

1 THE COURT: I understand that; but since
2 I don't know what she's going to say any more than you
3 do, let's get there before we argue about it.

4 *(Witness sworn.)*

5 THE COURT: Have a seat, Doctor.
6 State, you may proceed.

7 *(Hearing outside presence of jury.)*

8 **DANIELLE MADERA,**

9 having been first duly sworn, testified as follows:

10 **DIRECT EXAMINATION**

11 BY MS. LARSEN:

12 Q Dr. Madera, good afternoon. Could you please
13 introduce yourself for the court reporter and for the
14 record.

15 A My name is Dr. Danielle Madera.

16 Q And Dr. Madera, how are you currently employed?

17 A I am staff psychologist at the Harris County
18 Children's Assessment Center.

19 Q And how long have you been working there?

20 A Since 2006.

21 Q And what do you do at the C.A.C.? As a staff
22 psychologist, what are your day-to-day duties?

23 A I conduct individual and group therapy. I run
24 our domestic human trafficking program for young girls
25 that have been prostituted here in Houston. I conduct

1 psychological evaluations, supervise predoctoral
2 psychology interns, provide community trainings. I
3 think that's about it.

4 Q And Dr. Madera, can you tell us a little bit
5 about your educational background?

6 A Sure. I received my bachelor of science in
7 2000 from the University of Florida in Gainesville,
8 Florida, took a year off and was a child protection
9 worker, went back to the University of Florida for a PhD
10 program and graduated 2007 with my PhD. I was placed
11 with a internship here in Harris County C.A.C. and I did
12 my postdoctoral work here and was subsequently hired on
13 as a staff psychologist.

14 Q And do you belong to any professional
15 organization?

16 A Yes.

17 Q And what are those?

18 A The American Psychological Association and the
19 Texas Psychological Association.

20 Q Do you hold any specific licenses or
21 certifications?

22 A Yes, I'm licensed in Texas as a psychologist,
23 as well as Florida.

24 MS. OLVERA: Judge, we'll stipulate to
25 the doctor's credentials.

1 THE COURT: Okay. Let's just jump to the
2 opinion.

3 MS. LARSEN: Yes, Judge.

4 Q (BY MS. LARSEN) Dr. Madera, as a clinical
5 psychologist at the Children's Assessment Center, do you
6 have an opportunity to work with small children?

7 A Yes.

8 Q Would that include children who are under the
9 age of 10?

10 A Yes.

11 Q In what capacity do you currently work with
12 those children?

13 A Currently I don't have any on my caseload. I
14 have worked many years with younger children, individual
15 therapy.

16 Q And when you talk about individual therapy,
17 what types of -- what type of therapy are you conducting
18 with these children?

19 A Depending on the age and the communication
20 level of the child, with younger children, we would
21 conduct play therapy; with the child between 7 and 10
22 that may be more verbal and more able to talk, we do
23 more cognitive behavior therapy.

24 Q And as you have had an opportunity to work with
25 children under the age of 10 in a one-on-one

1 psychological basis, have you had an opportunity to meet
2 with children who have been victims of sexual abuse?

3 A Yes.

4 Q On many or few occasions?

5 A Many.

6 Q And as a expert in the field of clinical
7 psychology and as someone who has a lot of experience
8 working with small children under the age of 10 who have
9 been victims of sexual abuse, have you been able to
10 identify certain characteristics associated with those
11 children who've been victims?

12 A Yes.

13 Q And can you tell us a little bit about those
14 characteristics?

15 A Yes. Generally the characteristics fall into
16 four main categories. You don't need all of them to
17 have been sexually abused, and you could exhibit all of
18 them and not have been sexually abused. The first
19 category would be depression. That can look vastly
20 different depending on the child's gender and their age.
21 It could be behaviors such as aggression, maybe in
22 smaller children, withdrawal, not showing interest in
23 activities, crying all the time.

24 The next category would be anxiety. That
25 can look like hypervigilance, problems sleeping at

1 night, nightmares, flashbacks.

2 The next category would be interpersonal
3 difficulties; so, kids that usually don't get along with
4 other kids, have a hard time making friendships.

5 The last category would be sexualized
6 behaviors. So, with younger children, that could look
7 like excessive masturbation, especially in places,
8 public day care, that sort of thing. With older
9 children, it could be promiscuity; or the other end of
10 the spectrum, it could be children not wanting any focus
11 on their sexuality, so maybe wearing baggy clothes or,
12 you know, not wanting any attention at all.

13 Q And Dr. Madera, you told us that with regard to
14 those characteristics, a child could display all of them
15 or none of them?

16 A Yes.

17 Q Or some of them?

18 A Right.

19 Q Dr. Madera, as a person who has worked with
20 children who have been victims of sexual abuse, have you
21 experienced children who display a range of those
22 symptoms?

23 A Yes.

24 Q I want to focus your attention on younger
25 children, specifically children who are ages 5 and 6.

1 A Okay.

2 Q When we're dealing with a 5 or a 6-year-old
3 with regard to their expression of sexual abuse, how
4 does that differ from older children?

