

1 THE WITNESS: (NODS HEAD)

2 THE COURT: IF YOU WOULD STAND UP AND FACE THE  
3 CLERK OVER HERE, TO BE SWORN TO TELL THE TRUTH.

4 THE COURT DEPUTY: RAISE YOUR RIGHT HAND.

5 THEREUPON,

6 MICHELLE ██████,

7 WAS CALLED AS A WITNESS BY THE STATE AND, AFTER HAVING  
8 BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED ON HER  
9 OATH AS FOLLOWS:

10 THE COURT: DO YOU SWEAR TO TELL THE TRUTH?

11 THE WITNESS: YES.

12 THE COURT: ALL RIGHT. HAVE A SEAT.

13 DIRECT EXAMINATION

14 BY MR. BENDER:

15 Q HI, MICHELLE. HELLO.

16 A HI.

17 Q HOW ARE YOU DOING?

18 A FINE.

19 Q WHAT I WOULD LIKE YOU TO DO IS STAY SEATED.

20 DON'T SHIFT BACK AND FORTH. AND THESE ARE THE LADIES AND  
21 GENTLEMEN OF THE JURY, AND I NEED YOU TO TALK TO THEM NICE  
22 AND CLEAR AND LOUD FOR ME.

23 WILL YOU DO THAT?

24 A (NODS HEAD)

25 Q WOULD YOU TELL THIS LADY YOUR NAME, PLEASE, SO

1 SHE CAN PUT IT DOWN ON THE RECORD?

2 A MICHELLE.

3 Q WHAT IS YOUR FULL NAME?

4 A MICHELLE LEE.

5 Q WHAT IS YOUR LAST NAME?

6 A [REDACTED].

7 Q HOW OLD ARE YOU, MICHELLE?

8 A SEVEN.

9 Q WHEN IS YOUR BIRTHDAY?

10 A JANUARY.

11 Q JANUARY WHAT?

12 A ELEVENTH.

13 Q THE FIFTH?

14 A ELEVENTH.

15 Q THE ELEVENTH. COULD YOU SPEAK A LITTLE LOUDER  
16 FOR ME?

17 A YES.

18 Q AND A LITTLE SLOWER. AND DO ME A FAVOR, DON'T  
19 SWIVEL IN THE CHAIR. OKAY?

20 MICHELLE, ARE YOU GOING TO SCHOOL RIGHT NOW?

21 A NO.

22 Q YOU'RE NOT IN SCHOOL?

23 A YES. WELL, I'M GOING TO SCHOOL BUT NOT NOW.

24 Q YOU'RE NOT GOING TODAY, I KNOW. BUT ARE YOU  
25 GOING TO SCHOOL?

1 A YES.

2 Q WHAT GRADE ARE YOU IN?

3 A SECOND.

4 Q AND WHERE DO YOU GO TO SCHOOL?

5 A PRINCETON ELEMENTARY.

6 Q IS THAT IN ORLANDO?

7 A YES.

8 Q WHERE ARE YOU LIVING RIGHT NOW? DO YOU KNOW  
9 THE ADDRESS?

10 A NO.

11 Q WHO ARE YOU LIVING WITH?

12 A MY GRANDPARENT'S.

13 Q IS THERE ANYONE ELSE THAT LIVES THERE?

14 A MY MOM AND DAD AND MY SISTER AND MY COUSIN.

15 Q WHAT'S YOUR SISTER'S NAME?

16 A ANGELA.

17 Q DO YOU KNOW, MICHELLE, THE DIFFERENCE BETWEEN  
18 TELLING THE TRUTH AND TELLING A LIE? ✓

19 A NO.

20 Q IF I WERE TO ASK YOU IF THIS PEN WAS RED, WOULD  
21 THAT BE THE TRUTH OR WOULD THAT BE A LIE?

22 A A LIE.

23 MR. EIDE: YOUR HONOR, OBJECTION. I THINK THAT  
24 HE MADE THE QUESTION SUGGEST AN ANSWER, AND I THINK  
25 IT'S IMPROPER TO GO FORWARD AND LEAD LIKE THAT.

