

1 MR. THURLEY: I do.
2 THE COURT: Grab a seat, pull the microphone
3 nice and close. State your full name and spell your full
4 name, please.
5 THE WITNESS: Nicholas [REDACTED] N-I-C-H-O-
6 L-A-S [REDACTED]
7 THE COURT: Thank you. You may proceed.
8 NICHOLAS [REDACTED]
9 called by the people at 10:33 a.m. and sworn by the Court,
10 testified:
11 DIRECT EXAMINATION

12 BY MS. PAYNE:
13 Thanks for coming today. You'll be leaving in a couple
14 days, right?
15 Yes. Yes, ma'am.
16 Where you going to?
17 South Carolina.
18 For what?
19 The army.
20 Okay. Now, do you know someone by the name of Michael
21 Terpend?
22 Yes, ma'am.
23 Do you see him in the courtroom today?
24 Yes, ma'am.
25 Can you please identify him?

33

1 Live.
2 MR. SCHAEFFER: Kay. No further questions,
3 your Honor.
4 THE COURT: Anything further of prosecution?
5 MS. PAYNE: No, your Honor.
6 THE COURT: Kay. Mr. [REDACTED], you may step
7 down.
8 MS. PAYNE: Your Honor, may this witness be
9 excused then?
10 THE COURT: Yeah. Mr. Schaeffer, any--any
11 problem with the witness being excused?
12 MR. SCHAEFFER: No objection, your Honor.
13 THE COURT: Kay.
14 (At 10:29 a.m., witness excused)
15 THE COURT: Any other witnesses for prosecution?
16 MS. PAYNE: At this time, your Honor, people
17 would like to call Nicholas [REDACTED]
18 Your Honor, if Mr. Schaeffer and I can briefly
19 approach?

20 THE COURT: Sure.
21 (At 10:29 a.m., bench conference off the record)
22 (At 10:31 a.m., bench conference concluded)
23 THE COURT: Okay. Would you raise your right
24 hand, please? Swear to tell the truth, the whole truth
25 and nothing but the truth?

32

1 A Like three four times at a--a week.

2 Q Did you like the work there?

3 A Oh, the farm work was fine. Yeah. That's what I like to

4 do.

5 Q Okay. And how often were you working there?

6 A Like what d'you mean?

7 Q How many hours?

8 A Like 15 or 20.

9 Q Okay.

10 A At the most.

11 Q And did you often work by yourself, or with someone else?

12 A Most the time I was by myself. There was every now and

13 then I had Chris ~~come~~ come with me, as well.

14 Q And who gave you your orders on what work to do on the

15 that day?

16 A Mike Terpening.

17 Q Okay. What were your duties? What kinda work did you do?

18 A Clean pens, fix fences, fill in holes that the dogs dug

19 up.

20 Q At some point did the Defendant start doing some things or

21 saying things to you that made you feel uncomfortable?

22 A Yeah.

23 Q Okay. And what were those things?

24 A At first he called and--

25 MR. SCHAEFER: Your Honor, I guess I'm going to.

1 A Right there.

2 Q And describe what color shirt he's wearing.

3 A Blue with kind of a--

4 MS. PAYNE: Let the record--

5 THE WITNESS: --reddish tie.

6 MS. PAYNE: --reflect the witness has identified

7 the Defendant, your Honor.

8 THE COURT: Record may so reflect.

9 BY MS. PAYNE:

10 Q When's the last time you saw him?

11 A Pro--like two and a half years ago.

12 Q Okay. And how did you first come to know the Defendant?

13 A I was with a friend, prob'ly two--2008, 2009. His mom got

14 me acquainted with him to get a job. That's when I first

15 met him.

16 Q Okay. And did you end up working for him?

17 A Yes. A little bit. Yeah.

18 Q At Barth Services?

19 A Not quite--Yeah, but it was more like farm work type stuff.

20 Q Okay. And what grade were you in when you were working

21 for him?

22 A Senior, high school.

23 Q Senior in high school? Do you remember how old you were?

24 A Seventeen.

25 Q Okay. And how often did you work there?

cheap if he would masturbate with him. [redacted] refused. He told the police that the defendant was very persistent and asked him multiple times if he would just watch him masturbate. When he would turn him down he--the defendant at one time even got very angry with him.