5 A Again, it depends on the child's cognitive
6 ability, their expressive language ability, and if
7 they're an active disclosure at the time they're
8 actually interviewed. But, you know, children of that
9 age usually don't have a high attention span, their
10 memory may be more fragmented than an older child of
11 that age.

12 Q And what do you mean by fragmentation?

13 A A child that young having been traumatized may
14 recall salient incidents that really stick out to them,
15 whether it's a person or a place, it may be the first
16 time or the last time, but it's not always necessarily
17 every time that they remember.

18 Q And has it been your experience when you were
19 talking about -- when, I believe, you said something
20 about whether they're in a timing of disclosure. What
21 do you mean by that?

22 A I mean a lot of times younger children
23 especially will come to the C.A.C. for a forensic
24 interview after there's been some sort of S.T.D. or some
25 sort of medical findings or maybe a caregiver walks in

1 on a child versus a child that's actually been in active
2 disclosure and has sought out an adult and disclosed the
3 sexual abuse. So, those can look vastly different if
4 the child's not ready to disclose yet.

5 Q And tell us: In your experience as a
6 professional working with children who've been victims
7 of sexual abuse, do children always disclose in the same
8 manner?

9 A No.

10 Q Can you tell us a little bit about what we call
11 maybe "testing the waters"?

12 A Oftentimes there is a delay in disclosure. So,
13 that means any amount of time between when the sexual
14 abuse first occurred and when the child actually
15 discloses. And oftentimes, you'll hear children talk
16 about trying to tell a parent, trying to tell a teacher,
17 thinking that they were communicating but the parent not
18 hearing it. So, children oftentimes will test the
19 waters with partial disclosure where they're disclosing
20 a small amount of what happened to them to gauge if the
21 parent's going to believe them and what the
22 repercussions are going to be about disclosure.

23 Q When we talk about partial disclosure, does
24 that just apply to a parent?

25 A I'm sorry?

1 Q Would that concept only apply to a child who's
2 testing the waters or partially disclosing to a parent
3 or a loved one?

4 A No, it could be anyone.

5 Q Could that also apply to somebody who's giving
6 them counseling services?

7 A Yes.

8 Q As somebody who's worked as a counselor and a
9 psychologist with small children, has it been your
10 experience that that partial disclosure concept could
11 apply to your therapy sessions?

12 A Yes.

13 Q So, it is possible -- is it possible for a
14 child hypothetically, let's say a 6-year-old, comes to
15 you on the first meeting and you ask questions and they
16 tell you X, Y, and Z, but then the next time you meet
17 with them, they add W.

18 A That oftentimes happens.

19 Q Is it possible by time you're finished
20 interviewing a child, potentially over the course of
21 several years, that you could have the whole alphabet, A
22 to Z, of what happened?

23 A Right. We do a clinical interview at the
24 beginning of therapy; but then over the course of
25 therapy, it's oftentimes that more disclosures will come

1 out.

2 Q Would that same concept apply, in your
3 professional opinion, Dr. Madera, to more than one
4 person speaking with a child over a period of time?
5 Would they maybe disclose one thing to one person, maybe
6 disclose something different to the next, and maybe
7 something a little different to the next person?

8 A That could happen.

9 Q Is it also possible that they disclose all of
10 it at one time and then later on choose not to ever
11 share it again?

12 A Yes.

13 Q Is that specific to any age group, Dr. Madera?

14 A No.

15 Q Can you tell us, Dr. Madera, with a child who
16 was ages maybe 5 or 6 at the time of the initial outcry
17 and that child has grown, have you noticed in your
18 professional experience a change as a child, female
19 specifically, grows, their reluctancy or willingness to
20 speak about their sexual abuse?

21 A I find that it often depends on the amount of
22 therapy they receive, the amount of communication in the
23 family unit. So if a child -- years have gone by and
24 they've never talked about the incident since the
25 initial disclose, oftentimes children won't remember the

1 details because it hasn't been talked about or processed
2 in a therapeutic environment.

3 Q So, Dr. Madera, in a hypothetical situation
4 where a 5-year-old or a 6-year-old outcries and receives
5 some initial counseling but doesn't speak about it for
6 several years and then is asked several years later to
7 speak about it again, would it be consistent with your
8 experience that that child may have difficulty
9 remembering what they initially spoke about?

10 A Yes.

11 Q Now, Dr. Madera, I want to ask you specifically
12 about this case. Have you had an opportunity to review
13 that initial forensic interview of Nileeya Edmondson?

14 A Yes.

15 Q And have you also had an opportunity to observe
16 her testimony in this trial?

17 A Yes.

18 Q So, Dr. Madera, having had spoken just a few
19 minutes ago about some of those differences that you
20 might see between a child's initial disclosure and what
21 they would maybe disclose several years later when
22 somebody different is asking them the questions, did you
23 see that those observations of specifically Nileeya
24 Edmondson was consistent with your experience dealing
25 with children who have been victims of sexual abuse?

1 A Yes.

2 MS. OLVERA: Object to that as leading.

3 THE COURT: Overruled.

4 Q (BY MS. LARSEN) Dr. Madera, what is your
5 opinion with regard to this -- with regard to Nileeya
6 Edmondson and how she compares to your experience
7 working with children who suffer from sexual abuse?