1 THE COURT: OBJECTION IS OVERRULED, AND IT'S  
2 ENTIRELY PROPER TO LEAD A CHILD.

3 BY MR. BENDER:

4 Q IF I WERE TO TELL YOU THAT MY SUIT JACKET WAS  
5 GREEN, WOULD THAT BE THE TRUTH OR WOULD THAT BE A LIE?

6 A A LIE.

7 Q IF I WERE TO TELL YOU THAT MY SHIRT WAS BLUE,  
8 WOULD THAT BE THE TRUTH OR WOULD THAT BE A LIE?

9 A THE TRUTH.

10 Q IS IT BETTER TO TELL THE TRUTH, MICHELLE, OR IS  
11 IT BETTER TO TELL A LIE?

12 A THE TRUTH.

13 Q WHY DO YOU THINK IT'S BETTER TO TELL THE TRUTH?

14 A (NO RESPONSE)

15 Q LET ME ASK YOU THIS. DO YOU EVER GET IN TROUBLE  
16 WHEN YOU TELL THE TRUTH?

17 A NO.

18 Q DO YOU EVER GET IN TROUBLE WHEN YOU TELL A LIE?

19 A I DON'T KNOW BECAUSE I DON'T TELL A LIE.

20 Q YOU DON'T? YOU'VE NEVER TOLD A LIE?

21 A NO.

22 Q WELL, DO YOU PROMISE THAT YOU'RE GOING TO TELL  
23 THE TRUTH TODAY TO THE JURY AND TO EVERYONE HERE IN THE  
24 COURTROOM?

25 A YES.

1 Q YOU UNDERSTAND THAT IT'S IMPORTANT TO TELL THE  
2 TRUTH?

3 A YES.

4 Q IF YOU WERE NOT TO TELL THE TRUTH TODAY, WOULD  
5 YOU GET IN TROUBLE?

6 A I DON'T KNOW.

7 Q DO YOU PROMISE TO TELL ME THE TRUTH AND TO TELL  
8 THE LADIES AND GENTLEMEN OF THE JURY THE TRUTH TODAY?

9 A YES.

10 Q DO YOU KNOW A PERSON BY THE NAME OF SCOTTY MERSON?

11 A YES.

12 MR. EIDE: YOUR HONOR, I OBJECT. MAY I APPROACH?

13 (THEREUPON, COUNSEL APPROACHED THE BENCH, AND THE  
14 FOLLOWING PROCEEDINGS WERE HAD OUTSIDE THE HEARING OF  
15 THE JURY, AND ON THE RECORD AS FOLLOWS:)

16 MR. EIDE: YOUR HONOR, I WOULD OBJECT TO ANY  
17 FURTHER TESTIMONY. I THINK THAT THE CHILD IS NOT  
18 COMPETENT. SPECIFICALLY, WHEN ASKED IF SHE COULD  
19 DIFFRENTIATE BETWEEN A LIE, SHE SAID NO.

20 HE ASKED HER THE QUESTION: WHY IS IT  
21 BETTER TO TELL THE TRUTH? SHE DIDN'T KNOW THE ANSWER.  
22 SHE SAID SHE NEVER TOLD A LIE. SHE SAID SHE'S NOT  
23 SURE SHE'LL GET IN TROUBLE.

24 MR. BENDER: I'M SURE HE HEARD THE TESTIMONY HERE.

25 MR. EIDE: AND BASED ON THOSE SHE DOESN'T KNOW.

1 AND BASED ON THAT AND THE THINGS THAT WE HAD PRESENTED  
2 TO THE COURT THROUGH DEPOSITIONS WE BELIEVE THAT SHE'S  
3 NOT COMPETENT TO GO FORWARD AT THIS TIME, AND THE STATE  
4 HAS NOT MET THE BURDEN OF SHOWING COMPETENCY OF THIS  
5 WITNESS.

