just trying to get all the truth out. So... her body's in the garbage can. In the storage shed. And you locked it... the door of the storage shed, right?

SUS: Yes.

DET G: Well, how did you, what's, what's the lock look like?

SUS: Just uh..... a little tiny padlock. (Sniff) Probably rusted.

DET G: Do you... is there a key to it?

SUS: I can't find it no more.

DET G: Did you have the keys with you when you went out to the house here on Bonney Lake?

SUS: I thought I did. (Unintelligible).

DET G: So it's ...

SUS: (Sniff)...

DET G: It, it might be on there, right?

SUS: No. They were on there, that's why I'm saying I thought I did, but I can't find it anywhere.

DET G: Okay. So.... so then you move her body to the storage shed and then you... that was yesterday. Right?

SUS: Uhhh... yes.

DET G: Okay. Then when do you go ...

SUS: (Sniff)

DET G: ...out to Bonney Lake?

SUS: (Cough) a little while later. LADD and... J.R. showed up at my door and I hadn't seen them in a long time.

DET G: Now, who's....

SUS: They owed me money.

DET G: Now, who's J.R.?

SUS: Just an old friend. I don't know.. the name's J.R.

DET G: Is he... was he out at the house today?

SUS: He was there last night. I don't know if he was still there. No, he left last night, I think.

DET G: What kind of car does he drive?

SUS: He doesn't. Just with his roommate. His roommate drives a Volkswagen bus.

DET G: Where did, where does J.R. live at? Whatever.

SUS: The same area. I don't even know how they could get back to where I was at.

DET G: Okay. He... so J.R. lives out in the Bonney Lake, too?

SUS: Yeah, that area somewhere around there.

DET G: Okay.

SUS: (Sniff)

DET P: And why do they owe you money?

SUS: I borrow LADD like four thousand dollars quite a few years ago. To help him get out of some problem debt lawyers whatever it was. (Sniff) And ..I'm hurting for money right now, angle or whatever I'd show up he'd be away to... talk to him, talked to him in a long time. I wanted to get my money or something. (Sniff)

DET G: Okay. So.... then you come out and you stay out here, with, with LADD. Your ride out here with him?

SUS: Yeah.

DET G: Okay. Um..... what.... what's the, the deal with the little altar in your ,your bedroom?

SUS: The altar?

DET G: Yeah. Just..

SUS: I like to meditate.

DET G: Okay. And... there's a cup on, in the bedroom, that has some blood on it and it has a picture in it.

SUS: Picture of JAMIE in it.

DET G: Uh-huh.

SUS: It's a love spell.

DET G: Okay. Whose blood is on there, on the glass?

SUS: It's mine.

DET G: Okay. And... why did you... put that in there like that?

SUS: To mix my blood with, with,with her. I wanted to love her, wanted her to love me.

DET G: Okay. When did you... do that?

SUS: Long time ago.

DET G: Long time ago?

SUS: I don't know exactly well, I mean... weeks ago.

DET G: Weeks ago?

SUS: Weeks. It's even , actually probably a couple of months.

DET G: Is any of her , her blood gonna be on that?

SUS: JA,JESSICA's?

DET G: Yeah.

SUS: No.

DET G: Okay. Now, what about the hair out there ?

SUS: It's all mine.

DET G: All , all the hair stuff is yours?

SUS: I don't like people having my hair.

DET G: Okay.

SUS: (Sniff)

DET G: That also some stuff you use like some spells and stuff like that?

SUS: (Sniff)

DET G: Is that right?

SUS: Yes.

DET G: Okay. What was the deal about the.. the knife and the guy's?

SUS: That's who she was with. JAMIE.

DET P: What's his name?

SUS: (Sniff) JOSEPH.

DET G: Okay.

SUS: YBARRA.

DET G: JOE YBARRA?

DET P: JOE YBARRA?

SUS: You know him?

DET P: From the... Cascade Vista?

DET G: He used to work , be a security guard over there.

SUS: Did he? JOSEPH YBARRA.

DET G: Okay.

SUS: And you saw his picture? And you know is it him?

DET G: Okay.

SUS: (Unintelligible) him?

DET G: Yeah. Um....

SUS: He's my age.

DET G: So that.. so this... what was this spell that you.... you were... putting on him with the... the little dagger in his face and....

SUS: Just angry.

DET G: Uh-huh.

SUS: It was way of menting (venting?) my anger. In a good way.

DET G: Uh-huh. But what kind of spell were you trying to ?

SUS: (Sniff)...This guy has nothing, huh?

DET G: Okay. I'm just kinda curious. 'Cuz I saw that and I was just kinda wondering what that was...

SUS: (Sniff)

DET G: ... all about. Nothing from...from JESSICA? She would be on there? None of her hair. Blood. Nothing.

SUS: No.

DET G: There were some blood splatters on the wall of your bedroom, right by the door. Right at the very edge of the door. Very small... ones. Um... do you know where those came from ?

SUS: The door? My bedroom door?

DET G: Yeah, as you're walking out of your bedroom door on the right hand side, there's some little blood splatters.

DET P: Near the light switch area.

DET G: Yea.

SUS: Those are... oh, yeah. I think that's where JAMIE punched me in my nose.

DET G: Okay.. Now, JAMIE is?

SUS: I'm not positive,JAMIE's.... (cough) a girl I love.

DET G: Okay. What's JAMIE's last name?

SUS: SPURGEON.

DET G: Okay. And she's also the mother of your child?