8 A What I heard her disclose on the forensic
9 interview for a child of her age was extremely detailed.
10 She provided a lot of sensory details of incidents that
11 happened and was able to correct the interviewer when
12 she needed to. It was a very long interview compared to
13 children her age and her attention span. So, it
14 compared in that way to other children her age.

15 Q And Dr. Madera, with the regard to her ability
16 to testify in court, have you watched children testify
17 in court before?

18 A Yes.

19 Q And do all children react the same way to
20 testifying in the courtroom?

21 A No.

22 Q When you observed Nileeya Edmondson's testimony
23 in court, what observations did you make as a
24 professional in this category?

25 A I would say that she had very flat emotion or

1 affect, so she wasn't as emotional as maybe a person
2 would expect her to be discussing incidents of this
3 nature. Children react very differently to feeling
4 anxiety and the effects of trauma over time.

5 Q So, when you speak of a "flat affect" or
6 someone who doesn't show emotion, is that inconsistent
7 with a child who's been abused?

8 A No.

9 Q Have you seen that previously with children who
10 have been victims of sexual abuse?

11 A Yes.

12 Q Does that go back to when you were speaking
13 about characteristics of children who've been victims of
14 child abuse that they can kind of react in many
15 different ways?

16 A Yes.

17 Q So, Dr. Madera, I want to ask you about
18 grooming. Can you tell us just briefly what the concept
19 of grooming means in the context of sexual abuse of
20 children.

21 A Grooming is any behavior with the later intent
22 to sexually abuse a child. It often is a gradual
23 increase in touching a child, normalizing sexual
24 behaviors, whether that's through pornography, walking
25 in on a child in the restroom, boundary violations, it

1 could be special attention, special gifts, anything
2 that's done with, again, the later intent to sexually
3 abuse that child.

4 Q Would it be uncommon in a grooming situation
5 for a child who's of the ages maybe 5 or 6 to actually
6 appreciate the attention or like being near their
7 perpetrator prior to the sexual abuse?

8 A It's not uncommon.

9 Q Is that part and parcel of the grooming process
10 that the child would return some of that affection?

11 A Yes, especially considering 90 percent of
12 offenders are loved ones or family members. So,
13 children are often conflicted because they still love
14 that family member and want them to be a part of their
15 life. They just wish the sexual abuse would stop.

16 Q When dealing with a small child, and
17 specifically when we're talking about a loved one, let's
18 say hypothetically, it were a parent's significant
19 other, with regard to a child wanting to not talk about
20 sexual abuse, how does that factor in, that special
21 relationship within the family and disclosure?

22 A Depending on the actual circumstance, there
23 could be threats, the child could understand the
24 dynamics of the family and maybe this is mom's first
25 substantial relationship, maybe they don't want mom to

1 be upset or lose her loved one. Children are very
2 receptive to the dynamics in the home, whether it's
3 financial or otherwise and scared of the ramifications
4 if they do disclose.

5 MS. LARSEN: Judge, I'll pass the
6 witness.

7 THE COURT: For the limited purpose of
8 voir dire conducted under Rule 705, does the defense
9 have any questions?

10 MS. OLVERA: Just specifically.

11 **CROSS-EXAMINATION**

12 BY MS. OLVERA:

13 Q I really -- Dr. Madera, I was just wondering
14 exactly what testimony the State was going to offer for
15 you to render an opinion about any witness in this case.
16 So I think the only question based on what the
17 prosecutor has asked you is did you have an opinion
18 based on your observations of the child testifying today
19 on her flat -- what did you call that?

20 A Flat affect.

21 Q Flat affect. And what is your opinion on that?

22 A She had flat affect on the stand.

23 Q Okay. What other opinion are you going to
24 testify to specifically to this case?

25 MS. LARSEN: Judge, again, this witness

1 is only going to answer questions that I ask.

2 THE COURT: I understand but.

3 MS. LARSEN: And just so I'm clear,
4 because my understanding of the purpose of this was that
5 they did not wish for me to elicit any specific
6 questions from this witness with regard to credibility
7 of the victim. So I narrowly tailored my questions to
8 broad categories, but I don't intend to ask her any
9 other opinion questions with regard to this child victim
10 unless I'm given the leeway to do so.

11 MS. OLVERA: That is just confirming
12 exactly what I'm trying to confirm and that's it.
13 That's the only opinion.

14 THE COURT: So as long as she testifies
15 as to what she's testified to here --

16 MS. OLVERA: If the only opinion is going
17 to be to her flat affect as you watched her testimony,
18 then that's --

19 MS. MEADOR: And that wasn't her only
20 opinion. The video and the testimony were consistent
21 with children who have been abused.

22 THE COURT: That's her opinion.

23 MS. LARSEN: I believe she did testify to
24 the level of detail that she observed and didn't observe
25 and everything that she said here on the stand today,

1 Judge, is what I intend to put in front of the jury.

2 THE COURT: Based on her observations and
3 training, the complainant's testimony and demeanor is
4 consistent with that of a child victim of sexual
5 assault. That's going to be her opinion.