6 THE COURT: THE STATE WISH TO RESPOND?

7 MR. BENDER: YOUR HONOR, I WOULD RESPECTFULLY  
8 DISAGREE, IN THAT MICHELLE HAS INDICATED THE DIFFERENCE  
9 BETWEEN A TRUTH AND A LIE.

10 FOR A SEVEN-YEAR-OLD IT IS SOMETIMES  
11 DIFFICULT TO EXPLAIN AN ABSTRACT THEORY, SUCH AS A  
12 TRUTH AND A LIE. BUT I THINK SHE HAS EXPLAINED IT  
13 BY EXPLAINING COLORS. AND SHE PROMISED TO TELL THE  
14 TRUTH HERE, TOO, AND I THINK THAT'S ALL THAT'S  
15 REQUIRED.

16 THE COURT: HER RESPONSE ON THE WITNESS STAND  
17 IS SIMILAR TO HER RESPONSE DURING THE DEPOSITION.  
18 HE ASKED IF SHE KNEW WHERE SHE LIVED. AND SHE WOULD  
19 SAY NO, BUT THEN SHE WAS ABLE TO CLARIFY BY SAYING  
20 SHE LIVED AT HER GRANDMOTHER'S HOUSE.

21 AND HER TYPICAL RESPONSE WOULD BE, "NO,"  
22 AND HER ANSWER WOULD SHOW SHE DID HAVE A COMPREHENSION  
23 OF WHAT THE PROPER RESPONSE WOULD BE.

24 HERE, SHE WAS ASKED IF SHE KNOWS THE  
25 DIFFERENCE BETWEEN TRUTH AND A LIE. AND SHE SAID,

1 "NO," BUT THEN CLEARLY RESPONDED CORRECTLY TO THE  
2 PROSECUTOR'S QUESTIONS AS TO WHETHER HE WAS TELLING  
3 THE TRUTH OR NOT CONCERNING COLORS AND OBJECTS THAT  
4 HE WAS REFERRING TO IN HIS EXAMINATION.

5 I AM SATISFIED FROM THE TESTIMONY THAT SHE  
6 IS, IN FACT, COMPETENT TO TESTIFY. AND THE JURY WILL  
7 MAKE A DETERMINATION AS TO VERACITY AND AS TO HER  
8 TENDER AGE. BUT SHE IS COMPETENT TO TESTIFY.

9 (THEREUPON, THE SIDE-BAR CONFERENCE WAS CONCLUDED.)

10 THE COURT: YOU MAY PROCEED.

11 BY MR. BENDER:

12 Q DO YOU REMEMBER MY LAST QUESTION? DO YOU KNOW  
13 SCOTTY MERSON?

14 A YES.

15 Q DO YOU REMEMBER WHEN YOU FIRST MET HIM?

16 A NO.

17 Q YOU DON'T REMEMBER HOW LONG AGO IT WAS?

18 A NO.

19 Q DO YOU REMEMBER WHERE YOU MIGHT HAVE MET HIM  
20 THE FIRST TIME?

21 A NO.

22 Q HOW DID YOU MEET HIM; DO YOU REMEMBER THAT?

23 A NO.

24 Q WELL, WHEN DID YOU FIRST RUN INTO THIS GUY NAMED  
25 SCOTTY MERSON?

- 1 A (NO RESPONSE)
- 2 Q HOW DO YOU KNOW HIM?
- 3 A BECAUSE HE COMES TO OUR HOUSE A LOT.
- 4 Q WAS HE FRIENDS WITH ANY OF YOUR OTHER FAMILY
- 5 MEMBERS?
- 6 A YEAH, MY SISTER, MY BIG SISTER, TINA.
- 7 Q WHAT'S HER NAME?
- 8 A TINA.
- 9 Q YOU NEED TO SPEAK UP A LITTLE LOUDER FOR ME.
- 10 HOW OLD IS TINA?
- 11 A TWENTY.
- 12 Q AND YOU SAY THAT MR. MERSON WAS A FRIEND OF TINA'S?
- 13 A A GIRL FRIEND.
- 14 Q TINA WAS HIS GIRL FRIEND?
- 15 A YES.
- 16 Q WERE THEY DATING?
- 17 A I DON'T KNOW.
- 18 Q DID THEY EVER LIVE TOGETHER?
- 19 A YES.
- 20 Q AND YOU SAID THAT MR. MERSON WOULD COME OVER TO
- 21 YOUR HOUSE. IS THAT YOUR GRANDMOTHER'S HOUSE?
- 22 A YES, SIR.
- 23 Q WHERE YOU LIVE?
- 24 A YES.
- 25 Q HOW OFTEN WOULD HE COME OVER TO YOUR HOUSE?