Pursuant to *People versus Vandervliet*, 444 Mich 52, 55, the standard of admission of other acts evidence is, first, that the evidence be offered for a proper purpose under rule 404(b); second, that it be relevant to the evidence is not substantially outweighed by unfair prejudice; and fourth, that the trial court may, upon request, provide a limiting instruction to the jury.

I laid out in my notice the purpose for admission. Intent is the sexual pursuit and sexual contact of [redacted], [redacted], and [redacted] and the related information is drawn evidence that the defendant's touching was intentional. The fact of the prior sexual solicitations with [redacted] and [redacted] is similarly relevant to intent as the defendant made repeated, unwanted sexual requests for sexual contact from [redacted] and [redacted]. The sexual advances upon [redacted], [redacted], and [redacted], [redacted], and [redacted] for the court to accurately judge the proof of the acts charged in Barry County. And I laid out case law in the

object at this point in time. I don't believe that Mr. [redacted] is a named victim in any of the counts, unless I am missing some of the information. Thus I'm going to object as to the relevance of this particular testimony of happening some two and a half years ago.

MS. PAYNE: Your Honor, the people did file their 404(b) notice in regards to Mr. [redacted]. I can go over what I anticipate his testimony would be based on my notice, is that when he was a senior he worked around 15 to 20 hours a week at Earth Services, told the police that towards the end of the school year the defendant started getting weird. He told police that the defendant began talking with him about masturbating with guys and sucking their dicks. [redacted] told police that the defendant would only talk this way when nobody else was around and that they were by the barns or office. The defendant asked [redacted] if he wanted to try the stuff. [redacted] told him no. The defendant would back off for a couple weeks, but then started asking him once again to engage in sexual activity. During this time [redacted] was on probation and the defendant would let him use his car to see his probation officer. [redacted] told police that after he borrowed the defendant's car the defendant tried to get him to masturbate him for continued use of his car. The defendant also offered to sell his truck to [redacted] for

mere joke and he was not just joking around and acting like one of the boys.

I just briefly went over some of the content of my notice, and I would ask that [REDACTED] allowed to testify further, Your Honor.

MR. SCHABERGER: Your Honor, the 404(b) court rule basically stands for the proposition that bad acts are not admissible and should not be admissible in the court in relation to cases involving other parties. There is the exception of the 404(b), but it requires a number of things. It has to be for a stated purpose. If the stated purpose is a scheme or a plan, at this point in time there is nothing that in the notice would be similar, especially in light of the two and a half year time period and differential circumstances. This was a hired person whereas the prior testimony was somebody who was not hired. That there has to be a--a connection that makes it admissible under 404(b), and it does not because there's not enough similarities to the circumstances that would allow such a matter to take place. I would think that if, in fact, this is going to be offered for a 404(b) exception, that your Honor would have to hear the other testimony for which it is being offered. Is it being offered for the one count involving the prior witness, or is it being offered in relation to the other counts that

notice. The testimony from [REDACTED] is relevant evidence that the defendant's request for sexual conduct was not a mere joke, and the defendant's statements are evidence of intent and motive. Furthermore, for scheme, plan, or system in doing an act, he--the defendant often made sure the victims were isolated and then pursued them. [REDACTED] and [REDACTED] all reported incidents that took place at Earth Services--the House Next door. Both [REDACTED] and [REDACTED] reported incidents that occurred at rental houses owned by the defendant. In all cases, the defendant, as with [REDACTED], took advantage of those who were under his authority--authority. Under preparation and opportunity, the defendant did these sexual crimes and solicitations upon victims after solidifying a controlling relationship. As with [REDACTED], he was the authority of figure in their lives, and after knowing their weaknesses and vulnerabilities, he would prepare their victims by sexualized talk. He would pursue his victims when they were alone and when they were on his territory. He had a specialized knowledge of his victims. No one was randomly selected. Absence of mistake or accident and absence of playful intent, testimony from [REDACTED] and [REDACTED] in this case is relevant evidence that the defendant's requests to have sexual contact with [REDACTED] was not a