6 Right? I don't want to put words in your
7 mouth.

8 THE WITNESS: Right.

9 THE COURT: Let's bring in the jury.

10 (*Jury present.*)

11 THE COURT: You may be seated.

12 Ladies and gentlemen, I want to extend my
13 apologies. They are mine and mine alone. Sometimes
14 things arise in the course of a trial and we have to
15 deal with them as they arise. Know that while we had
16 you waiting, we were all in here diligently working to
17 resolve it and it is my hope that I don't have to keep
18 you waiting like that in the future.

19 State, call your next witness.

20 MS. LARSEN: Judge, the State calls
21 Dr. Danielle Madera.

22 THE COURT: Ladies and gentlemen, this
23 witness has already been sworn.

24 You may proceed.

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DANIELLE MADERA,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. LARSEN:

Q Dr. Madera, you and I know each other. Could you please introduce yourself to the ladies and gentlemen of the jury?

A Yes. My name is Dr. Danielle Madera.

Q And Dr. Madera, how are you currently employed?

A I'm a staff psychologist at the Harris County Children's Assessment Center.

Q And how long have you been a staff psychologist with the Children's Assessment Center?

A I've been a staff psychologist since 2009. I previously did my internship at the Children's Assessment Center from 2006 to 2007 and then came back in 2008 for my postdoctoral fellowship and they hired me on as a staff psychologist.

Q Dr. Madera, can you tell us a little bit about what you do day to day at the C.A.C. now?

A Yes. I conduct individual and group therapy for children as well as adults that have been victims of sexual abuse. I run four groups. I also run the human trafficking program here for teenagers who have been prostituted here in Harris County. I also do

1 psychological evaluations, supervise predoctoral
2 interns, provide community trainings on the dynamics of
3 sexual abuse.

4 Q And Dr. Madera, can you tell us a little bit
5 about your educational background before you got to the
6 C.A.C.?

7 A Yes. All my education was done at the
8 University of Florida in Gainesville, Florida. I
9 graduated in 2000 with a bachelor of science in
10 psychology, then went on to get my PhD in 2007 from UF.

11 Q And do you hold any licenses or certifications?

12 A Yes. I'm a licensed psychologist in the state
13 of Texas as well as Florida.

14 Q Do you belong to any professional
15 organizations?

16 A Yes. A.P.A., the American Psychological
17 Association, and T.P.A., the Texas Psychological
18 Association.

19 Q Now, Dr. Madera, I want to focus our attention
20 on your experience working with small children who have
21 been victims of sexual abuse.

22 A Okay.

23 Q Can you tell us briefly about your experience
24 and training with regard to speaking with children under
25 the age of 10 who have been victims of sexual abuse?

1 A Yes. I've seen many children under the age of
2 10 for individual therapy at the Children's Assessment
3 Center. So after there's been a validated case of child
4 sexual abuse, we'll then see them for therapy. I also
5 work in the forensics division conducting extended
6 assessments previously, and they are usually children
7 under the age of 9.

8 Q And Dr. Madera, have you had opportunities to
9 counsel children under the age of 10 on many or few
10 occasions?

11 A Many occasions.

12 Q Now, I want to ask you specifically,
13 Dr. Madera, about some of the characteristics that
14 you've observed as a professional with the experience
15 that you have with children who have been victims of
16 sexual abuse.

17 A Okay.

18 Q Can you tell us some of the characteristics
19 that one might see in a child who's been a victim of
20 sexual abuse.

21 A There are many different characteristics. They
22 are very dependent on the child's gender as well as age.
23 They usually fall into four categories. The first one
24 would be depression. So, that can look like anger in
25 small children, it can look like withdrawing from

1 activities, not wanting to participate in things that
2 you once found enjoyment in. Crying, self-harm with our
3 teenagers, so cutting or suicidal attempts.

4 The next category would be anxiety. So,
5 these kids are usually very hypervigilant. They may
6 have flashbacks or nightmares, have trouble sleeping, or
7 just calming down and regulating themselves.

8 The next one would be interpersonal
9 difficulties. These kids usually have a hard time
10 making friendships or getting along with other children.

11 And the last one would be sexualized
12 behaviors. So, in young children that can look like
13 excessive masturbation, especially in inappropriate
14 places, be it day care or school. In older kids, it can
15 look like promiscuity or the opposite end of the
16 spectrum where children don't want any attention. So,
17 they're wearing baggy clothes or putting on weight or
18 that sort of thing.

19 Q And Dr. Madera, how have you in your field and
20 your peers determined that these are the symptoms and
21 signs that we commonly are seeing in children who have
22 been victims of sexual abuse?

23 A Relying on the literature base in the field, as
24 well as my extensive experience with children and
25 families dealing with child sexual abuse.

1 Q To be fair, Dr. Madera, are the characteristics
2 that you listed also attributes that could really be
3 found in people who haven't been victims of sexual
4 abuse?

5 A Yes.

6 Q But Dr. Madera, is it fair also to say not
7 every person who's been a victim of sexual abuse would
8 display all of those symptoms?

9 A Correct.

10 Q Is it possible, Dr. Madera, for a person who's
11 been -- and specifically a child who's been a victim of
12 sexual abuse display some of those but not all of those
13 characteristics?