1 A I DON'T KNOW.

2 Q WOULD HE COME OVER EVERY DAY?

3 A NO.

4 Q DID YOU EVER GO AND DO THINGS WITH SCOTT MERSON  
5 AND YOUR SISTER?

6 A SOMETIMES.

7 Q DO YOU REMEMBER ANY OF THE THINGS YOU USED TO DO?

8 A NO.

9 Q DID YOU EVER GO TO THE MOVIES OR GET AN ICE CREAM?

10 A I DON'T REMEMBER.

11 Q OKAY. LET ME TAKE YOU BACK TO MAY OF THIS YEAR.

12 DO YOU HAVE YOUR OWN BEDROOM?

13 A NO.

14 Q WHO DO YOU SHARE A BEDROOM WITH?

15 A MY SISTER, ANGELA.

16 Q HOW OLD IS ANGELA?

17 A TEN.

18 Q WHO ELSE SLEEPS INSIDE THE HOUSE WITH YOU AND  
19 ANGELA?

20 A MY COUSIN, JASON, MY GRANDPARENTS.

21 Q AND HOW CLOSE ARE THEIR ROOMS TO YOURS AND ANGELA'S?

22 A NEXT DOOR TO OURS.

23 Q AND DO YOU SHARE A BED WITH ANGELA, OR DO YOU HAVE  
24 SEPARATE BEDS?

25 A WE SHARE.

1 Q HOW DO YOU LIKE THAT, SHARING A BED?

2 A SHE TAKES ALL THE COVERS. I DON'T KNOW.

3 Q WAS THERE EVER A NIGHT WHEN YOU WERE SLEEPING,  
4 THAT SCOTT MERSON CAME TO YOUR HOUSE?

5 A YES.

6 Q DO YOU REMEMBER WHAT DAY THAT WAS?

7 A NO.

8 Q DO YOU REMEMBER ABOUT WHAT TIME THAT WAS?

9 A NO.

10 Q WELL, WAS IT LIGHT OUTSIDE OR WAS IT DARK OUTSIDE?

11 A DARK.

12 Q AND WERE YOU SLEEPING OR WERE YOU AWAKE?

13 A I WAS SLEEPING.

14 Q WHAT'S THE FIRST THING THAT YOU REMEMBER WHEN  
15 YOU WOKE UP?

16 A THAT HE HAD HIS HANDS OVER MY MOUTH.

17 Q WHO DID?

18 A SCOTTY.

19 Q DID HE SAY ANYTHING TO YOU WHEN HE DID THIS?

20 A YES.

21 Q WHAT DID HE SAY?

22 A HE SAID, "BE QUIET."

23 Q WHAT WERE YOU THINKING WHEN THIS HAPPENED?

24 A I DON'T REMEMBER.

25 Q WELL, DID HE USED TO COME OVER LATE AT NIGHT TO

1 YOUR HOUSE LIKE THAT?

2 A NO.

3 Q WAS THAT THE FIRST TIME HE HAD DONE THAT?

4 A YES.

5 Q DID YOU THINK THAT WAS A BIT UNUSUAL?

6 A YES.

7 Q WERE YOU SCARED AT ALL?

8 A YES.

9 Q DID YOU SAY ANYTHING BACK TO HIM WHEN HE TOLD  
10 YOU TO BE QUIET?

11 A I COULDN'T.

12 Q WHY COULDN'T YOU?

13 A BECAUSE HE HAD HIS HAND OVER MY MOUTH.

14 Q DID HE HAVE HIS HANDS ANYWHERE ELSE ON YOU?

15 A NO.

16 Q OKAY. WHAT DID HE DO AFTER HE TOLD YOU TO BE  
17 QUIET?

18 A (NO RESPONSE)

19 Q DID HE STAY BY YOU, OR DID HE GO SOMEWHERE ELSE?

20 A HE WENT OVER TO MY SISTER'S SIDE.

