

10:31:38 1 parties that we do this as a bifurcated hearing. So  
10:31:44 2 should I find the allegations true, then we will have a  
10:31:48 3 second hearing and if you wish to present additional  
10:31:50 4 evidence as to whether or not he should be adjudicated.  
10:31:56 5 So we will do it in a two part instead of one. Is that  
10:32:00 6 my understanding? Is that acceptable to y'all?

10:32:02 7 MR. VILLARREAL: Yes, ma'am.

10:32:02 8 MR. LEONARD: Yes, ma'am.

10:32:04 9 THE COURT: Your first witness.

10:32:06 10 MR. LEONARD: Are we doing it here at the  
10:32:08 11 bench or counsel table?

10:32:08 12 THE COURT: Counsel table. Thank you.

10:32:10 13 MR. LEONARD: The State will call Manuel  
10:32:10 14 Chica.

10:32:20 15 THE COURT: Thank you. Come on up, sir.

10:32:20 16 MANUEL CHICA,

10:32:20 17 Having been first duly sworn by the Court,  
10:32:44 18 testified as follows:

10:32:44 19 MR. LEONARD: May I proceed?

10:32:44 20 THE COURT: You may.

10:32:46 21 MR. LEONARD: Thank you.

10:32:46 22 DIRECT EXAMINATION

10:32:46 23 QUESTIONS BY MR. LEONARD:

10:32:46 24 Q. Please introduce yourself to the Court.

10:32:48 25 A. My name is Manuel Chica, Jr. I'm a community

10:32:52 1 supervision officer here in Harris County.

10:32:54 2 Q. And how long have you been a community  
10:32:56 3 supervision officer with Harris County?

10:32:58 4 A. Here in Harris County I've been approximately  
10:33:02 5 four years and several months.

10:33:02 6 MR. LEONARD: Permission to approach?

10:33:08 7 THE COURT: You don't have to ask to  
10:33:10 8 approach. The only rule that I really have is don't  
10:33:14 9 stand next to the witness while you're asking them  
10:33:18 10 questions unless you're showing him something.

10:33:20 11 MR. LEONARD: Absolutely.

10:33:22 12 THE COURT: Other than the exhibits that are  
10:33:24 13 in evidence you can show them to them and ask  
10:33:26 14 permission.

10:33:26 15 MR. LEONARD: Thank you, Judge.

10:33:32 16 Judge, I would ask that the Court take  
10:33:36 17 judicial notice of the probation file for Mr. John  
10:33:40 18 Combest.

10:33:42 19 THE COURT: I'll take judicial notice, but  
10:33:44 20 you will have to point out what you want me to take  
10:33:46 21 judicial notice of because it's a very big file.

10:33:50 22 MR. LEONARD: All right. I'm marking it as  
10:33:52 23 State's Exhibit 1.

10:33:54 24 THE COURT: You want that in evidence?

10:33:58 25 MR. LEONARD: Right.

10:33:58 1 THE COURT: If you want that in evidence,  
10:34:00 2 somebody is going to have to xerox it for the court  
10:34:04 3 reporter. Just like any other hearing, you're  
10:34:06 4 responsible for having them copied. You don't have to  
10:34:10 5 mark it if you want me to take judicial notice of it.  
10:34:12 6 You have to tell me what it is you want me to get out of  
10:34:16 7 it.

10:34:16 8 MR. LEONARD: Okay. I guess the green  
10:34:18 9 probation file that I'm holding right here on John  
10:34:24 10 Combest.

10:34:24 11 THE COURT: Okay. I'll take judicial  
10:34:26 12 notice.

10:34:26 13 MR. LEONARD: Okay.

10:34:28 14 MR. VILLARREAL: Judge, the objection that I  
10:34:30 15 have is I have an objection to -- on a proffer to  
10:34:36 16 anything that is hearsay within that file. So I have no  
10:34:42 17 problem with certain portions of the file and  
10:34:44 18 understanding that perhaps it's a business record  
10:34:46 19 exception rule that some may come in. But I do have an  
10:34:50 20 objection to anything that is hearsay that I would like  
10:34:52 21 to see what particular document, if any, this Court  
10:34:54 22 otherwise taking judicial notice of.

10:34:56 23 THE COURT: That's sustained. And I'll  
10:34:58 24 disregard any hearsay unless it's an admission from the  
10:35:02 25 defendant or unless it falls under another exception to

10:35:06 1 the hearsay rule and that's sustained.

10:35:08 2 MR. VILLARREAL: Just so that I can cut it  
10:35:10 3 short, if I understand correctly, I'm defending the four  
10:35:12 4 corners of the alleged violation of the Motion to  
10:35:18 5 Adjudicate, the Amended Motion to Adjudicate that we  
10:35:18 6 have been given notice of. Is that correct?

10:35:20 7 THE COURT: Sir, that's what the law is.

10:35:22 8 MR. VILLARREAL: I'm just saying I want to  
10:35:24 9 be certain because I'm concerned about the judicial  
10:35:26 10 notice.

10:35:28 11 THE COURT: If we get to the punishment  
10:35:30 12 hearing then of course there will be all kinds of things  
10:35:32 13 potentially in any given case.

10:35:36 14 MR. VILLARREAL: That's correct.

10:35:36 15 THE COURT: Thank you.

10:35:40 16 Q. (By Mr. Leonard) Mr. Chica, I'm going to show you  
10:35:42 17 -- now, I'm going to show you something separate that's  
10:35:44 18 been marked as State's Exhibit 1. Do you recognize this  
10:35:48 19 document?

10:35:48 20 A. This is Amended Motion to Adjudicate Guilt.

10:35:54 21 Q. Okay. And have you seen this document before?

10:35:56 22 A. I saw it earlier today. It's apparently been  
10:36:00 23 amended.

10:36:00 24 Q. Okay. And is that a true and accurate copy of  
10:36:04 25 the State's Amended Motion to Adjudicate Guilt?

10:36:08 1 A. Yes, sir.