14 A Yes.

15 Q Is it possible that they display none of those
16 characteristics?

17 A Yes.

18 Q Dr. Madera, can you tell us what a flat affect
19 is?

20 A A flat affect would be described as a child
21 that's very nonemotional. Maybe they're describing
22 something that would be emotional to most of us, but
23 they're not expressing any emotion. It's very flat.

24 Q Is that a possibility when you're speaking with
25 a child who's been a victim of sexual abuse in your

1 experience that although they are telling you about
2 their abuse, they may not have an emotional response to
3 that?

4 A Yes.

5 Q Is that something that you see commonly or
6 uncommonly [*sic*]?

7 A Commonly.

8 Q Now, Dr. Madera, I want to talk to you
9 specifically about disclosure and children who disclose.
10 Can you tell us about how children -- and I want to
11 specifically narrow our focus on children of the ages
12 maybe 5 or 6 years old, how do they disclose sexual
13 abuse? Is it always the same?

14 A No, it's not always the same. Usually with
15 younger children we'll see them disclose to a parent or
16 a parental figure, just due to the fact that they don't
17 have a lot of outside friendships at that age. They're
18 usually just at home or maybe going to school, you know,
19 pre-k or whatnot. So usually children at that age will
20 tell a parent and disclosure will usually come in steps.
21 So, there's a delay in disclosure most times. So,
22 that's any amount of time between when the abuse
23 actually first occurred and when the child is
24 comfortable telling an adult.

25 Q So, Dr. Madera, you said that usually it's

1 going to be somebody close to the child?

2 A Yes.

3 Q Could that include a sibling?

4 A Yes.

5 Q And Dr. Madera, when we're talking about
6 disclosure, I want to ask you about how that information
7 actually comes out. First of all, can you tell us what
8 it means to, first of all, delay your disclosure,
9 delayed outcry?

10 A Yes. That just means any amount of time
11 between when the first incident of sexual abuse occurred
12 and when the child first discloses it.

13 Q Could that be a period of many days?

14 A Yes.

15 Q Could it be a period of many years?

16 A Yes.

17 Q Is there anything that's normal in your field
18 and based off your experience how long it should take
19 for a kid to tell?

20 A There's no normal except the fact that there's
21 usually a delay in disclosure.

22 Q So, it's not common for a child to tell right
23 away?

24 A Correct.

25 Q Now, Dr. Madera, I want to ask you about

1 partial disclosure. Can you tell us what that means?

2 A That just means when a child does initially
3 disclose, it usually is not every single detail of the
4 abuse. A lot of times children are testing the waters
5 to gauge that parent or sibling's reaction to the abuse
6 to see if they're comfortable disclosing the full amount
7 of abuse.

8 Q And as a professional with the experience
9 meeting with children who have been victims of sexual
10 abuse, has it been your experience that even in the
11 psychological realm, not just with a parent but with a
12 counselor or a therapist, that a child may still do that
13 testing of the waters?

14 A Yes.

15 Q And can you tell us about that?

16 A Sure. Oftentimes when children come in for the
17 first clinical intake, when we first meet with them,
18 they will disclose a small amount. They're not
19 comfortable yet, they have to build rapport with you.
20 And after they can trust you or you build that rapport
21 over time children often disclose way more incidents of
22 sexual abuse that they weren't previously comfortable
23 talking about.

24 Q And Dr. Madera, could that also depend on the
25 actual questions asked of the child?

1 A Yes.

2 Q Has it been your experience, Dr. Madera, having
3 interviewed and met with children who've been victims of
4 sexual abuse, that they volunteer information when not
5 asked?

6 A That's not often that they're volunteering
7 information.

8 Q Are they generally responding to the questions
9 that are being asked?

10 A Yes.

11 Q Would it be unusual for a child to need to be
12 asked a specific question in order to get that detail?

13 A It would not be unusual.

14 Q Dr. Madera, I want to ask you about forensic
15 interviews just briefly. Are you familiar with forensic
16 interviews at the Children's Assessment Center?

17 A Yes.

18 Q Have you worked as a forensic interviewer
19 before?

20 A Yes.

21 Q Where was that?

22 A In Florida at the Child Protection Team.

23 Q And Dr. Madera, when a forensic interviewer is
24 asking questions, are those leading or open questions?

25 A It's a funnel approach usually where you start

1 out with very open-ended questions and depending on the
2 child's age, start narrowing it down with maybe choice
3 questions or yes-or-no questions after you've already
4 funneled that down.

5 Q Have you had an opportunity to observe a
6 forensic interview for a child that you've also met with
7 as a psychologist?

8 A Yes.

9 Q In your experience and your background meeting
10 with these children, is it possible that you are asking
11 questions that maybe they haven't been asked before in a
12 forensic interview?

13 A Yes.

14 Q When a child -- let's say hypothetically a
15 child were asked is there anything else and that was
16 just the question, "Is there anything else you want to
17 tell me," would it be uncommon for a child to not think
18 of anything else that they want to say at that time?

19 A Yes, definitely. It would also be common for a
20 child not to want to tell you other things that have
21 happened because you're asking it in a way that they
22 enjoy telling or they want to tell you about it.