21 Q DO YOU KNOW IF SHE WAS AWAKE AT THIS POINT?

22 A NO.

23 Q WHAT DID YOU DO AFTER HE LEFT YOUR SIDE OF THE  
24 BED AND WENT OVER TO ANGELA'S SIDE?

25 A I DON'T REMEMBER.

1 Q DID YOU GO BACK TO SLEEP, OR DID YOU STAY AWAKE?

2 A I STAYED AWAKE.

3 Q DID YOU SEE SCOTT GO OVER TO YOUR SISTER'S SIDE  
4 OF THE BED?

5 A NO.

6 Q DID YOU HEAR HIM SAY ANYTHING TO ANGELA?

7 A NO.

8 Q YOU DON'T REMEMBER HIM SAYING ANYTHING?

9 A NO.

10 Q DID YOU SEE HIM DO ANYTHING?

11 A NO.

12 Q WHY IS IT THAT YOU COULDN'T SEE OR HEAR WHAT HE  
13 WAS SAYING OR DOING?

14 A I HAD MY HEAD DOWN ON THE PILLOW.

15 Q AND WERE YOU FACING TOWARDS YOUR SISTER, OR WERE  
16 YOU FACING AWAY FROM HER?

17 A AWAY FROM HER.

18 Q HOW LONG -- IF YOU HAD TO GUESS, HOW LONG DO YOU  
19 THINK THAT HE WAS IN THAT ROOM?

20 A FIVE MINUTES.

21 Q ABOUT FIVE MINUTES. DID YOU HEAR HIM SAY ANYTHING  
22 BEFORE HE LEFT YOUR ROOM?

23 A NO.

24 Q HE DIDN'T SAY ANYTHING TO YOU OR ANGELA?

25 A NO.

1 Q DID HE TELL YOU NOT TO TELL ANYONE THAT HE WAS  
2 THERE?

3 A YES.

4 MR. EIDE: OBJECTION, YOUR HONOR; LEADING.

5 THE COURT: OVERRULED.

6 MR. EIDE: SHE'S ALREADY ANSWERED THE QUESTION.

7 BY MR. BENDER:

8 Q DID HE TELL YOU NOT TO TELL ANYONE THAT HE WAS  
9 THERE?

10 A YES.

11 Q WHAT DID HE SAY ABOUT THAT?

12 A I DON'T REMEMBER.

13 Q NOW, DID YOU SEE HIM LEAVE YOUR BEDROOM?

14 A NO.

15 Q DID YOU HEAR HIM LEAVE YOUR BEDROOM?

16 A YES.

17 Q AND WHAT DID YOU DO AFTER HE LEFT YOUR BEDROOM,  
18 IF ANYTHING? DID YOU DO ANYTHING AFTER HE LEFT?

19 A I WENT INTO MY GRANDMOTHER'S ROOM.

20 Q AND WHAT DID YOU TELL YOUR GRANDMOTHER?

21 A NOTHING. I JUST GOT A DRINK OF WATER.

22 Q ANY REASON WHY YOU DIDN'T TELL YOUR GRANDMOTHER  
23 THAT SCOTT MERSON HAD BEEN IN YOUR BEDROOM?

24 A I DON'T KNOW.

25 Q YOU DON'T KNOW WHY YOU DIDN'T TELL HER?

1 A NO.

2 Q WHAT DID YOU DO AFTER YOU WENT INTO YOUR  
3 GRANDMOTHER'S ROOM?

4 A I WENT BACK TO BED.

5 Q DID ANGELA GO IN WITH YOU, OR DID YOU GO IN BY  
6 YOURSELF?

7 A SHE WENT, TOO.

8 Q DID ANGELA SAY ANYTHING ABOUT SCOTTY BEING IN  
9 YOUR BEDROOM?

10 A NO.

11 Q AND THEN YOU ALL WENT BACK TO BED; IS THAT RIGHT?

12 A YES.