SUS: Yes.

DET G: Okay. Now, so.... where do you go out and hang out with, with these guys over here? Are you trying to get away from the house or?

SUS: I want to forget about it you know.

DET G: Okay.

SUS: Plus, I thought the guy could pay me, of course I don't know. I just wanted to get away. I still do.

DET G: What were, what kind of things were, I mean were you... thinking about doing with her body ultimately, you weren't gonna plan on leaving it there forever were you?

SUS: (Sniff) I don't know what I was gonna do. Obviously.

DET P: Were you in that..

SUS: I obviously thought I was gonna... huh?

DET P: You ended up going down to Fred Meyer, right?

SUS: Went, yeah, to...buy a garbage can.

DET P: Okay. Is that because you used your...'cuz you only had one garbage can? and you put her in it?

SUS: Yes.

DET P: Who did you go down to Fred Meyer with?

SUS: Ohh....MIKE.

DET P: Now, had you already put her body in the shed or was she still behind the dog house when you went to Fred Meyer?

SUS: Sh..... was behind the... she was at the dog house still.

DET P: Okay.

SUS: (Sniff)

DET P: Did you buy anything else at Fred Meyers?

SUS: Dish soap.

DET P: Were you cleaning up anything?

SUS: Carpet Fresh, I wanted to clean everything. (Unintelligible.)

DET G: You got....

SUS: 'Cuz she just (cough) Uh-huh.

DET G: You bought some carpet freshener too, right?

SUS: Yes.

DET G: Okay. Is that the stuff that's on your box spring of your mattress between your two mattresses? Is that carpet freshener? Is that like, like white powder stuff?

SUS: Yeah.

DET G: Why did you put between there?

SUS: I was wanted the whole house to smell better. I wanted everything gone. I wanted to forget about everything. And that's, I don't...

DET P: Did you clean up your room?

SUS: Yeah..

DET P: Tell us what you did?

SUS: I just vacuumed and washed all my clothes and stuff.

DET P: What about the bedding?

SUS: (Sniff) I washed everything, yes.

DET G: The sheets?

SUS: Yes.

DET G: And what color are the sheets again?

SUS: White and black.

DET G: Stripes?

SUS: Yes.

DET G: Okay. Was there any blood on the box springs? Uh...

SUS: (Sniff)

DET G: Not the top mattress, but the bottom mattress at the edge?

SUS: What do you mean the edge?

DET G: Okay. You have the top mattress.

SUS: Right.

DET G: And then you have the box spring mattress on it. And on the side where you were laying on the edge of the box

spring there was...

SUS: (Sniff)

DET G: ... something that looks like blood. Do you know what that's from?

SUS: I don't know.

DET G: Okay.

SUS: I don't think.

DET P: Did you get blood on your clothes?

SUS: No. I never.. I don't.. I didn't cut, hurt her or hurt her. I didn't do anything like that.

DET G: Okay. Um, is it now... no blood then...?

SUS: No, wasn't anything.

DET G: Okay.

DET P: What about... I've already asked you this, but did you use a condom when you had sex or without?

SUS: Probably without. I dunno. I'm sure without.

DET P: Okay.

SUS: (Sniff)

DET P: Your cars are parked out front, correct? What kind of cars do you have?

SUS: Uhhh... a '68 Chevy Camaro.

DET P: Does that run?

SUS: Ta, sorta.

DET P: What other car was that?

SUS: A '87 Hyundai Excel. It doesn't run at all.

DET P: Did you place anything under any of your cars? No weapons?

SUS: No.

DET P: Are you missing a... diving type knife?

SUS: Diving type knife?

DET P: With a black handle?

SUS: The broken tip? That's MIKE's.

DET G: That's MIKE's?

SUS: Yea. I think it's at home.

DET P: What do you know about the knife?

SUS: Nothing. I'm just saying it's MIKE's knife. So you described it to me, I know it. That's MIKE's knife. That was never anything about that knife, he's always had that knife. (Sniff)

DET G: Okay. What about the... the bull whip in the closet? What's that?

SUS: The bullet in the closet?

DET G: The bull whip in the closet.

SUS: Oh my god. That's MIKE's too.

DET G: That's MIKE's?

SUS: Almost everything in that closet clothing and stuff is MIKE's. That's his... little area. Other than my ...stereo or something that's in there.

DET G: Where do you think, where's your black pants at now? with the belt?

SUS: (Sniff) Probably in my bedroom.

DET G: Okay.

DET P: Do you remember anything... going on and you may have been gone to the liquor store. Do you remember JESSICA had ever making statements that she was gonna kill herself, 'cuz she's upset about the NICK and BILL situation?

SUS: I heard you telling me about it. That's all I can remember.

DET P: Okay. And I asked you if you ever saw her with a knife?

SUS: (Sniff)

DET P: Or made suicide threats? Okay. You didn't hear anything?

SUS: No. Huh?

DET P: You didn't hear anything about that or see anything that night with JESSICA? Going on?

SUS: Not that I can remember.

DET P: All you remember is you remember she was upset.

SUS: Because ... she liked NICK. NICK came over. And NICK wanted to be with another girl.

DET P: Okay.

SUS: And she was with another man anyway. Then he got mad, I guess she was like telling him that she liked him still or something (Sniff) They left. They left. This is....

DET G: Did you try to commit suicide recently? How long ago was that?

SUS: (Sniff) I dunno.... almost everyday.