1 A When he started calling and ask--asking would you wanna
 2 try masturbating or doin' all that stuff in front of--you
 3 know, with him. After the second time he did it, it was
 4 kinda getting--I was getting annoyed but more or less
 5 weird out at him.
 6 Q Okay. And when you said he called, did he call on your
 7 phone?
 8 A Yeah, my cell phone.
 9 Q And how did you know it was him?
 10 A I have him saved. I had it saved 'cause I worked for him
 11 and--
 12 Q Did you recognize his voice?
 13 A Yeah.
 14 Q Okay. Would anyone--did he also make comments to you
 15 while you were working on the farm?
 16 A At first no, and then once--at least once he got to know
 17 me, I guess, then yeah, he started.
 18 Q Okay. And what comments did he make to you on the farm
 19 that made you uncomfortable?
 20 A He'd ask if I'd wanna go down to his office, just him
 21 and--him and I. And then he would start talking about the
 22 whole masturbating part, if he'd watch or if I'd do it
 23 with him.
 24 Q Okay. Do what with him?
 25 A Masturbate.

1 exists? We don't know what the circumstances are in
 2 relation to those other counts at this point in time, so I
 3 think it is premature at best, and not relevant, and it is
 4 not admissible under 404(b).
 5 THE COURT: Okay. Thank you for both your
 6 arguments. I'm gonna allow the testimony. I find that it
 7 is for a proper purpose. I think there are multiple
 8 reasons for purpose in this particular--for this particu-
 9 lar testimony. I think there is at least potential motive
 10 information here. There's also intent information.
 11 scheme or plan, I understand your argument, but I think
 12 the 404(b) notice laid out what the potential scheme or
 13 plan argument would be, and that's only one of three or
 14 four proper purposes, and you only need one. And also
 15 there's obviously the absence of mistake or--or accident
 16 or playful intent. That--that's clear here. For that
 17 purpose alone, I find that the testimony is potentially
 18 relevant, and I think in this particular case, again
 19 because it is probable cause hearing, there's not a jury
 20 here, the--the--the fear of potential prejudice versus
 21 probative value is--is much less without a jury present in
 22 this particular case. So I will allow the testimony.
 23 BY MS. PAYNE:
 24 Q So at what point did the Defendant start making comments
 25 to you that made you feel uncomfortable?

1 Q Okay. And was anyone else around when he would talk to you this way?

3 A No.

4 Q Okay. And when you told him no, what was his response, what would he do?

6 A He'd try to push it more, see if he can at least try it or try to have me do it.

8 Q And what'd you mean by push it more?

9 A How do I word it? Um--

10 Q If you said no, did he leave you alone?

11 A No. He kept egg'in' it on. He'd try to--He kept asking if he wanted to and I kept sayin' no, and then he--he left it alone for a while.

14 Q And at this time you were on probation, correct?

15 A Yes, ma'am.

16 Q Okay. And what were you on probation for?

17 A Domestic assault.

18 Q 'Kay. Did you have a probation officer at that time?

19 A Yes.

20 Q Okay. Were you require--required to report to her?

21 A Yes, every month.

22 Q And did the Defendant let you use his car?

23 A Yes, once.

24 Q Just once?

25 A Yeah.

1 Q Okay. And what happened after you borrowed his car the first time to go see your probation officer?

2 A When I took it back, I went home. And then the next time I worked for him I see if I could use it for couple more days so I can do my probation and do other stuff.

6 Q And what did he say?

7 A He was like, I will if you do something for me, and then he started going off on if you wanna masturbate again or I can give you head.

10 Q Okay. And what was your response--

11 A No.

12 Q --to him? 'Kay. Did he offer to sell you a truck?

13 A Yes.

14 Q And what was--what were the conditions of you buying his truck?

16 A He would sell me the truck for half the price if I would watch him masturbate in the barn.

18 Q And what--how did you answer to him?

19 A I was like no.

20 Q Okay. And did he back down after you refused him?

21 A He asked again. I was like no, I wanna go home.

22 Q Okay. Did he ever ask you about wanting to be in a threesome?

24 A He did once.

25 Q Okay. And who was that supposed to occur with?

1 A Just once, or just one. It was one of my friends.

2 Q Okay. And what was the name of that friend?

3 A Joshua [REDACTED].

4 Q Did you ever--

THE COURT: Excuse me. How do you spell the

THE WITNESS: [REDACTED].

THE COURT: Thank you.

BY MS. PAYNE:

Q Did you ever think the Defendant was joking around and not

being serious?

A At first yes, and then once he started keep--like asking

and asking, then it wasn't a joking matter.

Q Did you see the Defendant as a--an authority figure?

A Yes.

MS. PAYNE: Okay. No further questions, your

Honor.