13 Q DID YOU HAVE SCHOOL THAT MORNING?

14 A YES.

15 Q WHAT TIME DO YOU NORMALLY GET UP TO GO TO SCHOOL?

16 A I DON'T KNOW.

17 Q WELL, IS IT EARLY OR LATE?

18 A EARLY.

19 Q ARE YOU TIRED WHEN YOU GET UP?

20 A YES.

21 Q WHO WAKES YOU UP?

22 A MY MOM.

23 Q AND DID YOU GO HAVE BREAKFAST?

24 A YES.

25 Q DO YOU REMEMBER WHAT YOU HAD FOR BREAKFAST?

1 A NO.

2 Q IT'S HARD TO REMEMBER THAT LONG AGO WHAT YOU HAD  
3 TO EAT. I COULDN'T REMEMBER.

4 DO YOU NORMALLY HAVE BREAKFAST BEFORE YOU GO TO  
5 SCHOOL?

6 A YES.

7 Q DO YOU ALL SIT AROUND A TABLE IN THE KITCHEN OR  
8 JUST GRAB SOMETHING AND RUN FOR THE SCHOOL BUS?

9 A WE SIT AROUND THE TABLE.

10 Q AND WHO WAS AT THE BREAKFAST TABLE THAT MORNING  
11 BESIDES YOU?

12 A MY SISTER.

13 Q AND WHO ELSE?

14 A NOBODY.

15 Q NOBODY. WHAT ABOUT YOUR MOM?

16 A SHE WAS GETTING READY FOR WORK.

17 Q DID YOU TALK TO YOUR MOM THAT MORNING?

18 A YES.

19 Q AND WHAT DID YOU TELL HER?

20 A MY SISTER TOLD HER WHAT HAPPENED.

21 Q WHAT DID SHE SAY THAT HAPPENED?

22 MR. EIDE: OBJECTION, YOUR HONOR; HEARSAY.

23 THE WITNESS: I DON'T KNOW.

24 BY MR. BENDER:

25 Q DID YOU TELL YOUR MOM THAT SCOTTY HAD BEEN IN

1 YOUR BEDROOM?

2 A MY SISTER DID.

3 MR. EIDE: WAS THERE A RULING ON THAT LAST  
4 STATEMENT?

5 THE COURT: I DIDN'T HEAR THE RESPONSE.

6 COUNSEL, APPROACH THE BENCH.

7 (THEREUPON, COUNSEL APPROACHED THE BENCH AND THE  
8 FOLLOWING PROCEEDINGS WERE HAD OUTSIDE THE PRESENCE OF THE  
9 JURY, AND ON THE RECORD AS FOLLOWS:)

10 THE COURT: WHAT IS THE OBJECTION?

11 MR. EIDE: HE ASKED WHAT HER SISTER SAID; WHAT  
12 HER MOTHER SAID, AND I OBJECTED TO THAT.

13 TO WHAT HER MOTHER SAID, THAT'S HEARSAY.  
14 AND THERE'S NO EXCEPTION TO THAT. THERE WAS AN ANSWER.  
15 I DIDN'T HEAR THE ANSWER, BUT THERE WAS AN ANSWER.

16 THE COURT: WHAT WAS THE ANSWER?

17 MR. BENDER: BASICALLY, A NON-VERBAL RESPONSE,  
18 YOUR HONOR. I COULDN'T HEAR AN ANSWER.

19 THE COURT: AND THEN THE NEXT QUESTION WAS --

20 MR. BENDER: I ASKED HER -- IF MR. EIDE WILL  
21 PERMIT ME. I DON'T WANT TO GET HEARSAY IN, EITHER.  
22 BUT I'M APPROACHING IT FROM ANOTHER ANGLE. I'M NOT  
23 GOING TO BE ASKING HER ANY HEARSAY.