DET G: No, when, when was it? Would be.. what are you talking...

DET P: The police came out...

SUS: Was I...

DET P: .. and you have...

SUS: .. talking...

DET P: ... in the backyard with the dog.

SUS: (Sniff) That I was probably about.... (sniff) a month.... I dunno.

DET G: Okay.

SUS: I'm not good with that stuff.

DET G: Now, after this.... the thing with..... this girl, did you.... write any suicide notes?

SUS: Uh.... How did you get that? That's been there for a long time. On the dresser. (Sniff) On my dresser, right?

DET G: No, there was... another one by the fireplace. The garbage.

SUS: Uh, that's the same one.

DET G: Same one?

SUS: Does it say ... Dear Everybody?

DET G: I think so. That's an old one.

SUS: Slapped that a little bit.

DET P: Did you write any suicide notes since you've killed her?

SUS: (Sniff) I didn't write any suicide notes, but...

DET P: Did you write anything?

SUS: Uhh...(sniff)...

DET P: Your thoughts or anything about any of this? No?

SUS: Put a gun to my head.

DET P: Whose gun?

SUS: I don't want to get anybody else in trouble.

DET P: Was it a forty caliber by any chance?

SUS: Talking about the shell that's on Buddha?

DET G: No, that's a .44. And you're right..

DET P: No, but we hear your buddy that you're with.... LADD had a weapon.

SUS: Um, yeah. A whole bunch of 'em. (Sniff) But I don't know whose gun it was exactly, but I put it to my head.

DET G: Okay.

SUS: (Sniff) I just want to get this over with. I just want to...

DET P: COREY, it sounds to me like you, you remember quite a bit about that night.

SUS: I don't want to.

DET P: Well, I know you don't want to. And ...

SUS: Ahhh...

DET P: I'm not trying to mean or hard on you or anything. But... she had some serious injuries to her anus area. You know what area I'm talking about?

SUS: I didn't do anything like that.

DET P: Did MIKE? Did he hurt her? Did she make any comments that MIKE hurt her?

SUS: I don't know. They had sex on the couch and in the bathroom. That's all I know. (Sniff)

DET P: When they having sex on the couch was it regular sex?

SUS: To have like ..'em ... well, I don't know... I assumed it was. It went back into the kitchen. (Sniff)

DET P: Could he have hurt her? That way?

SUS: I don't think so. But who knows.

DET P: You remember strangling her don't you ,COREY?

SUS: (Sniff) Yes.

DET P: Why? What triggered you? Was she pissed at ya?

SUS: She wasn't ever yelling at me.

DET P: Why did you tell the guys you raped her?

SUS: Why did I tell the guys I raped her?

DET P: Yeah. Why did you tell MIKE you raped her? Why did you tell ...

SUS: Only the people I ...

DET P: MARK.

SUS: ...talked to was MARK.

DET P: Why did you tell MARK you raped her?

SUS: (Sniff) I didn't tell him why, I just told him... I did. I was... just... snapped. I dunno why.

DET P: So you do remember raping her? don't ya?

SUS: Uh..... I already told you that. I just remember....waking up to her and stuff. I remember, I assumed I did... you told me if I used a condom or not.

DET P: I asked you..

SUS: I mean asked. I'm sorry. Yes.

DET P: Did you rape her?

SUS: I didn't force nothing. She was willing. But I mean at the same time it doesn't matter, she's just a baby. Uhh....it doesn't matter. It's still.... (sniff)...

DET G: You had sex with lots of other women before , right? This is the only one..

SUS: Yes.

DET G: Okay. And you didn't kill them,right?

SUS: Uhhh..

DET G: Right? Okay.

SUS: No.

DET G: What happened ... that made you want to have to kill her?

SUS: Uhh....

DET G: Was it because she had sex with you and she, she, you thought she might tell somebody?

SUS: Uhh.... I honestly don't know. Because I don't know why I hurt her.

DET G: Is it because maybe JAMIE might find out?

SUS: Uhhh...

DET G: 'Cuz this

SUS: She was the last of my worries. (Sniff)

DET G: Okay.. Why.... something... something made you have to do that? What do you think it was? Why, why did you do that?

SUS: Uhh.... 'cuz I told you... I wished I did though.

DET G: Okay.

SUS: (Unintelligible)... uhh...I haven't...

DET G: You don't remember her... do you remember..

SUS: (Sniff)

DET G: ... her... screaming or...

SUS: She never screamed.

DET G: Okay.

DET P: Did she have a chance to scream?

SUS: (Sniff)

DET P: Were you on top of her?

SUS: She was on top of me, actually. 

DET P: Was she on top of you when you grabbed your belt?

SUS: No.

DET P: Where was she?

SUS: In the bed next to me. (Sniff)

DET P: Near the wall?

SUS: Uh yeah.

DET P: Okay.

SUS: Right in the middle of the bed, um..yea. (Sniff) Ohhh....

DET P: When you strangled her,did she die right away?

SUS: Uhh...

DET P: Or did you make her suffer or did she die right away,COREY?

SUS: I don't know (crying).

DET P: You remember quite a bit. Go on. Describe...

SUS: I don't know if she suffered!

DET G: Okay.

SUS: (Sobbing)

DET G: You were strangling her ...

SUS: God!

DET G: When you were strangling her... with.... the belt... you said you strangled her until...

SUS: She stopped moving.

DET G: Okay. Stopped breathing, also? Right?

SUS: She just stopped moving.