10:36:12 2 MR. LEONARD: Judge, at this time I'm going  
10:36:14 3 to tender to Defense counsel State's Exhibit 1 and offer  
10:36:18 4 it into evidence.

10:36:26 5 MR. VILLARREAL: No objection, Your Honor.

10:36:28 6 THE COURT: Admitted.

10:36:36 7 Q. (By Mr. Leonard) Would you please read I guess  
10:36:38 8 the cause number or the case number for this particular  
10:36:44 9 defendant?

10:36:44 10 A. The cause number?

10:36:44 11 Q. Yes.

10:36:46 12 A. 12218 -- I mean, 1980.

10:36:48 13 Q. Okay. And do you see the defendant here in the  
10:36:54 14 courtroom who was placed on probation for this  
10:36:58 15 particular cause number?

10:36:58 16 A. Yes, sir.

10:36:58 17 Q. And could you identify him by an article of  
10:37:02 18 clothing that he's wearing?

10:37:04 19 A. He's here to my left wearing the orange jump  
10:37:08 20 suit.

10:37:10 21 MR. LEONARD: Judge, may the record reflect  
10:37:10 22 that this witness has identified the defendant?

10:37:12 23 THE COURT: Yes, sir.

10:37:18 24 Q. (By Mr. Leonard) For what offense was the  
10:37:18 25 defendant placed on probation?

10:37:22 1 A. He was placed on probation for indecency with a  
10:37:26 2 child by contact.

10:37:28 3 Q. And what was the defendant's period of  
10:37:28 4 supervision?

10:37:30 5 A. He was placed on probation for 10 years.

10:37:36 6 Q. And has that probation been terminated?

10:37:38 7 A. No, sir.

10:37:42 8 Q. Were the terms and conditions of his probation  
10:37:46 9 explained to him?

10:37:46 10 A. Yes, sir.

10:37:46 11 Q. Was he given an opportunity to clarify and ask  
10:37:50 12 questions regarding those terms and conditions of  
10:37:52 13 probation?

10:37:52 14 A. Yes, sir.

10:37:56 15 Q. Is there a document in the defendant's file that  
10:37:58 16 indicates that he read and understood those terms and  
10:38:02 17 conditions of probation?

10:38:04 18 A. Yes, sir.

10:38:10 19 Q. What are the particular terms and conditions of  
10:38:16 20 probation that this defendant alleged to have violated?

10:38:20 21 A. Well, one of the conditions that I mentioned in  
10:38:24 22 the amended conditions are his supervision fees, and his  
10:38:28 23 court cost, and not to have contact with minors under  
10:38:34 24 age 17, and not to have access to the internet.

10:38:38 25 Q. Okay. Now, let's start at the top. How did the

10:38:42 1 defendant violate his terms and conditions of probation?

10:38:44 2 A. Well, initially this motion was brought before  
10:38:48 3 the court because he took a polygraph. And apparently  
10:38:52 4 he wrote a rebuttal to the polygraph examiner by  
10:38:58 5 internet which he should not have done so. And that's  
10:39:02 6 why this motion was initiated initially.

10:39:06 7 Q. Okay. Explain that a little bit more. How did  
10:39:08 8 he -- how did he violate his probation?

10:39:12 9 A. Well, he sent by via internet to the polygraph  
10:39:18 10 examiner why he thought he shouldn't -- he failed the  
10:39:22 11 polygraph examination so he sent a rebuttal to the  
10:39:26 12 polygraph examiner via internet which is prohibited from  
10:39:32 13 -- he's not supposed to access the internet in any form  
10:39:34 14 or manner.

10:39:34 15 Q. Okay. Was this communication with the polygraph  
10:39:40 16 examiner by e-mail?

10:39:40 17 A. Yes, sir.

10:39:42 18 Q. And how did you learn that this -- that these  
10:39:46 19 communications through the internet via e-mail?

10:39:50 20 A. Well, I was discussing his test, the polygraph  
10:39:52 21 with Mr. Mike Boyd, which is the examiner, and he  
10:39:56 22 mentioned to me that --

10:39:56 23 MR. VILLARREAL: Objection to hearsay, Your  
10:39:58 24 Honor.

10:39:58 25 THE COURT: Sustained.

10:40:04 1 Q. (By Mr. Leonard) What happened after you learned  
10:40:06 2 of these communications?

10:40:06 3 A. I asked Mr. Boyd to send me a copy, which he did,  
10:40:10 4 and I prepared my motion.

10:40:16 5 Q. What other violations did the defendant have?

10:40:18 6 A. Well, I noticed on the amended here that they  
10:40:22 7 added the previous motion that had been dismissed  
10:40:26 8 concerning having contact with one of his grandchildren.  
10:40:30 9 And the other ones are, you know, failure to pay fines  
10:40:34 10 and fees. You know, he was behind at that time. And  
10:40:38 11 that consisted of his court cost and his probationary  
10:40:42 12 fees.

10:40:44 13 Q. And what fees specifically had he not paid?

10:40:50 14 A. Well, according to this he failed to pay \$60 a  
10:40:54 15 month for duration. And like I said, he was behind on  
10:40:56 16 that and also on his fines and fees to the court. You  
10:41:00 17 know, fines to the court and the court cost, which was,  
10:41:04 18 you know, he was supposed to pay \$30 a month beginning  
10:41:08 19 January 29th, 2011. And at that time, he was behind on  
10:41:20 20 that.

10:41:20 21 Q. Overall, how has this defendant done on  
10:41:24 22 probation?

10:41:26 23 A. Mr. Combest is just -- I mean, he just doesn't  
10:41:32 24 want to follow his conditions. He's kind of passive  
10:41:34 25 aggressive. Most of the problems have been with his --



10:41:42 1 with his polygraphs. And, you know, he was brought  
10:41:46 2 before -- the Court has been notified previously on  
10:41:50 3 another polygraph and him being kind of argumentative  
10:41:56 4 with the sex offender treatment with his counselor and  
10:41:58 5 it's him being disrespectful. To me he's never been  
10:42:02 6 disrespectful. He's very respectful when he comes to my  
10:42:06 7 office. However, he has problems with his sex offender  
10:42:10 8 treatment and the polygraphs.

