

1 WENT.

2 WE DON'T HAVE A CHILD DEMONSTRATING FOR
3 THE JURY OR SHOWING THE JURY WHERE HER PRIVATE IS BY
4 DISPLAYING IT. I THINK HER DESCRIPTION, HER POINTING
5 TO IT AND DESCRIBING WHAT THE DEFENDANT DID WERE
6 SUFFICIENT TO SHOW THAT THERE WAS UNION WITH HIS MOUTH
7 OR TONGUE TO HER VAGINA.

8 THE COURT: THE COURT AGREES. THE REQUEST TO
9 GIVE LEWD ACT IN THE PRESENCE OF A CHILD WILL BE DENIED.

10 ANYTHING ELSE?

11 MR. EIDE: YOUR HONOR, AT THIS TIME WE WOULD LIKE
12 ARGUMENT ON THE JUDGMENT OF ACQUITTAL MOTION.

13 THE COURT: ALL RIGHT. THE DEFENSE HAD PREVIOUSLY
14 RESERVED THIS RIGHT TO MAKE ARGUMENT AT THE CLOSE OF
15 THE DEFENSE'S CASE.

16 MR. EIDE: YOUR HONOR, AT THIS TIME I WOULD RENEW
17 OUR MOTION FOR JUDGMENT OF ACQUITTAL. WE THINK THAT,
18 EVEN AFTER ALL THE EVIDENCE IS IN, THE STATE HAS FAILED
19 TO PROVIDE AND PROVE A PRIMA FACIE CASE, LET ALONE A
20 CASE BEYOND A REASONABLE DOUBT.

21 WE STILL QUESTION THE TESTIMONY BY THE TWO
22 CHILDREN. NO TESTIMONY AT ALL CAME OUT AS TO THE
23 PROPER IDENTIFICATION. THERE WAS NO IDENTIFICATION AS
24 TO CLOTHING OR ANY RECOGNITION OF THE VOICE OR ANYTHING
25 ELSE BUT, MERELY, THAT WAS SCOTTY BECAUSE THE LIGHTS

1 WERE THERE.

2 THEY ALSO HAD TROUBLE IDENTIFYING HIM IN
3 COURT. WE DISCUSSED THAT LAST TIME, SAYING THAT HE
4 HAD A BLACK JACKET ON AND NOT BLUE. AND I WAS, OF
5 COURSE, THE ONLY PERSON IN A BLACK JACKET.

6 I THINK ANGELA'S POINTING OUT AND SAYING,
7 "IT'S HIM OVER THERE," BETWEEN TWO ATTORNEYS, IS NOT
8 ENOUGH.

9 ALSO, WE THINK THAT THE TESTIMONY THAT
10 MR. BENDER HAS SAID THAT HE ELICITED FROM HER: "IS
11 THAT WHERE YOU GO TO THE BATHROOM," WE STILL THINK
12 THAT THAT IS A GENERAL STATEMENT; THAT'S NOT A SPECIFIC
13 STATEMENT THAT THAT AREA IS THE ONE WHERE ONE WOULD
14 GO TO THE BATHROOM FROM.

15 THEREFORE, "PRIVATES," IN AND OF ITSELF,
16 EVEN WHEN QUESTIONED ALONG WITH WHAT MR. BENDER SAID,
17 IS NOT ENOUGH TO SHOW THERE WAS CONTACT WITH A SEXUAL
18 ORGAN. AND WE THINK THAT THAT ALSO HAS NOT BEEN
19 PROVEN PRIMA FACIE.

20 SO WE WOULD ASK THE COURT ON THOSE GROUNDS,
21 AND THE FACT THAT NONE OF THE OTHER ELEMENTS HAVE BEEN
22 PROVEN, THAT THE COURT GRANT THE MOTION FOR JUDGMENT
23 OF ACQUITTAL AT THIS TIME.

24 THE COURT: MOTION FOR JOA WILL BE DENIED.

25 ANYTHING ELSE?