23 Q Now, Dr. Madera, let me ask you about grooming.
24 When we're talking about grooming in the context of the
25 sexual abuse, what are we talking about?

1 A Grooming is any sort of behavior that a
2 perpetrator is using with a child to gain their trust
3 with a later intent to sexually abuse that child. It
4 often is gradual and will increase in severity. So,
5 things such as normalizing sexual behavior, whether it's
6 through pornography or walking in on a child or exposing
7 yourself to a child, tickling, wrestling, special
8 attention or favors that are -- the purpose is to gain
9 that child's trust to later then sexually abuse them.

10 Q Now, Dr. Madera, speaking of grooming and in
11 that context, we're talking about a 5 or a 6-year-old
12 child, would it be uncommon or abnormal for a child to
13 respond to that grooming behavior with affection?

14 A It would not be uncommon.

15 Q Would it be rare for a child to maybe even
16 enjoy the attention?

17 A No.

18 Q Dr. Madera, is there any reason that a child at
19 age 5 or 6, based off of your experience and working
20 with children in that age group, would be alarmed by
21 someone being nice to them?

22 A No. They shouldn't be at that age.

23 Q Or wanting to be close to them?

24 A No.

25 Q Would it make a difference if that were someone

1 that's in their family or somebody that's close to
2 someone in their family?

3 A It wouldn't make a difference in the fact that
4 you're kind of brought up to trust that person and trust
5 your mother. If that's someone in your home that's part
6 of your family, a child usually trusts that person more.

7 Q Now, Dr. Madera, I want to focus our attention
8 specifically on the case in question; and we're talking
9 about a child named Nileeya Edmondson. And have you had
10 a chance to review her forensic interview in this case?

11 A Yes.

12 Q And as somebody who has conducted forensic
13 interviews previously and as someone who works as a
14 clinical psychologist dealing with people in that age
15 group with victims of sexual abuse, what observations
16 did you make about her forensic interview?

17 A In my experience and education, the child was
18 very young at the time of the forensic interview but
19 very detailed for a child of her age. She was able to
20 provide a lot of sensory details and descriptions, and
21 the interview was longer than I would expect for a child
22 of that age.

23 Q And when you say longer than you would expect,
24 how long -- for a child of that age, what is the average
25 length that you normally see?

1 A About 20 minutes.

2 Q How long was the interview in this case, if you
3 remember?

4 A It was over 40 minutes.

5 Q Now, Dr. Madera, did you also have an
6 opportunity to observe Nileeya Edmondson testify here in
7 court?

8 A Yes.

9 Q And what observations did you make about how
10 she testified here in court with regard to her demeanor
11 and your experience dealing with those psychological
12 symptoms of abuse?

13 A She appeared with a very flat affect, so there
14 wasn't a lot of emotion when she was discussing, you
15 know, the sexual abuse details.

16 Q Have you had an opportunity before, Dr. Madera,
17 to observe children who testify in court?

18 A Yes.

19 Q Do all children respond the same way when
20 they're testifying?

21 A No.

22 Q They all handle that the same way emotionally?

23 A No.

24 Q Have you seen children with a flat affect
25 testify?

1 A Yes.

2 Q And so, based off of your training and
3 experience and background, having observed Nileeya
4 Edmondson testify, was there anything that you saw that
5 was inconsistent with a victim of sexual abuse?

6 A No.

7 Q Dr. Madera, with regard to the questions that
8 are being asked of a child, if a child at the age of 5
9 or 6 is asked questions at the time of outcry by one
10 individual and then maybe is asked some questions by
11 somebody, let's say in, you know, a couple years later
12 when they're 8 years old and then another few years
13 later when they're 10 years old, is it possible based on
14 your training and experience that that child will
15 respond to those questions differently?

16 A Yes.

17 Q Why is that?

18 A Many reasons. The child has aged since that
19 point, their cognitive abilities are different, and
20 you're asking a child of that age to remember not only
21 the sexual abuse that happened, but the two interviews
22 in between that she's provided, which is very hard for a
23 child to remember.

24 Q And for a child to respond to a question with
25 "I don't remember" or "I don't know," based off of your

1 training and experience at a young age, does that
2 necessarily mean that they don't remember or they don't
3 know?

4 A No.

5 Q What could it mean?

6 A That they won't stop talking.

7 Q And Dr. Madera, with regard to that grooming
8 behavior, we were talking about relationships. With a
9 child at the age of 5 or 6 and even a child that's maybe
10 8 or 10, how can their perception of the relationship of
11 that offender with their family influence their ability
12 to discuss the abuse?

13 A Usually if it's a close family relationship,
14 somebody that not only the child loves but the family
15 loves as well, it can be very hard to gauge your
16 mother's reaction if they're in a close, intimate
17 relationship with the perpetrator.

18 Q And Dr. Madera, with regard to therapy or
19 counseling for a child, if a child were to receive
20 counseling at the time of the incident maybe when
21 they're 5 or 6 but they weren't to continue that
22 therapy, would that make a difference in their ability
23 to discuss what happened many years later?