DET G: You knew you killed her , right? Is that right? You're choking her.

SUS: (Sniff) .

DET G: You know that, you knew you killed her , didn't you? She wasn't breathing.

SUS: I don't know, 'cuz I just remember waking up again and she was still just laying there.

DET G: Why did you choke her, though? But she was part of you know... kinda hard to explain...

SUS: Uhhh..uhhhh...it's hard for me to understand, too.

DET G: Okay.

SUS: I wish I could just....

DET G: Can you....

SUS: die. Just get it over with. And think... if I could just die.

DET P: That's not an option here.

SUS: I know it's not an option (crying).

DET P: Okay. There's a lot of people that need some answers.

SUS: (Sniff)

DET P: Okay?

SUS: Ohh.....

DET G: What... made you want to or have to kill her?

SUS: I don't know. I don't know.

DET P: Why did you tell ...

SUS: I never...

DET P: ... MARK you raped her? Now, that tells me something. What did you remember about why did you say you raped her? What's rape mean to you?

SUS: I don't even remember. I never told MARK I raped her. (Sniff) I don't know when.... oh... lord... she wasn't struggling with me. I mean...

DET P: Do you have any injuries? Any cuts? Scratches?

SUS: No. (Sniff)

DET G: So.... why did you do it?

SUS: (Sniff)

DET G: I mean that's the question.. that everybody's gonna ask ...

SUS: And I want answered , too.

DET G: Yeah.

SUS: Trust me.

DET G: What were you thinking at the time? Maybe you...

SUS: I wasn't. That's honest.

DET G: So you're just saying your natural instinct was just to kill this person?

SUS: I don't know.

DET P: COREY, you strangled her first with your hands, right? But obviously it didn't work.

SUS: (Sniff)

DET P: Why did you let loose with your hands? Why did you grab a belt? Did you plan it?

SUS: No. (Sniff)

DET P: Then why didn't you just strangle her with your hands then?

SUS: (Sniff) I did with my hands.

DET P: But then why did you grab a belt? You're a pretty big guy. You have strong hands. Why did you grab a belt?

SUS: I don't know.

DET P: Wasn't it working?

SUS: I don't remember. Work and I didn't plan anything. What do you mean by.... Jesus!

DET G: Okay.

SUS: (Sobbing) She was a friend of mine. She's so (unintelligible) and I didn't know. I'm sorry for her. I wish she could not be dead.

DET G: Okay. But COREY, what we're saying ...

SUS: Oh...

DET G: You choked her with your hands. You're perfectly capable of your size of... killing..

SUS: (Sniff)

DET G: ... her with your bare hands. Right? Why did you switch to the belt?

SUS: I don't know why. It was just... I don't know, I looked over and it was like I don't know (crying).

DET G: Were you having sex with her at the time when you strangled her?

SUS: I don't think so. I don't know. I doubt it.

DET P: Do you think it was after sex?

SUS: Uhhhh.... (inaudible)... (sniff)...

DET P: Did you have sex first, COREY?

SUS: Yes.

DET P: Are you sure you had sex?

SUS: Oh.... I assume we did, yes. I was naked. She was naked. When I woke up. I had my boxers on when I woke up.
But.... (sniff)...

DET G: I've been pretty drunk in my life.

SUS: I know....

DET G: Yea.

SUS: I'm not saying it's an excuse.

DET G: Okay. But..

SUS: (Unintelligible) sake, I'm not...

DET G: I, I would know if I, if I had sex the night before, right? You know that you had sex with this girl?

SUS: I'm sure I did.

DET G: Okay. You know you did?

SUS: I'm almost positive I did, yes.

DET G: Okay. But you know you killed her?

SUS: (Sniff) Hell, when I woke up I was probably yeah...

DET G: Okay.

SUS: (Sniff)

DET P: Do you have any family locally, COREY?

SUS: (Sniff) Yeah.

DET P: Who do you have?

SUS: Uh...my dad,mom..

DET P: And where do they live?

SUS: ...grandma.

DET P: Where do your mom and dad live?

SUS: Well,mainly my dad lives in Kent. My mom lives in... Auburn.

DET P: Do you have any brothers or sisters?

SUS: (Sniff) Yeah.

DET P: Where do they live?

SUS: My sister lives in Skyway. My brother's in Texas. And my other three brothers are in... um.... one's in Walla Walla. And the other two I don't know. Hardly ever see. I don't know. Scattered around.

DET G: Okay. COREY, we're gonna end this side of this tape. Time now is... 1449 hours. Is this statement true and correct to the best of your knowledge?

SUS: To the best of my knowledge.

DET G: Any threats or promises made to make you give this statement?

SUS: (Sniff) No.

DET G: Okay. This is the truth as far as you remember?

SUS: As far as I remember.

DET P: Is there anything else you'd like to add?

SUS: Yes.

DET P: What's that?

SUS: (Sniff) Have her folks hear this tape, who wants to know that I'm sorry (sob). And I'm so sorry... I want my family to know I'm sorry.

DET G: Okay. 

SUS: (Sobbing) I didn't want to hurt her. I don't know what happened.... (sob) she was a friend of mine, too.

DET P: How long had you known her?

SUS: (Sniff)

DET P: ... COREY?

SUS: I mean off and on for... I dunno, a year. (Sniff)

DET G: Okay. We're gonna get off tape now. The time now is ... 14...50- hours. It's 01/25 of 1998.