24 THE COURT: WELL, YOU CAN LEAD WITH A CHILD;  
25 YOU KNOW THAT.

1 MR. BENDER: I UNDERSTAND. BUT I THINK IT'S  
2 PERMISSIBLE THAT SHE CAN SAY THAT ANGELA SPOKE TO  
3 HER MOTHER.

4 MS. CASHMAN: SHE ALREADY SAID THAT; "MY SISTER  
5 SAID SOMETHING TO MY MOTHER."

6 MR. BENDER: IF I COULD BE PERMITTED TO DIRECT  
7 THE DIRECT EXAMINATION, I THINK I WOULD BE OKAY.

8 THE COURT: WHAT IS THE OBJECTION TO AT THIS  
9 POINT?

10 MR. EIDE: WE OBJECT THAT HE ASKED THE QUESTION:  
11 WHAT DID SHE SAY? AND SHE MADE SOME SORT OF ANSWER,  
12 WHICH I DIDN'T EVEN HEAR. AND IT'S OBVIOUS HEARSAY,  
13 AND THERE'S NO EXCEPTION. AND I ASK ANY OF THOSE  
14 ANSWERS BE STRICKEN.

15 THE COURT: WELL, HEARSAY IS ADMISSIBLE; ISN'T  
16 IT, AS FAR AS A CHILD REPORTING? ✓

17 MR. BENDER: YOUR HONOR, WE'RE GOING TO HOPEFULLY  
18 BE ABLE TO PRESENT HEARSAY, ANYWAY, THROUGH OTHER  
19 WITNESSES. AND I IMAGINE ANGEL IS GOING TO BE  
20 TESTIFYING.

21 THE COURT: IS IT "ANGELA"?

22 MR. BENDER: ANGELA. SO IT'S JUST OBJECTING TO  
23 OBJECT. BUT THAT'S FINE.

24 MR. EIDE: IT'S NOT OBJECTING TO OBJECT.

25 AND, SECONDLY, IT IS NOT WITHIN THE HEARSAY

1           EXCEPTIONS IN THE RAPE PORTION.  BECAUSE THE MOTHER  
2           IS NOT COVERED BY THAT.  SHE IS NOT A VICTIM, SO THE  
3           STATE CANNOT OFFER WHAT THE MOTHER SAID THROUGH ANY  
4           WITNESS.  THAT ISN'T HEARSAY, AND THERE IS NO EXCEPTION.

5           THE COURT:  WHAT THE MOTHER SAID?

6           MR. EIDE:  THE MOTHER IS NOT A VICTIM.

7           MR. BENDER:  I DIDN'T ASK HER WHAT THE MOTHER  
8           SAID.  I SAID:  "WHAT DID ANGELA SAY TO YOUR MOTHER?"

9           MR. EIDE:  AND THEN YOU ALSO --

10          MR. BENDER:  IF YOU WOULD LISTEN MORE CAREFULLY.

11          THE COURT:  THAT'S ALSO HEARSAY.  THAT MAY BE  
12          OF THE EXCEPTIONS.

13          MR. BENDER:  JUDGE, I'VE ALREADY AGREED TO IT.  
14          I DON'T KNOW WHY WE'RE STILL UP HERE.

15          THE COURT:  OKAY.  THE OBJECTION IS SUSTAINED,  
16          AS FAR AS ANY HEARSAY.

17          MR. EIDE:  I WOULD MOVE TO STRIKE.

18          MR. BENDER:  THERE WAS NO RESPONSE.

19          THE COURT:  THERE WASN'T ANY RESPONSE.  OKAY.

20                        THE OTHER DAUGHTER'S NAME IS ANGEL OR ANGELA?

21          MR. BENDER:  IT'S ANGELA.  SHE CALLS HERSELF  
22          ANGEL.

23                        (THEREUPON, THE SIDE-BAR CONFERENCE WAS CONCLUDED.)