THE COURT: Cross-exam?

CROSS-EXAMINATION

BY MR. SCHAEFFER:

Q What authority figure did you see him as?

A Role model. Person I could look up to.

Q A--A role model? Somebody to look up to? How long did

you work out there?

A Probably six months.

1 A His wife.
2 Q Okay. What did you think about this when he kept making
3 all these comments to you?
4 MR. SCHAEFFER: Your Honor, again I'm--I guess
5 I'm going to object as to this area. This certainly is
6 not similar to the other proffer of evidence as to a
7 threesome, and I'm not sure that that is consistent--
8 THE COURT: I'll sustain it regarding the
9 threesome with the wife.

MR. SCHAEFFER: Thank you.

BY MS. PAYNE:

Q Did he ever become angry with you?

A Once, a little bit.

Q Okay. Explain--Describe that situation.

A I think he was more like agitated--

And why--

--because--

--was he agitated?

A Cause I wouldn't do the stuff that he wanted me to do

with him.

Q Okay.

A The masturbating and all that stuff.

Q Why did you feel he was agitated?

A I don't know.

Q Okay. Did you ever tell anyone about this?

1 Q And could you give me the timeframe that that six months covers?

2 A From like December 2008, to like March or April.

3 Q Of 2009?

4 A Yes.

5 Q And you were on probation at that time?

6 A Yes, sir.

7 Q And what jurisdiction were you out of probation on?

8 A Baton County.

9 Q Baton County?

10 A Yes, sir.

11 Q And you were on probation for domestic violence, is that correct?

12 A Yes, sir.

13 Q Misdemeanor, sir.

14 A And who was your PO?

15 A It was Panter. I don't know my other probation officer.

16 Q I--it was a--it was a lady.

17 Q How long were you on probation?

18 A It lasted a little over a year--

19 Q Are you--

20 A --to get--

21 Q --on probation now?

22 A No, sir.

46

1 Q Have you been convicted of any other offenses?

2 A No, sir.

3 Q When you got calls from Mr. Terpening, on what phone did you receive calls?

4 A My cell. My cell phone.

5 Q Um--

6 A It was an old--

7 Q You--excuse me?

8 A It was an old telephone. I don't have it anymore. I've had five to six different phones.

9 Q Five or six different calls during that timeframe, the six months you gave us?

10 A No. I got like different cell phones.

11 Q Oh.

12 A Sorry, sir.

13 Q You've had five or six different cell phones since this time?

14 A Yeah.

15 Q And did all the phone calls take place during the six-month period?

16 A I only had two.

17 Q Okay. You only had two phone calls.

18 A Yes.

19 Q And were they within the six-month period?

20 A Yes, sir.

47

1 Q How much did you get paid?
 2 A I don't know. It was kinda--if I worked so many hours,
 3 he'd pay me kind of a lump sum of cash. It wasn't really
 4 like hourly or wages. I've--I--I'd say prob'ly \$8 an
 5 hour. If I have to really go back on it.
 6 Q Well, was there some sort of agreement when you showed up
 7 for work how much you were gonna get paid?
 8 A No.
 9 Q So you were just going to show up and work, and you might
 10 get paid and you might not get paid; is that your under-
 11 standing?
 12 A Yeah.
 13 Q Was this a community service that you were doing for your
 14 probation?
 15 A A little bit, yes it was. Some of it, yes.
 16 Q Well, what part of it?
 17 A Like cleaning the pens, doin' the holes I filled in that
 18 his dogs dug up.
 19 Q You indicated that you are in the army at the present
 20 time?
 21 A Right now, yes.
 22 Q How long you been in the army?
 23 A Just started. Just got in.
 24 Q When?
 25 A Four months ago is when I signed my contract, sir.

48

1 Q Speak up just a little bit. Last time you got what?
 2 A Is when I signed my contract, four months ago.
 3 Q Are you in the army now, or you--
 4 A I'm going to--I'm going to basic in a week.
 5 Q And--and what camp or fort are you going to?
 6 A Fort Jackson, South Carolina.
 7 Q Are you married or single?
 8 A Single.
 9 Q Did you finish high school?
 10 A Yes, sir.
 11 Q Which high school did you go to?
 12 A Maple Valley.
 13 Q Did you know Mr. Terpening prior to December of '68?
 14 A No.
 15 Q Did you make acquaintance with other probationary people
 16 that were out there?
 17 A What'd you mean, sir?
 18 Q Were there other people out there that were on probation
 19 from other courts that you met?
 20 A No.
 21 Q You were the only worker out there?
 22 A Yes. Well, on probation, yes. There was prob'ly other
 23 ones. I don't really know what their situation was.
 24 Q Okay. Who were--who were your supervisors out there?
 25 A I don't know their names anymore, sir.

