THE COURT: All right. Ladies and gentlemen, sorry for the interruption. We had to change interpreters.

So Ms. Gaston, go ahead.

MS. GASTON: So we were just starting with the disclosure timeline in this case because initially what we have is the disclosure to Allena in 2020, the testimony by Allena, and then the testimony of -- we have the testimony of Allena, and then we had the testimony of M.C. that are not consistent, and then we have the supposed disclosure to Adriana. Also, the testimony of Adriana and the testimony of M.C. on various occasions, never, ever, ever indicating until now that she'd ever spoken to Adriana about what happened.

Now, Allena and Adriana are just testifying to what they think they need to say in order to help M.C. because what ultimately matters is M.C.'s word. M.C.'s word keeps changing and changing and changing any time she is asked about this situation. And you know what doesn't change? The truth. Here, the reason why M.C. is so inconsistent with both Allena and Adriana is because she never disclosed abuse or sexual contact to either of these people because it wasn't happening.

What ultimately this whole case boils down to is with the help, assistance or not of her brother, they took advantage of a situation. They decided that they saw a situation to try and benefit themselves and get Pablo out of the house, and that is why we're here.

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So let's talk about Marcos. That's also in August of 2020. That's her brother. Again, over a year since it started, and M.C. clarified today for us that that conversation with Marcos took place at the dining table -- dining room table in his house. Marcos told you that earlier that day, M.C. had received money from Western Union. Earlier that day. Then M.C. discloses, and then he gets so distraught that he must extort a man instead of contacting the police immediately.

The State and Marcos want you to believe that he was so mad that that's why these texts got sent. But Marcos's and M.C.'s versions of his demeanor are wildly inconsistent. He got up there and he testified that he was angry, he was mad, he wanted to kill Pablo. M.C. got up there and testified that he was calm the entire time. Calm while hearing about his sister's accusation, calm while making the decision to have his young sister -- because remember, there's a significant age gap between the two -- send extortion texts. We'll talk more about that as we go.

But continuing the timeline, later that day, Detective Skinner, that's when there's a statement given to Detective Skinner, and then we have a statement that is given to a district -- or a district attorney. I apologize. That's supposed to say September, not August of 2020.

Now, those are the two official statements that we have for sure, that we know more or less what happened because it's to Detective Skinner that she has -- M.C. gives a recorded statement.

And to the district attorney, she clarified that while we don't have a recorded statement of that conversation, it is mostly consistent with what she said at a prior hearing for which we also have transcripts.

So what did she tell Detective Skinner? The first time that they had sex, it was in the bedroom, that it was always penis to vagina sex. There was no anal, oral touching of a penis, mouth on breast, or demands to keep this situation secret. The last time they had sex was in June while her mom was still in the hospital, and she specifically denied that money or that any items he bought for her were in exchange for sex or for spending time with him.

Both M.C. and the State want and need you to believe that any inconsistencies from this statement to all of her future statements is because she wasn't asked the right questions. Because Detective Skinner was not specific enough, did not spend enough time with her, she therefore had no idea what other things to say. But remember what Detective Skinner told you when she took the stand? She gave M.C. every opportunity to be open and honest, to talk about anything M.C. wanted to talk about. She asked open-ended questions so the story would be in M.C.'s words alone. She asked if there was anything she'd forgotten, tell me everything about what's going on at home, and M.C. said nothing. This was her version.

Then we get to the conversation she had with a female district attorney in September of 2020. Now, again, we had no recording of this conversation, no way of confirming if anything she

actually said during that interview is different than what she said to Detective Skinner or when she actually testified at the preliminary hearing. If for some reason you decide to trust M.C., and what she said at the preliminary hearing is what she told the detective, we at least have -- or the district attorney, at least we have that conversation recorded.

And what we ultimately know about her testimony provided at the preliminary hearing is that it is inconsistent with what she first told Detective Skinner. The first time they had sex was in the living room, mostly penis to vagina because now, we have anal sex that happens twice, oral sex on M.C. Now, he's putting his mouth on her breasts. She did in fact touch his penis, and he requested a blowjob. All things that she says for the first time after meeting with the district attorney and their investigator alone for over an hour and then testified to it. Nothing she had mentioned previously to the detective.

She testified at the preliminary hearing and allegedly told the district attorney that the last time they had sex was in June while her mom was actually at home, not in the hospital. And at that time, yes, in fact, the money and the items he purchased for me were bought in exchange for sex and/or for spending time with him.

What did she testify to here? The first time that anything happened, it started with touching. That's been consistent. But here the first time touching -- the touching was both under and over

the clothes, whereas she had previously testified it was only under the clothes.

The last time she had swapped back to her original version to Detective Skinner. So to Detective Skinner and here in front of you, she said that sex was in the bedroom. But she had previously testified under oath that it happened somewhere else.

They had sex almost every day of the week. There are two reasons we know that that is incorrect. One, she previously said to the detective that it was only a couple of times a week, and also, there's a period of time where she's in -- let's see. The last time that they had sex was somewhere in June, near the time of her mom's surgery, and she went to Illinois in mid-July. So there are weeks where there wouldn't have been sex by her own word, if you believe her, and we cannot believe her because her story keeps changing.