24          THE COURT:  YOU MAY PROCEED.

25          BY MR. BENDER:

1 Q READY TO START AGAIN?

2 A YES.

3 Q DID YOU SAY ANYTHING TO YOUR MOTHER ABOUT  
4 SCOTTY MERSON?

5 A NO.

6 THE COURT: WE'RE TALKING ABOUT AT BREAKFAST?

7 MR. BENDER: AT BREAKFAST, YES.

8 BY MR. BENDER:

9 Q ANY REASON WHY YOU DIDN'T TELL HER AT BREAKFAST?

10 A BECAUSE MY SISTER ALREADY DID.

11 Q DID YOUR MOM ASK YOU ANY QUESTIONS ABOUT SCOTTY  
12 BEING IN THE BEDROOM THAT NIGHT? ✓

13 A NO.

14 Q AFTER THAT DID YOU ALL GO OFF TO SCHOOL? ✓

15 A YES.

16 Q WHAT SORT OF CLASSES ARE YOU TAKING IN SCHOOL  
17 RIGHT NOW?

18 A WHAT DO YOU MEAN?

19 Q WELL, DO YOU HAVE ANY MATH?

20 A YES.

21 Q AND DO YOU HAVE ANY READING?

22 A YES.

23 Q WHAT ABOUT RECESS, GOING OUT ON THE PLAYGROUND,  
24 DO YOU ALL DO THAT, TOO?

25 A YES.

1 Q DO YOU LIKE SCHOOL?

2 A YES.

3 Q WELL, THAT DAY WHEN YOU WENT TO SCHOOL DID YOU  
4 COME BACK HOME THAT AFTERNOON?

5 A YES.

6 Q DID YOU COME HOME BEFORE SCHOOL GOT OUT OR DID  
7 YOU COME HOME AFTER SCHOOL GOT OUT?

8 A BEFORE.

9 Q WHO CAME AND PICKED YOU UP?

10 A MY MOM.

11 Q AND WAS ANYONE WITH YOUR MOM, OR JUST HER?

12 A JUST HER.

13 Q AND DID SHE PICK YOU AND ANGEL UP?

14 A YES.

15 Q AND DID YOU TALK TO YOUR MOM THEN ABOUT SCOTTY  
16 BEING IN YOUR BEDROOM?

17 A YES.

18 Q WHAT DID YOU TELL HER?

19 A I DON'T REMEMBER.

20 Q WELL, DID YOU TELL HER THAT SCOTTY HAD BEEN IN  
21 YOUR BEDROOM?

22 A YES.

23 Q DID YOU TELL HER ANYTHING HE TOLD YOU OR SAID  
24 TO YOU?

25 A NO.

1 Q AND DID YOU ALL GO HOME AFTER SHE PICKED YOU UP?

2 A YES.

3 Q DID YOU TALK TO ANYBODY ELSE ABOUT THIS AFTER  
4 YOU CAME HOME FROM SCHOOL? LIKE, DID YOU TALK TO ANY  
5 POLICE OFFICERS?

6 A YES.

7 MR. BENDER: YOUR HONOR, WITH YOUR PERMISSION  
8 I WOULD LIKE THE WITNESS TO STEP DOWN.

9 THE COURT: HMM-HMM.

10 BY MR. BENDER:

11 Q MICHELLE, IF YOU WOULD COME WITH ME FOR A SECOND,  
12 I WANT YOU TO STEP DOWN PLEASE AND TAKE A LOOK AROUND THE  
13 COURTROOM.

14 AND I ASK YOU: DO YOU SEE SCOTTY MERSON IN THIS  
15 COURTROOM TODAY?

16 A YES.

17 Q WOULD YOU POINT HIM OUT AND TELL US, PLEASE,  
18 WHAT HE'S WEARING?

19 A (INDICATING) I DON'T KNOW HOW TO EXPLAIN IT.

20 Q WHAT COLOR JACKET DOES HE HAVE ON?

21 A BLACK.

22 Q OKAY. IS THAT THE MAN THAT WAS IN YOUR BEDROOM  
23 THAT EVENING?

24 A YES.

25 Q HAVE A SEAT BACK UP HERE, SWEETIE.