End of statement

LABORATORY REPORT

APPENDIX H

Laboratory Number: 198-00398D
 Agency: King County Sheriff's Office
 Agency Number: 98-021764
 Suspect: Beito, Corey S.
 Victim: Seim, Jessica
 Officer: Detective Sue Peters

	LDLR	GYPA	HBGG	D7S8	GC	DQA1
Jessica Seim	AB	AB	BB	AA	BC	1.2, 1.2
Michael Corbell	AB	AB	AA	BB	AC	1.1, 2
Corey Beito	AA	AB	AB	AB	CC	1.1, 4.1
Vaginal wash, sperm fraction	AA	AB	AB	AB	CC	1.1, 4.1*

*if a mixture of DNA were present, a type 1.2 could be masked
 Dots less intense than the "C" or "S" dot are not interpretable and are not reported.

CONCLUSIONS:

Semen was detected in the vaginal wash sample.

Neither Michael Corbell nor Jessica Seim could be the source of the human DNA found in the sperm fraction of the vaginal wash.

Corey Beito could be the source of the human DNA found in the vaginal wash.

The DNA types found in the vaginal wash (assuming a single DNA source), and in Corey Beito, are found in the population in the following approximate frequencies. (Frequency data from Perkin-Elmer.)

- Caucasians - 1 in 2000
- African-Americans - 1 in 220,000
- Hispanics - 1 in 3500

Michael P. Croteau

October 5, 1998

Michael P. Croteau, Forensic Scientist

VERBATIM REPORT OF PROCEEDINGS
THIRD SENTENCING HEARING
12/20/2002

APPENDIX I

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

State of Washington,)
)
Plaintiff.)

vs.

Corey Beito,

Defendant.)

) King County Cause
) No. 98-1-00243-0 KNT
) CoA No. 51673-6-I
) Kent, WA
) December 20, 2002
) 1:00 p.m.

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE DEBORAH FLECK
JUDGE OF THE SUPERIOR COURT

APPEARANCES:

Mr. Timothy Bradshaw
Deputy Prosecuting Attorney

Mr. Jay Richard Quirk
Attorney for Defendant

DAVID M. ERWIN, RPR, CSR
Official Court Reporter
Regional Justice Center
401 Fourth Avenue North, Rm 2D
Kent, WA 98032-4299

PROCEEDINGS

ATTENTION READER: Unless specifically spelled out, names and places are spelled phonetically.

On Friday, December 20th, 2002 before Judge Deborah Fleck in the criminal sentencing matter of State of Washington versus Corey, C-O-R-E-Y, Scott, S-C-O-T-T, Beito, B-E-I-T-O. No. 98-1-00243-0 KNT.

MR. BRADSHAW: Timothy A. Bradshaw, senior deputy prosecuting attorney representing the State of Washington.

MR. QUIRK: Mr. Jay Richard Quirk representing the defendant.

THE COURT: Be seated, please. Good afternoon.

~~MR. BRADSHAW: This is State of Washington~~
versus Corey Scott Beito. Mr. Beito is present with his attorney Richard Quirk. This is King County cause No. 98-1-00243-0 KNT. I am Timothy Brashaw for the State of Washington. Both parties have submitted memorandums to the Court. Both parties are asking that our previous documentation and arguments be herein incorporated. I would ask, your Honor, to

1 also have in mind the statements that the victim's
2 family previously made so those do not have to be
3 repeated today. We are here of course hoping the
4 third time is the charm; that the correct standard
5 range is now completely agreed to. All parties are
6 mindful of it. The State recommends the same
7 sentence it's recommended from day one because the
8 crime has not changed for one and for additional
9 reasons which I will cite in a moment. The defense
10 is recommending, if I understand correctly, in fact a
11 pro rata reduction, assuming that an exceptional
12 sentence is once again imposed. The defense has not
13 totally put that forth from Mr. Quirk's mouth but a
14 14 months reduction from that because that would
15 reflect the standard range reduction. The State for
16 two primary reasons believes this Court ought to keep
17 the original findings. One it just continues for all
18 reasons I previously argued to the best of my
19 ability. Number two, the defense argument assumes
20 that it would be proper to have a 14 month reduction,
21 specifically the defense references the general
22 purpose, a general purpose as outlined in the SRA and
23 RCW 9.94A.101(1). That still goes to insure that
24 punishment for criminals is proportionate to the
25 seriousness of the offense and the offender's

1 criminal history. I couldn't agree more, meaning
2 that just because the original juvenile conviction is
3 washed as it affects the offender score, which brings
4 back mode does not mean it's invisible or that it
5 cannot be considered in the length of the exceptional
6 sentence. So, while it is true that offender score
7 exceeds the standard range has been reduced in a
8 relatively small way. The now washed Juvenile
9 Division can still be considered by the Court when
10 considering the length of the exceptional sentence.
11 So, practically speaking from the State's viewpoint,
12 nothing has changed. The 504 months remains the
13 proper sentence. Thank you.

14 THE COURT: Thank you. Mr. Quirk?

15 MR. QUIRK: Thank you, your Honor. Dick Quirk
16 for the defendant. As the Court indicated, defense
17 has also contrary to the previous objections,
18 previous concerns toward the exceptional sentence, I
19 know the Court has imposed an exceptional sentence
20 twice in this case. I will make a brief objection to
21 that for the record and proceed on to the sentencing.