24 A Yes.

25 Q And how would that happen?

1 A If a child hasn't been in therapy long enough
2 to process the details of the abuse, so it's not --
3 therapy's focus is not to help a child remember; it's to
4 help a child tolerate remembering what happened to them.
5 If you go years without having talked about it, it can
6 be really hard to discuss it in open court on the stand
7 at such a young age.

8 MS. LARSEN: I pass the witness, Judge.

9 THE COURT: Defense.

10 MS. OLVERA: Thank you, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MS. OLVERA:

13 Q Dr. Madera, I believe you stated that you're
14 currently working at the C.A.C. center?

15 A Yes.

16 Q And you have your own therapy patients?

17 A Yes.

18 Q And do you do forensic interviews anymore?

19 A No.

20 Q When's the last time you did a forensic
21 interview?

22 A If I had to guess, I would say 2007.

23 Q But you're familiar enough with the forensic
24 interview process at the C.A.C. currently?

25 A Yes.

1 Q And when Nileeya gave her forensic interview in
2 2010, you were familiar with their procedures, right?

3 A Yes.

4 Q Is it important, Dr. Madera, for a child abused
5 by a family member to tell, to outcry as soon as
6 possible?

7 A Yes.

8 Q If the outcry is made closer to the abuse,
9 there's more things that a family member can do to try
10 and aid the child through that process, right?

11 A There's less abuse that would happen to that
12 child if the child were to tell earlier.

13 Q And so, in the cases where a child, there's a
14 delayed outcry before they get some help or they
15 disclose, isn't it possible that during that period
16 there can be some suggestive questioning done of the
17 child?

18 A That's a possibility.

19 Q And the dangers of the -- can you tell the jury
20 what the danger is about suggestive interviewing or
21 talking to a child?

22 A Could you be more specific about who is doing
23 the suggestive interviewing?

24 Q Well, let's start from the outcry, say, usually
25 the first person who's going to be a parent maybe?

1 A Yes.

2 Q Okay. So, if the parent and the child wait,
3 like in this case they waited from -- almost two months
4 before or a month before the forensic interview; and so,
5 if the child is talking with the mother, isn't it
6 possible that there could be some suggestive
7 interviewing done by the mother?

8 A There could be; but the way the forensic
9 interviewers are trained, it's an objective forensically
10 sound interviewing technique to ward against any
11 suggestibility that may have happened prior to the
12 interview.

13 Q But if the child has discussed the abuse with a
14 family member or anyone prior to getting to the forensic
15 interview, that could affect the manner in which she's
16 going to answer the questions once she gets to the
17 forensic interview, correct?

18 A It could.

19 Q And in this case, again, the child was not
20 interviewed, the outcry was in June of 19 of 2010,
21 correct?

22 A I'm not aware of dates.

23 Q And the forensic interview was in August 16th,
24 so almost a month and a half passed by before she was
25 interviewed. Do you know who the interviewer was?

1 A I believe Claudia Mullins.

2 Q So, by the time the child gets to the forensic
3 interview and all this time has passed, do you know how
4 many times she had been questioned by anyone about the
5 abuse?

6 A No.

7 Q So, you don't know how many people she had
8 talked about what happened, if anything, before she got
9 to the forensic interview?

10 A No.

11 Q Okay. And you're agreeing that that would
12 affect her interview at the forensic center?

13 A I'm agreeing that it could affect her
14 interview.

15 Q Now, once she gets to the forensic center and
16 she's interviewed -- and you said you watched that
17 interview?

18 A Yes.

19 Q And are you aware of -- after that interview,
20 was she sent to a counselor?

21 A I don't know that.

22 Q Do you know if she was sent to get any therapy?

23 A I don't know that.

24 Q Did you review -- since you're familiar with
25 the child, with that case, did you review anything about

1 any therapy or counseling of the child?

2 A No.

3 Q So, when you're here and you watch the child
4 testify, is that the first time that you had seen this
5 child?

6 A Other than the forensic interview, this
7 morning, yes.

8 Q You never provided her therapy yourself?

9 A No.

10 Q You never gave her any psychological testing
11 yourself?

12 A No.

13 Q So, based on your observations of the child
14 today in this case and based on the forensic interview,
15 your opinion is that she has characteristics common of a
16 abused child?

17 A Yes.

18 Q And apart from what you observed in the
19 forensic interview and this testimony, you don't know
20 how much counseling she's received, right?

21 A Correct.

22 Q Before the testimony today?

23 A Correct.

24 Q You don't know about the -- any type of
25 counseling or therapy that she might be receiving since

1 the last proceeding in 2010?

2 A No.

3 Q Is it important how much therapy someone gets?

4 A It doesn't have to be important how much; it
5 has to be important about the amount of abuse that's
6 actually been processed in therapy. You can have
7 therapists that never actually talk about the sexual
8 abuse in therapy. So, it really wouldn't be the amount
9 of time they're in therapy but the quality of therapy
10 they're getting.

11 Q Again, you don't know who the therapist or the
12 counselors that this child has seen a couple of times
13 is?

14 A No.

15 Q Obviously, as talking about memory, memory is
16 very subjective, correct?

17 A Yes.

18 Q It depends on the individual, either an adult
19 or a child, correct?

20 A Yes.

21 Q And isn't it also important, the environment of
22 the child? If we're talking about a child's memory,
23 does a family environment have any play?