10:42:16 9 MR. LEONARD: I pass this witness.

10:42:18 10 THE COURT: Thank you.

10:42:22 11 CROSS-EXAMINATION

10:42:22 12 QUESTIONS BY MR. VILLARREAL:

10:42:24 13 Q. Okay. Mr. Chica.

10:42:26 14 A. Yes. That's my last name, Chica.

10:42:28 15 Q. You mentioned that you have been supervising  
10:42:30 16 Mr. Combest for how long now?

10:42:34 17 A. Well, he initially got assigned to me back --  
10:42:38 18 somewhere around December of 2010.

10:42:40 19 Q. December, 2010?

10:42:42 20 A. Somewhere around there.

10:42:44 21 Q. Now, you said that he has been respectful towards  
10:42:48 22 you?

10:42:48 23 A. Yes, sir.

10:42:50 24 Q. And you would agree with me that he's an educated  
10:42:52 25 man, is that correct?

10:42:54 1 A. Yes.

10:42:56 2 Q. Intelligent?

10:42:56 3 A. Yes.

10:42:58 4 Q. And he's asked you questions when he has had to  
10:43:02 5 ask questions, is that right?

10:43:02 6 A. Yes, he will ask me questions.

10:43:04 7 Q. Now, you mentioned right now that the prosecutor  
10:43:12 8 asked you that whether the terms of probation -- whether  
10:43:18 9 there was a document of probation he had signed and did  
10:43:22 10 he understand it, his terms of probation. Do you  
10:43:24 11 remember that question by the prosecutor?

10:43:26 12 A. Yes, sir.

10:43:26 13 Q. And you said that there was. Is that correct?

10:43:28 14 A. Well, there is the conditions of probation.

10:43:32 15 Q. Well, you mentioned that there was a document in  
10:43:34 16 a file. Is that correct?

10:43:34 17 A. Right.

10:43:34 18 Q. I want you to look at that file and tell me the  
10:43:38 19 last time that the terms of probation were explained and  
10:43:44 20 signed by Mr. Combest. It's right there in front of  
10:43:46 21 you.

10:43:46 22 A. That would be the second amended conditions of  
10:44:12 23 probation. And this was July 5th of 2011.

10:44:20 24 MR. VILLARREAL: May I approach, Your Honor?

10:44:22 25 THE COURT: Yes.

10:44:26 1 MR. VILLARREAL: Okay. Judge, with the  
10:44:28 2 Court's permission, may I have access to this document  
10:44:32 3 so I can offer it as an exhibit?

10:44:36 4 THE COURT: Yes. If we need to --  
10:44:46 5 substitute the exhibit by xerox at the conclusion of the  
10:44:46 6 hearing.

10:44:46 7 MR. VILLARREAL: Sure.

10:44:46 8 THE COURT: Excuse me. I will order the  
10:44:48 9 court reporter to xerox the exhibit and then return the  
10:44:54 10 original to the file. Thank you.

10:46:12 11 Is that Defense 1?

10:46:12 12 Q. (By Mr. Villarreal) Sir, I want to make  
10:46:14 13 reference to you to what's been marked as Defendant's  
10:46:26 14 Exhibit No. 1. Specifically, I want you to --

10:46:30 15 THE COURT: Would you identify it for me  
10:46:32 16 what the document is?

10:46:36 17 MR. VILLARREAL: Yes. Defense Exhibit No. 1  
10:46:38 18 is the Second Amended Conditions of Community  
10:46:40 19 Supervision in Case No. 1221980, styled the State of  
10:46:44 20 Texas verses John Elsworth Combest, Your Honor.

10:46:48 21 THE COURT: Okay. Thank you.

10:46:52 22 Q. (By Mr. Villarreal) Officer Chica, could you read  
10:46:56 23 for me out-loud Condition No. 32 of the terms and  
10:47:04 24 conditions of probation, sir?

10:47:12 25 A. You may not have access to the Internet through

10:47:14 1 any manner or method, beginning November 29th, 2010 for  
10:47:20 2 any reason unless specifically ordered by the Court.

10:47:22 3 You may not view, receive, download, transmit or  
10:47:28 4 possess pornographic material on any computer.

10:47:28 5 You are not to possess pornographic software  
10:47:32 6 images or material on any hard drive, floppy disk, disk,  
10:47:38 7 diskette or magnetic tape.

10:47:40 8 You may only have internet access at a employment  
10:47:40 9 site.

10:47:46 10 You may not have internet access at your home  
10:47:50 11 until further order of the Court.

10:47:52 12 Q. And in particular -- you would agree with me that  
10:48:00 13 Condition 32 specifically, as far as the limitation to  
10:48:06 14 the internet in bold says, you may only have internet  
10:48:08 15 access at an employment site, period. Is that correct?

10:48:14 16 A. That's what it reads, yes, sir.

10:48:20 17 Q. And then it says you may not have internet access  
10:48:24 18 at your home until further order of the Court. Is that  
10:48:26 19 correct?

10:48:26 20 A. Yes, sir.

10:48:28 21 Q. There are no other limitations in this document  
10:48:32 22 that was prepared and signed by Mr. Combest to your  
10:48:36 23 knowledge, am I correct?

10:48:36 24 A. That's the only order that's in effect, yes, sir.

10:48:38 25 Q. You did not on your own have any other document

10:48:44 1 printed and signed by Mr. Combest modifying this, am I  
10:48:48 2 correct?

10:48:48 3 A. No, that's the order of the Court.

10:48:50 4 Q. Now, this also says that you may not have  
10:48:54 5 internet access at your home until further order of the  
10:48:56 6 Court. Is that correct?

10:48:56 7 A. Yes.

10:48:58 8 Q. Now, on your violation in reference to this  
10:49:10 9 paragraph 32 that we're talking about, did you prepare  
10:49:20 10 this motion to adjudicate?