22 Assuming the Court is going to again
23 impose an exceptional sentence, I am asking that the
24 exceptional sentence be reduced by 14 months. My
25 math is off one digit in the brief. It should be 490

1 than 390. The basis for that is, since we have our
2 score, offender score, to show how big of a problem a
3 person is to society. Further the bigger the score,
4 the bigger the problem. Here Mr. Beito has been
5 moved to the left by one point. For whatever reason
6 it's a wash out. It's not there to be counted. So,
7 I submit he is a little less of a problem for society
8 than he was as a five and that the Court should
9 reduce the sentence by 14 months if it's going to
10 impose an exceptional.

11 THE COURT: Thank you. Mr. Beito, is there
12 anything you want to say?

13 THE DEFENDANT: No, your Honor.

14 THE COURT: I have reviewed the briefs that you
15 all have presented and recognize that you have
16 incorporated the prior briefing into your current
17 memorandums. I have reviewed my file notes from the
18 original sentencing in terms of the factors that I
19 considered, including comments from the family
20 members and I quoted them before and will simply
21 incorporate them again. I reviewed them again. I
22 also reviewed my notes, which given my last two
23 sentences for Mr. Beito regarding the hardships in
24 his life and recognizing the difficulties that he
25 experienced in growing up and I want to recognize and

1 acknowledge again the difficulty that he had as a
2 young person. Nevertheless, I have to say that the
3 difference the offender score change makes was not of
4 any real significance, frankly. And I don't think
5 it's of any real significance to someone against
6 almost 42 years or 43 years in prison. And frankly I
7 don't think it is a huge difference to Mr. Beito.
8 The 40 some years is a very lengthy period of time to
9 spend in prison.

10 I am satisfied that the findings that
11 I made at the last hearing are appropriate findings
12 and do again, because of your objection, will impose
13 an exceptional sentence for the reasons stated
14 previously. I don't think that simply reducing down
15 14 months has a whole lot of logic to it, Mr. Quirk.
16 And a figure of 504 months seemed appropriate on each
17 of the other sentencings to me. I in large part
18 agree because the only difference is 14 months. It
19 doesn't have any real impact on my thinking of the
20 appropriate sentence in this case. And I am
21 satisfied that a 504 months sentence is the
22 appropriate sentence yet again. Do I need to go
23 through the additional comments regarding the
24 portions of the sentence here that --

25 MR. BRADSHAW: Not that I can --

1 THE COURT: The conditions last time, they would
2 be the same. Mr. Quirk, would you like them gone
3 through on the record.

4 MR. BRADSHAW: Both Mr. Quirk and I have signed
5 the proposed Appendix D. I am handing up to the
6 Court now -- this is the appendix that was previously
7 filed in this case. However, the form reflects the
8 new and proper offender score. That should take care
9 of the latest appellate issues as I understand them.

10 THE COURT: In terms of the actual judgment and
11 sentence, do you remember that that needs to be
12 re-done because this was sent down for resentencing?

13 MR. BRADSHAW: Yes.

14 THE COURT: And do you have a proposed judgment
15 and sentence?

16 MR. BRADSHAW: Yes.

17 THE COURT: All right.

18 MR. QUIRK: Your Honor, if I could interrupt
19 just a moment. Mr. Beito just advised me he wants to
20 withdraw his plea. I would like to at least make
21 that motion at this time to preserve it for the
22 record before you sign this new sentence. We have
23 not entered any briefs or affidavits because the
24 issue has just come up. But I would respectfully ask
25 the Court to at least acknowledge he is requesting to

1 withdraw his plea and probably schedule a hearing in
2 the future on that.

3 THE COURT: Well, you made that record; and so,
4 let's go ahead then with the sentencing process, Mr.
5 Bradshaw.

6 MR. BRADSHAW: Yes. If I do have a new judgment
7 and sentence. This is on for resentencing. If I
8 could just get a copy of the previous J&S as far as

~~9 monetary obligations. Do you happen to have what the~~
10 new credit for time served number would be?
11 Otherwise I will just check as determined by the
12 jail.

13 THE COURT: The original judgment and sentence
14 from March of 2000, but I believe it was March of
15 this year wasn't it.

16 MR. BRADSHAW: It's November 16, 2001, with
17 interest.

18 MR. BRADSHAW: Thank you.

~~19 THE COURT: You may~~

20 THE DEFENDANT: Your Honor, may I speak for a
21 second?

22 THE COURT: Please talk to Mr. Quirk first. I
23 did offer you an opportunity to speak; and you didn't
24 elect to use it. But I would like to make sure that
25 Mr. Quirk knows what it is. You were going to say?

1 MR. QUIRK: I do, your Honor. He explained to
2 me a few minutes ago what it was. With the Court's
3 permission I would like to raise a point with the
4 Court.

5 THE COURT: All right.

6 MR. QUIRK: I just would like to make the record
7 that I would like to have an affidavit of prejudice
8 noted.

9 THE COURT: Mr. Quirk, is your attorney and he
10 is the one who acts in that capacity for you, Mr.
11 Beito. And I trust that he advised you it's not
12 possible to do that at this point in time.

13 THE DEFENDANT: Okay. I still want it done.

14 MR. QUIRK: Your Honor, I reviewed the judgment
15 and sentence. It reflects accurately the Court's
16 decision. I will hand that up to the Court. I also
17 have the notice of rights on appeal. The defendant
18 has signed that and his fingerprint sheet is given to
19 the Court.