49

2009. A

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2 Q

3 A

4 Q

5 A

6 Q

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10 Q

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12 Q

13 A

14 Q

15 A

16 Q

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18 Q

19 A

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25 A

26 Q

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28 Q

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364 Q

365 A

1 I goin' on if I had anybody--if I was willing to have
2 somebody talk to me I would.
3 All right. Had you talked to Rddy about your contact with
4 Terpening before the month before August 25?
5 Yeah. You mean like right now recently, or the month?
6 Well, you--you indicated you talked to Rddy about a month
7 before August 25 of this year, correct?
8 Yes.
9 Had you talked to Rddy about this incident prior to that
10 time?
11 No.
12 How did Rddy know that you were in the loop any way in
13 relation to Terpening?
14 'Cause I lived with a teacher named Miss [REDACTED], Montique
15 [REDACTED].
16 And?
17 I lived with her for a little bit until college came
18 around, and I mentioned that Terpening was mentioning this
19 little stuff, and she talked to Rddy 'cause he's a cop.
20 That's when--
21 Okay--All right.
22 That was like September of 2009.
23 Okay. So you did talk to somebody else about this
24 incident then?
25 Yes.

52

1 Well, okay. Tell us everybody you talked--So--
2 That was--That was the only two. I'm sorry for missin'
3 her. It's been quite a while.
4 Okay. September of 2009 you talked to Miss [REDACTED] [sic]?
5 How do you spell that please?
6 [REDACTED]
7 All right. And you were living with her?
8 Yes.
9 And so was it your understanding that [REDACTED] told Rddy
10 contemporaneously with September of '09 what you had told
11 her?
12 Yes.
13 So--so [REDACTED] had talked to Rddy in '09, correct?
14 Uh-huh.
15 All right. In spite of what you have talked here,
16 apparently nothing sexually ever happened between you and
17 Mr. Terpening?
18 Yes, sir.
19 That is correct?
20 Yes, sir.
21 MR. SCHAEFFER: 'Kay. No further questions,
22 your Honor.
23 THE COURT: Redirect?
24 REDIRECT EXAMINATION
25

53

1 BY MS. PAYNE: Did you see the Defendant as an authority figure because
 2 Q he was your boss?
 3 A Yes.
 4 MR. SCHAEFFER: Your Honor, I'm going to object.
 5 A leading question.
 6 THE COURT: Overruled.
 7 BY MS. PAYNE:
 8 Q Were you scared you could be fired by him?
 9 A Yes.
 10 Q Okay. You scared he might call your probation officer
 11 that--
 12 A Yes.
 13 Q And why was it important that you keep a job at the farm
 14 with him?
 15 A To pay my fines, my court fines and restitution fines.
 16 Q And the Defendant was aware that you were trying to pay
 17 these fines off?
 18 A Yes, ma'am.
 19 Q Kay. At the time that you were on--working on the farm,
 20 who did you live with?
 21 Mont--Or Barbara [redacted].
 22 A Kay. And who is Barbara [redacted] mom that
 23 Q she was one of my friends' mom, Chris [redacted] mom that
 24 A took me in.
 25

1 Q And she knew the Defendant?
 2 A Yes.
 3 Q She was friends with him?
 4 A Yes.
 5 Q Kay. Were you removed from the care of your parents?
 6 I was kicked out.
 7 A Okay. Was there court in--intervention with you in
 8 placing you with somebody?
 9 A No, I--they just took me in 'cause I had nowhere else to
 10 go. Wasn't really court ordered or anything like that.
 11 Q And just clarify, how did she end up taking you in?
 12 A Her son asked her.
 13 Q And her son's name?
 14 A Chris [redacted].
 15 Q And you were friends with him.
 16 A Yeah.
 17 MS. PAYNE: Kay. No further questions, your
 18 Honor.
 19 THE COURT: Recross?
 20 RECCROSS-EXAMINATION
 21 BY MR. SCHAEFFER:
 22 Q Well, okay. You were removed--you were kicked out of your
 23 home.
 24 A Yeah.
 25 Q When was that?