10:49:24 11 A. The 32 was part of the initial one that I had  
10:49:28 12 prepared, yes, sir.

10:49:28 13 Q. But on the motion, your amended motion to  
10:49:32 14 adjudicate guilt, was that prepared by you, Mr. Chica?

10:49:36 15 A. No, not this one. It's somebody else's signature  
10:49:36 16 on there.

10:49:38 17 Q. Somebody else's signature?

10:49:40 18 A. Yes, sir.

10:49:40 19 Q. Now, you would agree with me that it says here  
10:49:44 20 they have added something here. That it says, the State  
10:49:50 21 would further show that said defendant did then and  
10:49:54 22 there violate the terms of conditions of probation  
10:49:56 23 supervision. That on or about November 29th, 2010, the  
10:50:00 24 defendant was ordered that he could only access the  
10:50:04 25 internet at an employment site and for employment

10:50:08 1 purposes only.

10:50:08 2 A. For employment purposes only.

10:50:14 3 Q. Now, going back to Paragraph No. 32. On the  
10:50:18 4 specific terms and conditions of probation that was  
10:50:22 5 given to Mr. Combest, it only says, you may only have  
10:50:26 6 internet access at the employment site. Am I correct?

10:50:28 7 A. Yes.

10:50:38 8 Q. Now, the other, I guess, hard violation against  
10:50:50 9 Mr. Combest -- well, going backwards. You said that at  
10:50:56 10 some point Mr. Combest sent some kind of e-mail. Is  
10:51:02 11 that correct?

10:51:02 12 A. Yes.

10:51:02 13 Q. Over to you. Is that correct?

10:51:04 14 A. No. He sent the e-mail to the polygraph  
10:51:08 15 examiner.

10:51:08 16 Q. But he also sent a copy of that e-mail to you, is  
10:51:12 17 that correct?

10:51:14 18 A. Not that I remember.

10:51:16 19 Q. Not that you remember?

10:51:16 20 A. No. Because I remembered Mr. -- asking Mr. Boyd  
10:51:22 21 to send me a copy of the e-mail.

10:51:24 22 Q. So he did, is that correct?

10:51:24 23 A. Mr. Boyd sent it to me.

10:51:28 24 Q. Now, you would agree with me that the so-called  
10:51:32 25 e-mail allegedly sent by Mr. Combest was in fact related

10:51:40 1 to his probation. Is that correct?

10:51:44 2 A. Yes. Concerning his polygraph, yes.

10:51:46 3 Q. Of course. He was dealing with the polygraph  
10:51:50 4 examiner, is that correct, and whatever issues that they  
10:51:54 5 were having between themselves. Am I correct?

10:51:56 6 A. Well, I don't know if there was issues with him,  
10:52:00 7 but he did respond to how, you know, the polygraph exam.

10:52:06 8 Q. That's correct. I mean, this is something --  
10:52:08 9 you're not an expert on polygraph examinations. Am I  
10:52:10 10 correct?

10:52:10 11 A. Correct.

10:52:12 12 Q. So those were issues that Mr. Combest was having  
10:52:14 13 with his polygraph examiner, am I correct?

10:52:18 14 A. Well, he was addressing something that he thought  
10:52:20 15 the polygraph examiner should know.

10:52:22 16 Q. That's correct. Now, you've also -- now, for the  
10:52:42 17 record and in your meeting with Mr. Combest, did he  
10:52:54 18 himself also give you a copy of that e-mail that he had  
10:52:56 19 sent?

10:52:58 20 A. You know, I don't remember. He might have. He  
10:53:00 21 might have not. I remember asking Mr. Boyd to send me a  
10:53:04 22 copy.

10:53:04 23 Q. Okay. Now, so you would agree with me that it's  
10:53:08 24 a possibility that Mr. Combest even gave you a copy of  
10:53:12 25 an e-mail perhaps. Is that correct?

10:53:16 1 A. It's a possibility, but I don't remember it at  
10:53:18 2 this point.

10:53:18 3 Q. Now, you're pretty busy with a bunch of probation  
10:53:22 4 people that you supervise. Am I correct?

10:53:24 5 A. Yes.

10:53:26 6 Q. You have a lot of calls and letters and  
10:53:28 7 correspondence that you have to deal with on a daily  
10:53:30 8 basis. Is that correct?

10:53:32 9 A. Yes.

10:53:36 10 Q. Now, you would agree with me that the other hard  
10:53:44 11 core violation other than fees and fines that you've  
10:53:46 12 alleged on this motion to adjudicate that's been alleged  
10:53:50 13 in this motion to adjudicate is the one of him having  
10:53:54 14 contact. Is that correct? You mentioned the --

10:53:58 15 A. -- one of his grandchildren.

10:54:02 16 Q. That's correct. Let me see if I can find it.  
10:54:12 17 22, you are to have no contact with any minor under the  
10:54:18 18 age of 17 beginning 11/29/2010 for any reason except as  
10:54:26 19 specifically permitted by the Court. Is that correct?

10:54:28 20 A. Yes, sir.

10:54:30 21 Q. Now, you made reference I think to the fact that  
10:54:40 22 this allegation has been made before. Is that correct?

10:54:44 23 A. Yes.

10:54:44 24 Q. And that at some point that motion to adjudicate  
10:54:48 25 had been dismissed. Is that correct?



10:54:50 1 A. Yes.

10:54:52 2 Q. And in fact, Mr. Combest, did -- I don't know if  
10:54:56 3 you know this or not, did about three weeks in jail and  
10:55:00 4 considered jail therapy?

10:55:02 5 A. Yes, he did some jail time for that.

10:55:06 6 Q. You were aware of that, correct?

10:55:06 7 A. Yes, he got credit for that before jail.

10:55:10 8 Q. Now, going back, this is the second time that the  
10:55:12 9 same allegation is being brought up against Mr. Combest.  
10:55:16 10 Is that correct?