24 A I suppose it could.

25 Q And so, a lapse of time in getting any

1 counseling could affect any child's improvement in
2 memory, correct?

3 A Yes, it could.

4 Q And is it possible that if the child has been
5 given suggestive information, that from that point on,
6 that information is going to be in the child's memory,
7 correct?

8 A It could happen.

9 Q And so, when that happens, it's very hard for
10 experts like yourself to differentiate between a true
11 factual memory -- correct -- and a memory that is
12 created as a result of any suggestion?

13 A The forensics department at the C.A.C. is
14 highly trained in looking at characteristics of a
15 consistent disclosure. Usually they're looking for
16 sensory details. If a child is rehearsed in remembering
17 something, they won't have true memory of it. So,
18 asking a child what it smelled like or what it tasted
19 like or what it felt like, they wouldn't have an answer
20 to that because it would be a rehearsed memory and not a
21 true memory. So, that could be one facet of trying to
22 distinguish if it's a true outcry or not.

23 Q So, if that is never corrected though or
24 addressed in therapy or counseling and nobody
25 differentiates between the memories, I mean, that child

1 could just wind up believing based on a false memory --

2 A That could happen.

3 Q -- not a false memory, but a memory based on
4 suggestiveness?

5 A That's a possibility.

6 Q As far as the grooming, Doctor, the grooming is
7 any person trying to do good things for a child?

8 A If their later intent is to sexually abuse that
9 child, then yes.

10 Q So, the examples -- can you give us some
11 examples?

12 A Sure. Showing a child pornography; wrestling
13 or tickling a child, getting them used to having their
14 hands on them; walking in when a child's in the
15 restroom; dropping your towel when you're coming out of
16 the restroom as a perpetrator; anything that is
17 increasing the intensity of boundary violations with
18 that child.

19 Q So, is grooming more -- I guess it could be
20 specific to whatever conduct that a perpetrator wants?

21 A Could you ask that in a different way?

22 Q Grooming can also be innocent type things,
23 right?

24 A Grooming would be innocent if they did not have
25 the intent to sexually abuse that child.

1 Q So like taking to the store, taking children to
2 the store or buying them gifts and things like that,
3 that could be a form of grooming for almost anyone,
4 right?

5 A That could just be a nice behavior if you don't
6 have any intent to sexually abuse a child.

7 MS. OLVERA: Pass the witness, Judge.

8 THE COURT: State?

9 MS. LARSEN: Nothing further for this
10 witness, Judge.

11 THE COURT: May this witness step down?

12 MS. LARSEN: Yes, Judge.

13 THE COURT: You are excused. Thank you,
14 Doctor.

15 State, call your next.

16 MS. LARSEN: Judge, may we approach?

17 THE COURT: Yes.

18 *(At the Bench.)*

19 MS. LARSEN: Judge, the officer is on his
20 way, he lives out in Katy. He's coming from there, he's
21 going to hit some traffic. That will be our last
22 witness, Judge.

23 THE COURT: Do you have a general A.T.A.
24 so that I can tell them?

25 MS. LARSEN: He e-mailed me a few minutes

1 ago and said he's trying to be here by 3:00.

2 THE COURT: Oh. I realize that you don't
3 want to, but can you put the little girl on and say
4 don't you remember doing this tape. Isn't this your
5 tape?

6 MS. LARSEN: Oh, I certainly could ask
7 her if that's her on the tape, Judge, if the defense is
8 willing --

9 THE COURT: Is that going to draw
10 objection?

11 MS. MEADOR: I understand we're trying to
12 get to properly authenticate it to get it in the record.
13 Is there any way we can authenticate it outside the
14 presence of the jury?

15 THE COURT: Sure. I don't have a problem
16 with that. Can you do that?

17 MS. LARSEN: Doesn't bother me, Judge.
18 Yeah, I can do that. If we do that, Judge, then can she
19 be dismissed?

20 THE COURT: Yes.

21 *(End bench discussion.)*

22 THE COURT: Ladies and gentlemen, I'm
23 going to send you back into the jury room. I don't
24 anticipate it to be more than about ten minutes. We'll
25 get back to you as soon as we are able.

1 (*Jury out.*)

2 (*Brief break.*)

3 THE COURT: It's my understanding that
4 the State is going to rest; is that true?

5 MS. LARSEN: That's correct, Judge.

6 THE COURT: So we don't have to usher the
7 jury in, does the defense have anything you want me to
8 take up outside the presence of the jury?

9 MS. MEADOR: No, Judge.

10 THE COURT: Okay. Let's bring in the
11 jury.

12 (*Jury present.*)

13 THE COURT: You may be seated.
14 State, call your next witness.

15 MS. LARSEN: The State rests.

16 THE COURT: The State having rested, what
17 says the defense?

18 MS. OLVERA: We would call Theresa Ross.

19 (*Witness sworn.*)

20 MS. OLVERA: May I proceed, Judge?

21 THE COURT: You may.

22 **THERESA ROSS,**

23 having been first duly sworn, testified as follows:

24 **DIRECT EXAMINATION**

25