1 A That was January 6th, 2009.

2 Q Why were you kicked out of your home?

3 A The domestic violence charge.

4 Q Against whom?

5 A My mom.

6 Q And you stopped living with Barbara [redacted] at one time,

7 too, did you not?

8 A Yes.

9 Q You get kicked outta there?

10 A Yes.

11 Q Why'd you get kicked out of Barbara [redacted] home?

12 A I don't know, sir. It was--There was a misunderstanding

13 with me and her son and her--they took her son's side and

14 they--then I found a place with Monique [redacted]. That's

15 when I lived there until college came around.

16 Q You were accused of lying against the [redacted], were you

17 not?

18 A Yes.

19 Q Did you?

20 A I didn't lie to 'em.

21 Q Did you lie about them?

22 A Nope.

23 Q Did you steal anything from them?

24 A No.

25 Q Were you accused of stealing something from them?

1 A

I don't know.

2 Q

Well, what was the reason the [redacted] got fed up with you

3 and said leave?

4 A

That--I--My opinion? I thought that Chris was jealous of

me.

6 Q

You thought that--

7 A

Sorry.

--Chris your friend, the son of Barb, was jealous of you.

9 A

Yes.

10 Q

And why would he be jealous of you?

11 A

I don't know.

12 Q

Well, was there something that was expressed to you that

13 gave you the state of mind as to why you were kicked out?

14 A

No.

Mrs. [redacted] never said anything to you?

15 Q

When they mentioned it, it was a week before graduation.

16 A

They were saying that Chris told her parents that I called

17 her a stupid bitch and her dad a lazy fat ass, and which I

18 never did. At all.

19 Q

And who--who expressed that to you?

20 A

Barb.

21 Q

And it was shortly thereafter you were asked to leave.

22 A

Yes. Graduation.

23 Q

MR. SCHAEFER: No further questions, your

24 Honor.

25

1 THE COURT: Any more from prosecution?
2 MS. PAYNE: No, your Honor.
3 THE COURT: Witness may step down. Any reason
4 why the witness cannot be excused?
5 MR. SCHAEFFER: No objection, your Honor.
6 MS. PAYNE: Your Honor, at this time I'd like to
7 call Brian [REDACTED].

8 THE COURT: Thank you, Mr. [REDACTED].
9 MR. [REDACTED]: Welcome.
10 THE COURT: Good luck with your basic.

11 MR. [REDACTED]: Thank you, sir.
12 (At 11:03 a.m., witness excused)

13 MR. KULAS: Your Honor, is it okay if I use the
14 courtroom momentarily?

15 THE COURT: Yeah.
16 MR. KULAS: Thank you, your Honor.

17 (At 11:06 a.m., Mr. Kulas leaves the courtroom)
18 THE COURT: Mr. Schaeffer, is it--counsel's fine

19 if we proceed?

20 MR. SCHAEFFER: Well, why don't we take a five-
21 minute break? I think it would be appropriate.

22 THE COURT: I'm not ready for a five-minute
23 break.

24 MR. SCHAEFFER: Okay.
25 THE COURT: So I just wanna know if you wanna

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1 proceed with your--

2 MR. SCHAEFFER: I'd just soon--

3 THE COURT: --third counsel--

4 MR. SCHAEFFER: I'd just soon wait till he gets
5 back.

6 THE COURT: Okay.

7 (At 11:08 a.m., Mr. Kulas returns to courtroom)

8 THE COURT: Okay, Mr. [REDACTED], raise your right
9 hand, please. Swear to tell the truth, the whole truth,

10 and nothing but the truth?

11 MR. [REDACTED]: I do.

12 THE COURT: Pull the microphone nice and close
13 to your mouth. Please state your full name and spell it

14 also, please.

15 THE WITNESS: Brian [REDACTED], B-R-I-A-N

16 THE COURT: Thank you. You may proceed.
17 [REDACTED]

18 BRIAN [REDACTED]

19 called by the people at 11:08 a.m. and sworn by the Court,
20 testified:

21 DIRECT EXAMINATION

22 BY MS. PAYNE:

23 Q Hi, Brian. How you doin' today?

24 A I'm doin' good.

25 Q Okay. When did you first arrive at Earth Services-The

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