10:55:16 11 A. Well, my understanding is from what I read in the  
10:55:18 12 file that that motion was dismissed and that's probably  
10:55:20 13 why they realleged it.

10:55:22 14 Q. But it's the second time that this has been  
10:55:26 15 alleged against Mr. Combest? It was the same  
10:55:28 16 allegation, is that correct --

10:55:30 17 A. Correct, sir.

10:55:30 18 Q. -- that is now being alleged in this motion to  
10:55:34 19 adjudicate. Is that correct?

10:55:34 20 A. You are correct.

10:55:36 21 Q. Now, I want to go in particular again to Section  
10:55:48 22 22. There is I think in bold letter, you are to have no  
10:55:54 23 contact with any minor under the age of 17. You would  
10:56:00 24 agree with me that that is some bold letters? I can  
10:56:02 25 show it to you.

10:56:04 1 A. Can I see it? On this it's not in bold letters.

10:56:06 2 Q. I'm sorry. Maybe it's my magnifying glass --  
10:56:12 3 glasses. Okay.

10:56:12 4 A. Yes, sir. It's in bold letters. You are  
10:56:18 5 correct.

10:56:20 6 Q. Now, the word "contact". Is the word contact  
10:56:34 7 anywhere defined within this document that you have of  
10:56:36 8 this terms and conditions of probation?

10:56:40 9 A. On that paperwork, no it's not defined.

10:56:42 10 Q. Okay. With him, his file, that thick  
10:56:48 11 probationary file there, do you have any document where  
10:56:50 12 the word "no contact "is defined for Mr. Combest? And  
10:56:56 13 if so, please pull it.

10:56:58 14 A. Not that I know of.

10:57:00 15 Q. Okay. Now, am I correct that you were not --  
10:57:22 16 you're not a witness as to whether or not Mr. Combest as  
10:57:28 17 to the circumstances as to this alleged violation, is  
10:57:34 18 that correct? You were not in the hospital, is that  
10:57:36 19 correct?

10:57:36 20 A. Correct.

10:57:46 21 Q. Did you make any effort as a concerned  
10:57:52 22 supervision officer, advising officer of Mr. Combest,  
10:57:58 23 did you make any effort to contact a lady by the name of  
10:58:02 24 Catherine Bell?

10:58:02 25 A. No, I didn't.

10:58:04 1 Q. Catherine Bell is the mother of Eric Bell. Were  
10:58:08 2 you aware of that?

10:58:10 3 A. Yes.

10:58:12 4 Q. Okay. Did you ask Mr. Combest if he had a phone  
10:58:16 5 number for Ms. Catherine Bell, that you could contact  
10:58:20 6 that lady yourself and find out what if anything took  
10:58:24 7 place?

10:58:24 8 A. No, I didn't.

10:58:34 9 Q. Were you aware that Eric Bell was in the  
10:58:38 10 emergency room?

10:58:40 11 A. Yes.

10:58:40 12 Q. Were you aware that he had been there for a lot  
10:58:42 13 of hours?

10:58:44 14 A. Yes.

10:58:44 15 Q. Were you aware that Mr. Combest has always played  
10:58:50 16 a major supportive economic role and emotional role in  
10:58:54 17 the life of Catherine Bell his daughter?

10:58:58 18 A. Yes, he has mentioned that to me.

10:59:00 19 Q. Do you think that it would be normal for a  
10:59:04 20 daughter to have communication with her father when she  
10:59:08 21 is concerned over the health and well-being of her minor  
10:59:14 22 child?

10:59:14 23 MR. LEONARD: Your Honor, I object to  
10:59:16 24 relevance.

10:59:16 25 THE COURT: That's sustained. It's assuming

10:59:18 1 facts not in evidence and it's calling for hearsay.  
10:59:24 2 Every time you say, "are you aware of this or that",  
10:59:28 3 you're asking for hearsay which you've objected to  
10:59:30 4 coming in. So this is not very helpful to me because it  
10:59:34 5 violates the rules of evidence.

10:59:36 6 MR. VILLARREAL: Okay. Sure.

10:59:40 7 Q. (By Mr. Villarreal) So you yourself do not have  
10:59:42 8 any personal knowledge based upon your investigation as  
10:59:46 9 to the allegations of this violation, am I correct?

10:59:50 10 A. Well, my personal knowledge is that he told me  
10:59:54 11 about it. He submitted a letter to me.

10:59:56 12 Q. Well, he told you about it. In the letter you're  
10:59:58 13 making reference to, he told you that he did not get  
11:00:04 14 close to that child, did not talk to the child. Is that  
11:00:10 15 correct?

11:00:10 16 A. If I recall correctly, I think that's correct.

11:00:16 17 Q. And you would agree with me that the no contact  
11:00:18 18 with Eric Bell is unclear, am I correct?

11:00:22 19 A. It is pretty clear.

11:00:24 20 Q. Okay. But the contact is not defined, am I  
11:00:26 21 correct?

11:00:26 22 A. Contact is defined to him, but not on that  
11:00:30 23 condition.

11:00:30 24 Q. Okay.

11:00:30 25 A. He understands what contact meant.

11:00:32 1 Q. So you're talking about the terms and conditions  
11:00:36 2 of probation that you said were signed by Mr. Combest.  
11:00:40 3 Is that correct?

11:00:42 4 A. Apparently he understood what the word contact  
11:00:44 5 was when he signed this.

11:00:46 6 Q. Did you ever define -- again, I'm going to go  
11:00:50 7 back as a supervising probation officer, did you ever  
11:00:54 8 define the contact for Mr. Combest in any written form?

11:01:02 9 A. Not in written form.

11:01:02 10 Q. Did you ever audio record something as important  
11:01:06 11 as that of your conversation with Mr. Combest?

11:01:10 12 A. I don't record conversations, sir.

11:01:14 13 Q. Now, in reference to the supervision fees that  
11:01:24 14 are alleged in this case, was there a time specifically  
11:01:30 15 on or about after July where the amounts were increased  
11:01:38 16 by you?