20 THE COURT: Is there a firearms notification?

21 MR. QUIRK: Yes, your Honor, I have that also.

22 THE COURT: I think I still need to sign that.
23 Will you waive any formal reading of the rights on
24 collateral attack and review them with your client?

25 MR. QUIRK: I will, your Honor. Please let me

1 talk with him, make sure he would waive the formal
2 reading.

3 MR. BRADSHAW: Your Honor, is it possible to use
4 the Court's previous version of Appendix H because
5 that included additional conditions.

6 MR. QUIRK: And, your Honor, the defendant
7 indicates he would not waive the reading of his
8 appellate rights.

9 THE COURT: All right. I am providing him his
10 notice of rights on appeal with one exception. I
11 will advise you, Mr. Beito, that unless a written
12 notice of appeal is filed within 30 days after of
13 this judgment, which is today, the right of appeal is
14 irrevocably waived and you have the right to appeal a
15 sentence outside the standard sentence range. The
16 sentence I have imposed is outside the standard
17 sentencing range.

18 If requested by you the Superior Court
19 Clerk will supply you with the notice of appeal form
20 and upon completion by you will file it. And you
21 have the right if you are unable to pay the costs of
22 counsel appoint -- Pardon me, I will not read you
23 that portion since there was no trial. And pursuant
24 to RCW 10.73.090, you have one year from this date to
25 file a motion for collateral attack on the judgment

1 herein. However, you are also advised that pursuant
2 to RCW 10.73.100, the one year time limit does apply
3 to certain grounds as are more particularly set forth
4 therein. And I am not going to read you that as
5 well.

6 The statutes on collateral attack are
7 as follows: RCW 10.73.090. Collateral attack, one
8 year time limit. (1) No petition or motion for
9 collateral attack on a judgment and sentence in a
10 criminal case may be filed more than one year after
11 the judgment becomes final if the judgment and
12 sentence is valid on its face as was rendered by the
13 Court of competent jurisdiction.

14 (2) For the purposes of this section,
15 "collateral attack" means any form of postconviction
16 relief other than direct appeal. "Collateral attack"
17 includes but is not limited to, a personal restraint
18 petition and habeas corpus petition, a motion to
19 vacate judgment, a motion to withdraw guilty plea, a
20 motion for new trial and a motion to arrest judgment.

21 (3) For the purposes of this section,
22 a judgment becomes final on the last of the following
23 dates.

24 (a) The date it is filed with the
25 Trial Court;

1 (b) The date that an Appellate
2 Court issues its mandate, disposing of a timely
3 direct appeal from the conviction; or.

4 (c) The date that the United
5 States Supreme Court denies a timely petition for
6 certiorari to review a decision affirming the
7 conviction on direct appeal. The filing of a motion
8 to reconsider the denial of certiorari does not
9 prevent a judgment from becoming final.

10 10.73.100. Collateral attack - -when one year
11 limit not applicable. The time limit specified in
12 RCW 10.73.090 does not apply to a petition or motion
13 that is based solely on one or more of the following
14 grounds:

15 (1) Newly discovered evidence, if the
16 defendant acted with reasonable diligence in
17 discovering the evidence and filing the petition or
18 motion.

19 (2) The statute that the defendant was
20 convicted of violating was unconstitutional on its
21 face or as applied to the defendant's conduct:

22 (3) The conviction was barred by double
23 jeopardy under Amendment Vi of the United States
24 Constitution or Article I, section nine of the State
25 Constitution;

1 (4) The defendant pled not guilty and the
2 evidence introduced at trial was insufficient to
3 support the conviction;

4 (5) The sentence imposed was in excess of
5 the Court's jurisdiction; or

6 (6) There has been a significant change in
7 the law, whether substantive or procedural, which is
8 material to the conviction, sentence or other order
9 entered in a criminal or civil proceeding instituted
10 by the State or local government, and either the
11 legislature has expressly provided that the change in
12 the law is to be applied retroactively, or a Court,
13 in interpreting a change in the law that lacks
14 express legislative intent regarding retroactive
15 application, determines that sufficient reasons exist
16 to require retroactive application of the changed
17 legal standard.

18 I will note on the record, Mr. Beito, that you
19 are ineligible to possess a firearm unless your right
20 to do so is restored by a Court of record.

21 You will be required to pay Court costs, the
22 \$500 victim penalty assessment, and I will place you
23 on 12 months of community placement under the statute
24 then in effect. The statute then in effect will be
25 for the period of earned early release awarded

1 pursuant to statute, whichever is longer. I filled
 2 in 12 months under paragraph 4.7. Mr. Bradshaw
 3 should it be 24 months since it's a serious, violent
 4 offense.

5 MR. BRADSHAW: Yeah, I think you are right. I'm
 6 sorry.

7 THE COURT: I am changing the order to say 24
 8 months or for the period of earned early release
 9 awarded pursuant to the statute, whichever is longer.

10 THE CLERK: That's for placement, your Honor.

11 THE COURT: Yes, it's called community placement
 12 here that was in effect at the time, I believe. Is
 13 that the correct language, Mr. Bradshaw, community
 14 placement as opposed to community custody?

15 MR. BRADSHAW: Yes, your Honor. Something
 16 about --

17 THE COURT: Is HIV testing appropriate or not?

18 MR. BRADSHAW: No, your Honor.

19 THE COURT: And using Appendix G for DNA
 20 identification?

21 MR. BRADSHAW: Correct.

22 THE COURT: I will impose the following
 23 additional conditions, Mr. Beito: One, that you are
 24 to report to and be available for contact with the
 25 assigned community corrections officer as directed.