11:01:40 17 A. I didn't increase fees, sir. I don't have that  
11:01:44 18 authority.

11:01:44 19 Q. Okay. But did you ever tell him that you need to  
11:01:48 20 catch up on your fees when you're behind or you need to  
11:01:50 21 get current and start paying a certain amount?

11:01:54 22 A. Yes, I tried to work with him.

11:02:06 23 Q. Now, do you have a schedule of the -- in  
11:02:12 24 reference to Paragraph No. 1 alleging the arrears that  
11:02:22 25 he's behind in, the supervision fees arrears?

11:02:22 1 A. Well, at the time when I alleged this, he was  
11:02:26 2 like \$80 in arrears at the time when I prepared the  
11:02:30 3 report.

11:02:30 4 Q. So it's \$80 in arrears?

11:02:32 5 THE COURT: Now, on which fee is that?

11:02:36 6 THE WITNESS: That was on the supervisor  
11:02:38 7 fees, Your Honor.

11:02:38 8 THE COURT: Okay.

11:02:40 9 Q. (By Mr. Villarreal) He was \$80 in arrears and you  
11:02:44 10 have a document to that effect at the time you filed  
11:02:48 11 this motion to adjudicate?

11:02:48 12 A. Yes. Everything is attached to what they call a  
11:02:50 13 blue sheet which is the violation report.

11:02:54 14 Q. Can you pull that blue sheet for me so I can look  
11:02:56 15 at it?

11:02:58 16 A. Well, I looked for it earlier and it wasn't in  
11:03:00 17 here if that's what you're asking for.

11:03:02 18 Q. The fines?

11:03:02 19 A. Correct.

11:03:02 20 Q. And the other allegations as far as the court  
11:03:06 21 costs are not there.

11:03:06 22 A. No, they're not in here.

11:03:08 23 Q. Okay. You have recommended when you filed that  
11:03:30 24 motion to adjudicate that Mr. Combest did some jail  
11:03:34 25 therapy. Is that correct? You did some

11:03:36 1 recommendations?

11:03:36 2 A. Well, I recommended on my thing was a motion to  
11:03:42 3 adjudicate. I also gave the court other recommendations  
11:03:48 4 just in case the court did not feel he was to be  
11:03:50 5 committed to, you know, TDC.

11:03:52 6 Q. Well, the other recommendations was how many days  
11:03:56 7 jail therapy and time. Do you recall making a  
11:04:00 8 recommendation for that?

11:04:00 9 A. Yes, I think I recall. It should be in my blue  
11:04:04 10 sheet. I don't have it here. Let me see here. It says  
11:04:26 11 here my other recommendations to the court if you want  
11:04:30 12 to hear those. Is that what you're asking me?

11:04:30 13 Q. Yes, sir.

11:04:32 14 A. That the defendant continue to attend -- and this  
11:04:34 15 recommendation is also I conferred with -- the sex  
11:04:38 16 offender treatment therapist.

11:04:40 17 Q. Yes, sir.

11:04:40 18 A. So the defendant is to continue to attend and  
11:04:44 19 participate in sex offender and intensive counseling.  
11:04:46 20 In addition, he has to attend and participate in  
11:04:50 21 individual counseling once a month with the sex offender  
11:04:52 22 counselor. Defendant is to take a polygraph in 60 days  
11:04:56 23 and retake his full history polygraph in 180 days and 60  
11:05:00 24 days in the Harris County jail. And the drug testing  
11:05:04 25 fees be increased at \$20 per month. And that at that

11:05:08 1 point was recommended -- was our department was  
11:05:10 2 recommending that at that point.

11:05:12 3 Q. Okay. So among your recommendations is it about  
11:05:14 4 60 days jail time therapy?

11:05:16 5 A. Yes. This other recommendation that I made was  
11:05:20 6 confirmed with the sex offender and we all -- this is  
11:05:24 7 another thing we sent to the judge to consider.

11:05:26 8 Q. Are you aware that he has spent 180 days in jail  
11:05:28 9 so far?

11:05:28 10 A. Yes, sir.

11:05:30 11 Q. Waiting for this hearing?

11:05:30 12 A. Yes, sir.

11:05:32 13 MR. VILLARREAL: I have no further questions  
11:05:34 14 at this time, Your Honor.

11:05:36 15 THE COURT: Thank you. Any redirect?

11:05:38 16 MR. LEONARD: Briefly, Judge.

11:05:42 17 REDIRECT EXAMINATION

11:05:42 18 QUESTIONS BY MR. LEONARD:

11:05:42 19 Q. Mr. Chica, are you the person who explains the  
11:05:46 20 terms and conditions of probation to Mr. Combest when  
11:05:48 21 he's placed on probation?

11:05:50 22 A. Yes, I'm like the second person that explains it  
11:05:52 23 to him.

11:05:52 24 Q. And in addition -- and when these terms and  
11:05:56 25 conditions are explained to him, he's given a written



11:05:58 1 copy of the terms and conditions?

11:06:00 2 A. Yes. The court gives him a written copy of his  
11:06:02 3 conditions and they bring them over to my office.

11:06:04 4 Q. Okay. And in addition to him being provided a  
11:06:08 5 written copy, you also give him a verbal explanation of  
11:06:12 6 the terms and conditions. Is that correct?

11:06:14 7 A. Right. Yes.

11:06:18 8 Q. Now, let's talk specifically about Condition 22.  
11:06:26 9 The Defense counsel was asking you about the word  
11:06:28 10 "contact". When you're explaining what "contact" means  
11:06:32 11 or how is it that you explain what "no contact" means?

11:06:38 12 A. Well, no contact, and I'm sure the court also  
11:06:42 13 explains this to them, but I --

11:06:44 14 MR. VILLARREAL: I object to hearsay, Your  
11:06:46 15 Honor, as to whether the court explains or not.

11:06:48 16 THE COURT: Sustained.

11:06:50 17 A. And basically what I explain to them what "no  
11:06:52 18 contact" means is that you can't waive at them or be in  
11:06:56 19 proximity. You can't blink your eyes. You can't talk.  
11:07:00 20 You can't call them up. It's just that. You have --  
11:07:02 21 you're completely, you know, you're not to have any  
11:07:06 22 contact at all. That's what no contact means.

11:07:08 23 Q. (By Mr. Leonard) Okay. And Mr. Combest indicated  
11:07:14 24 that he understood that?

11:07:14 25 A. Yes.

11:07:14 1 Q. And how do you know he indicated that he  
11:07:18 2 understood that?

11:07:18 3 A. Well, he's a -- he is an intelligent young man  
11:07:22 4 here. So he understood and said I understand.

11:07:24 5 Q. Okay. And with regards to the conditions of his  
11:07:32 6 probation prohibiting him from using the internet even  
11:07:42 7 at his place of employment, how is that condition  
11:07:46 8 explained to him?

11:07:46 9 A. Well, Mr. Combest appeared before the court on  
11:07:50 10 that. And the court was very explicit about that and he  
11:07:54 11 was only just to use it for employment only.

11:07:56 12 Q. So it wasn't -- was it a situation where he could  
11:08:00 13 use the internet if he was physically at his place of  
11:08:04 14 work but for other purposes -- or how exactly?

11:08:08 15 A. It was only for employment purposes only.  
11:08:10 16 Nothing else.

11:08:14 17 Q. And that condition was explained to him as well?

11:08:16 18 A. Yes.

11:08:18 19 Q. And he indicated that he understood that?

11:08:20 20 A. I was in court with him when the court explained  
11:08:24 21 and told him what he needed to do, you know, what was  
11:08:28 22 ordered.

11:08:28 23 MR. VILLARREAL: I object to anything --  
11:08:28 24 that was hearsay, Your Honor.

11:08:30 25 THE COURT: If it occurred as part of an

11:08:32 1 official proceeding, it's overruled.

11:08:36 2 MR. LEONARD: I pass the witness.

11:08:38 3 THE COURT: Okay. Can we clarify for the  
11:08:40 4 record, you're not talking about the time he got  
11:08:42 5 probation?

11:08:44 6 THE WITNESS: No, ma'am. He came here for  
11:08:46 7 another hearing on the specifics of internet usage. And  
11:08:50 8 right after he got placed on probation -- I remember it  
11:08:54 9 was in January of 2011.

11:08:56 10 THE COURT: Was I the judge on the Bench?

11:08:58 11 THE WITNESS: Yes, ma'am. We stood up here  
11:09:02 12 and even Mr. Combest.

11:09:02 13 THE COURT: I find that to be an exception  
11:09:04 14 to the hearsay rule.

11:09:06 15 MR. VILLARREAL: What date was that again?

11:09:08 16 THE WITNESS: Well --

11:09:12 17 MR. VILLARREAL: Well, I'm sorry, Your  
11:09:14 18 Honor.

11:09:14 19 MR. LEONARD: Your Honor, I pass the  
11:09:16 20 witness.

11:09:16 21 THE COURT: You pass. Thank you.

11:09:18 22 RE-CROSS-EXAMINATION

11:09:20 23 QUESTIONS BY MR. VILLARREAL:

11:09:20 24 Q. All right. Let's start with this: You said that  
11:09:24 25 you specifically explained the no contact with him. Is

11:09:28 1 that correct?

11:09:28 2 A. Yes, sir.

11:09:28 3 Q. And exactly what date was this?

11:09:32 4 A. Well, he had his initial appointment with me in  
11:09:36 5 my office.

11:09:36 6 Q. How long did this appointment last?

11:09:38 7 A. Well, usually the first time they come in my  
11:09:40 8 office on an average -- probably an hour.

11:09:42 9 Q. Okay. And his initial appointment you said is  
11:09:46 10 not reported. Is that correct?

11:09:48 11 A. No, sir.

11:09:48 12 Q. Now, I want to talk again about this so-called no  
11:09:56 13 contact provision. I want you to go to the terms and  
11:10:00 14 conditions of probation specifically Paragraph 26?

11:10:10 15 A. Are you reading off the amended one, sir?

11:10:14 16 Q. Yes, sir. Would you like to see it?

11:10:14 17 A. Well, let me see if 26 is the same one as this  
11:10:18 18 other one.

11:10:20 19 Q. Again, I'm talking about the Second Amended  
11:10:22 20 Conditions of Supervision that is the basis of the  
11:10:26 21 violation of this motion to adjudicate?

11:10:28 22 A. Is 26 -- which one, you may enter a public place  
11:10:32 23 where children are present?

11:10:34 24 Q. Yes, that's correct. I want you to read that for  
11:10:36 25 me out loud for me, please.

11:10:38 1 A. Okay. 26. You may enter a public place where  
11:10:42 2 children are present, except those specified in Child  
11:10:48 3 Safety Zone condition beginning November 29 of 2010. If  
11:10:50 4 you have business at that public place, such as a post  
11:10:54 5 office to purchase stamps, a restaurant to order food,  
11:10:56 6 or groceries, so long as you do not talk to, touch or  
11:11:00 7 communicate in any way with any minor under the age of  
11:11:02 8 17. You may not remain in a public place where any  
11:11:06 9 minor under the age of 17 is present once your business  
11:11:10 10 is transacted. Child Safety Zone condition prevails  
11:11:14 11 over this condition.

11:11:16 12 Q. Now, is this the way you believe that you defined  
11:11:20 13 no contact to him?

11:11:22 14 A. This is not part of the no contact. This is a  
11:11:26 15 separate condition.

11:11:26 16 Q. But this would be like I said, you agree with me,  
11:11:30 17 that there is nothing written defining no contact. Is  
11:11:34 18 that correct?

11:11:34 19 A. In this condition it's just specifying places  
11:11:36 20 that he can go to or not go.

11:11:38 21 Q. Right. But it makes an effort to talk about  
11:11:42 22 communications and contact and touching with any child  
11:11:48 23 under the age of 17 years old.