1 So that you are to work at a Department of
2 Corrections approved educational program and
3 employment or community service. You are not to
4 consume controlled substances except pursuant to
5 lawfully issued prescriptions.

6 Now, while in community custody you are not
7 ~~unlawfully possess controlled substances. You are to~~
8 pay supervision fees as determined by the Department
9 of Corrections.

10 You are to receive prior approval for
11 driving arrangements and residence location.

12 You should not own as I previously
13 indicated use or possess a firearm.

14 You are to notify the community corrections
15 officer of any change in address or employment as set
16 forth in writing by the community corrections
17 ~~officer.~~

18 With more specificity, you are not to
19 purchase, possess or use any controlled substances or
20 have any drug paraphernalia without a valid
21 prescription and you are to submit to searches based
22 upon reasonable suspicion of your personal residence,
23 property or vehicle by the corrections officer to
24 monitor compliance. You are also to submit to random
25 UA's as directed by the CCO.

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You are not to associate with known users or sellers of illegal drugs and you are not to frequent areas known for drug activity, pursuant to

~~of the community corrections officer.~~

You are not to purchase, possess or consume alcoholic beverages and you are to submit to searches based upon reasonable suspicion of your residence, property and vehicle, again to monitor compliance with that condition; and again, you are to submit your payments as directed.

You are not to enter into any business where alcohol is the primary commodity for sale; that you are not to have indirect contact with the family.

~~Within 45 days of release from custody,~~

you are to obtain a written substance abuse evaluation and follow all recommendations and enter a next available opening so you can complete treatment as approved and directed by the community corrections officer.

On a schedule directed by the CCO you are to obtain a written mental health evaluation from a qualified provider and complete all treatment recommendations as approved and directed by the CCO.

~~You are to be employed and/or in~~

school and training on a full time basis as approved

1 by and directed by the CCO. Those last two pages, or
2 appendix H are contained on two pages and may be
3 copied and used. I will ask Ms. Allen to do that and
4 then ask that they be filed.

5 Is there anything further, counsel?

6 MR. BRADSHAW: No, Your Honor.

7 MR. QUIRK: One thing, your Honor, Mr. Beito has
8 asked me to file is an appeal. I will be preparing
9 the paperwork next week. We will send out an order
10 authorizing appeal at public expense. Will the Court
11 make a finding on that note perhaps?

12 THE COURT: I can assume he's not had income or
13 assets, since he originally was arrested on this
14 charge, which is about five years and I believe he is
15 qualified for appeal at public expense. Given the
16 fact that I believe he's had the other two appeals
17 and those findings were entered previously upon your
18 recommendation that's been no change in his financial
19 condition. I will make that finding. I am not going
20 to be here for the next week and a half. So, you can
21 obtain a signature if you wish.

22 MR. QUIRK: I will do that, your Honor. Thanks.

23 MR. BRADSHAW: Thank you.

24 THE COURT: Thank you. Do you have any of these
25 copies, Mr. Beito?

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THE CLERK: Which appendix do you want kept?

THE COURT: Appendix H.

THE CLERK: Okay.

STATE OF WASHINGTON)
COUNTY OF KING)

I, DAVID M. ERWIN, OFFICIAL COURT REPORTER FOR THE STATE OF WASHINGTON, IN AND FOR THE COUNTY OF KING, DO HEREBY CERTIFY THAT I WAS ACTING IN THAT OFFICIAL CAPACITY ON DECEMBER 20, 2002 DURING THE PROCEEDINGS IN THE MATTER OF STATE OF WASHINGTON V. COREY BEITO.

I FURTHER CERTIFY THAT THE FOREGOING TRANSCRIPT, CONSISTING OF 18 PAGES, IS A FULL, TRUE AND ACCURATE RECORD, AND THAT THESE PROCEEDINGS WERE REPORTED BY ME IN MACHINE/COMPUTER STENOGRAPHY AND THEREAFTER REDUCED TO PRINT BY ME OR UNDER MY DIRECTION.

I FURTHER CERTIFY THAT I AM NOT RELATED TO ANY OF THE PARTIES TO THIS LAWSUIT NOR AM I INTERESTED IN THE OUTCOME THEREOF.

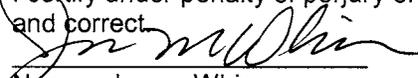
WITNESS MY HAND ON THIS 24TH DAY OF MARCH, 2003 IN THE CITY OF KENT, COUNTY OF KING, STATE OF WASHINGTON.

DAVID M. ERWIN, RPR, CSR
OFFICIAL COURT REPORTER
REGIONAL JUSTICE CENTER
401 FOURTH AVENUE NORTH, RM 2D
KENT, WA 98032-4299

Certificate of Service by Mail

Today I sent by electronic mail directed to counsel for petitioner: Mr. Jeffrey Ellis, Law Offices of Ellis, Homes & Witchley, PLLC, 705 Second Avenue, Suite 401, Seattle, Washington, 98104 containing a copy of the SUPPLEMENTAL BRIEF IN RESPONSE TO ARGUMENTS RAISED IN PETITIONER'S AUGUST 2008 SUPPLEMENTAL BRIEF, in PRP of Corey Beito, Cause No. 77973-2, in the Supreme Court for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.



Name James Whisman
Done in Seattle, Washington

12/5/08
Date 12/5/08