11:11:50 24 A. Basically it's just telling him that if he goes  
11:11:52 25 to an establishment which prohibits or he's allowed to,

11:11:56 1 if he's allowed to go there then he is to conduct his  
11:11:58 2 business and exit the place as soon as possible.

11:12:02 3 Q. Okay. You talked about --

11:12:04 4 THE COURT: Excuse me just a moment. Off  
11:12:22 5 the record.

11:12:58 6 (Off the record.)

11:12:58 7 THE COURT: We'll keep going until they get  
11:13:00 8 here. I have 12:00 o'clock conferences, but we will  
11:13:06 9 keep going. Okay.

11:13:10 10 Q. (By Mr. Villarreal) Now, sir, you mentioned that  
11:13:10 11 there was a hearing. Is that what you said?

11:13:12 12 THE COURT: Excuse me just one moment. You  
11:13:44 13 may continue.

11:13:44 14 MR. VILLARREAL: Yes, ma'am.

11:13:44 15 Q. (By Mr. Villarreal) You mentioned if I understand  
11:13:46 16 correctly that there was a hearing in front of the  
11:13:50 17 Judge. Is that what I heard?

11:13:50 18 A. Yes, I put in my records that we had a hearing on  
11:13:54 19 January 4th, 2011.

11:13:56 20 Q. January 4 of 2011?

11:13:58 21 A. Yes, sir.

11:14:00 22 Q. Now, when you say a hearing, are you saying this  
11:14:02 23 is a hearing like the one we're having now?

11:14:06 24 A. It was a court review hearing kind of like -- it  
11:14:08 25 was not like a hearing to adjudicate a mag or anything.

11:14:16 1 Q. A court review hearing. Explain what a court  
11:14:18 2 review hearing is.

11:14:18 3 A. It was to -- at that point we were here to  
11:14:22 4 address his home which violated the Child Safety Zone,  
11:14:26 5 the internet, and employment when the internet was  
11:14:30 6 concerning employment.

11:14:30 7 Q. You said that you were in this court review  
11:14:38 8 hearing. So you would agree with me that there was no  
11:14:42 9 record taken of anything that the court told him. Is  
11:14:44 10 that correct, there was no court reporter?

11:14:46 11 A. I don't -- I can't say yes or no on that, sir. I  
11:14:52 12 don't know if we had a court reporter or not.

11:14:54 13 THE COURT: Hold on. I think it was just a  
11:14:56 14 court conference where I asked him to come in and asked  
11:15:00 15 the officer to come in. There would not have been a  
11:15:02 16 court reporter. It was just a review admonishment kind  
11:15:06 17 of situation.

11:15:06 18 MR. VILLARREAL: Okay.

11:15:08 19 Q. (By Mr. Villarreal) In that file after the  
11:15:10 20 so-called review hearing, show me where you put a note  
11:15:14 21 specifically of what the court allegedly -- that you  
11:15:16 22 claim the court allegedly told Mr. Combest in reference  
11:15:18 23 to for employment purposes only that you're now saying?

11:16:26 24 A. I got the note here.

11:16:28 25 Q. May I see it?

11:16:30 1 A. You want me to take it out?

11:16:32 2 Q. Yes, sir.

11:18:08 3 MR. VILLARREAL: I've put in the back.

11:18:10 4 Later on I will put in the front a sticker that says  
11:18:12 5 Defendant's Exhibit No. 2 that is the alleged memorandum  
11:18:16 6 that Mr. --

11:18:16 7 THE COURT: I'm sorry. There is a sticker  
11:18:18 8 on the back you said?

11:18:20 9 MR. VILLARREAL: Yes, of the case notes of  
11:18:22 10 the so-called date that is mentioned that the court had  
11:18:24 11 this hearing.

11:18:26 12 THE COURT: Anytime you say "so-called",  
11:18:30 13 that's an argumentative question, right?

11:18:32 14 MR. VILLARREAL: This is Defendant's Exhibit  
11:18:34 15 No. 2. I'll get a copy later on.

11:18:46 16 MR. LEONARD: No objection.

11:18:46 17 THE COURT: Admitted.

11:18:48 18 Q. (By Mr. Villarreal) This is your summary, is that  
11:18:52 19 correct?

11:18:52 20 A. Yes.

11:18:54 21 Q. Sir, on the internet it says the Defendants  
11:18:58 22 request to access the internet at his residence for  
11:19:00 23 employment purposes was denied by the court. He was  
11:19:04 24 further instructed that he had 10 days from this date to  
11:19:06 25 make arrangements concerning utilizing his computer at



11:19:10 1 home for employment purposes. Thereafter, will no  
11:19:14 2 longer be allowed to use his computer at his residence  
11:19:18 3 as ordered in Paragraph 32 of his conditions of  
11:19:20 4 probation. That is what you were making a reference to?

11:19:22 5 A. Yes.

11:19:30 6 Q. The Defendant's request to access at his  
11:19:32 7 residence for employment purposes was denied by the  
11:19:34 8 court. Is that correct?

11:19:36 9 A. Right.

11:19:42 10 MR. VILLARREAL: I have no further questions  
11:19:44 11 of the witness, Your Honor.

11:19:44 12 THE COURT: Thank you. Any redirect?

11:19:46 13 MR. LEONARD: Not at this time, Your Honor.

11:19:48 14 THE COURT: Thank you. Is this witness  
11:19:50 15 excused?

11:19:50 16 MR. LEONARD: The witness may be excused.

11:19:52 17 MR. VILLARREAL: Yes, Your Honor.

11:19:52 18 THE COURT: If you wish to go you may and if  
11:19:56 19 not, you're welcome to stay.

11:19:58 20 MR. VILLARREAL: Thank you, Your Honor.

11:20:00 21 THE COURT: We will take a lunch recess and  
11:20:02 22 start back up at 1:00 o'clock.

11:20:02 23 (Lunch recess.)

12:33:04 24 THE COURT: Do you have another witness?

12:33:06 25 MR. LEONARD: Judge, I have another witness.