Now, the State talked a little bit about this in their closing argument, but the thing that the State got wrong is that when she testified before you, she testified to two instances of anal sex. The first was penis to vagina sex, and then he flipped her over and had anal sex with her. The second time, what she said here before you was again, it started with penis to vagina sex, and then he flipped her over and tried anal sex. But that's not what she's ever said before.

At the preliminary hearing, she said that the second time they had anal sex went straight to attempting anal sex. No oral, no

foreplay, no nothing before going straight to anal sex. So again, her story keeps changing.

Here, for the very first time, she said that the reason they had to have sex on the floor was because it would be quieter. She had never told anyone that here before -- or told anyone that before.

She testified for the first time that she stayed in Illinois to avoid Pablo, but remember her text messages. On page 77, she's talking to Pablo about being in Illinois and being happy to avoid her mom. The State needs you to think that she was so traumatized after this incident, that when she came back and Pablo was no longer in her home, she didn't want to be in Vegas. But Pablo was no longer in her home. It is more likely that she didn't want to be home because of whatever was going on with her mom.

Again, we talked about this already. For the first time, she testified or explained that she may have disclosed to Adriana in the bathroom. That is not consistent with anything she's ever said before.

And he bought her pregnancy tests. Now, to incorporate and try to be fair to the State, the State's argument is that if he was buying her pregnancy tests, it was because he was worried he had gotten her pregnant. Obviously, if that were --

MR. KEACH: Objection, Your Honor. Can we approach?

THE COURT: Sure.

[Bench conference begins at 5:08 p.m.]

MS. GASTON: Then I guess I don't understand the relevance of the pregnancy test. I'm just trying to show them how it would be relevant in the State's case.

MR. KEACH: She can phrase it differently by saying there must be a reason why he bought a pregnancy test, but the State never made that argument -- or that's misstating the State's argument.

THE COURT: What was your comment?

MS. GASTON: That the State needs them to believe that because there are pregnancy tests that they want -- that it happened -- sorry. If he bought pregnancy tests, that therefore it's because he was worried he got her pregnant.

MR. KEACH: It was that the State's argument is that he bought a pregnancy test because he wants to make sure she's not pregnant. I never made that argument.

THE COURT: But they're allowed to argue what the evidence shows.

MR. KEACH: They can argue with the evidence.

THE COURT: And the evidence was that the pregnancy tests were bought. They can argue what they believe they were bought for or not bought for --

MR. KEACH: Absolutely.

THE COURT: -- versus what the State wants them to believe.

MR. KEACH: What they can't do is say, this is the State's

argument and this is my argument because I didn't make that argument. That's --

THE COURT: You don't have to make the argument for her to raise [indiscernible].

MR. KEACH: No, but I can't -- she's not allowed to say that I made an argument that I didn't make.

MS. GASTON: If Your Honor thinks it's a problem, I can rephrase it, the State wants you to believe that if there are pregnancy -- if you bought pregnancy stuff, it's because he was worried he got her pregnant. That's the same thing.

THE COURT: She's allowed to argue her case based on the evidence that was in the case.

MR. KEACH: She could say the only reason it comes in it must be because the State wants you to believe that. The State -- she's not speaking for the State. The State never made that argument. It's improper to say this is what the State's argument was because then you're recharacterizing --

THE COURT: How is that different than saying the State wants you to believe?

MR. KEACH: She said the State argued this. The State didn't argue that.

THE COURT: If you can rephrase it the State --

MS. GASTON: Okay.

THE COURT: -- wants you to believe, I think that's fair.

MS. GASTON: Okay.

THE COURT: Objection sustained.

MR. KEACH: Thank you.

MS. GASTON: Thank you, Your Honor.

[Bench conference ends at 5:10 p.m.]

MS. GASTON: So the State wants you to believe that because M.C. is now telling you that Pablo at some point bought her pregnancy tests, that that must be because he was worried he had gotten her pregnant. Obviously, that is a nefarious purpose for which someone can buy pregnancy tests, and there's no good reason for it, right? Unlike the phone, which she needed and her mom couldn't afford, the laptop that she needed for school, and the pads and tampons that she needed and knew that she could rely on Pablo to get for her. So the pregnancy tests, if true, would be that.

This was the first time she's ever mentioned them, and if she had mentioned them to the detective, again, if true, they could have investigated. They could have gotten bank records, receipts, searched the house, and none of that happened because she didn't tell anyone until five years after the investigation ended. It's not until she was in another room with a different district attorney asking her new questions that her story again changed.

Every time she's asked questions about things she's never said before, that is a clear indication to her that her first story was not good enough and she needs to change it. And we know that because that's what keeps happening. She was asked open-ended, very specific questions by the detective, given every opportunity to

give her version, state her story, and she mentioned none of this. It's not until other people spend more time with her, asking her different questions about different things, that she decides to incorporate those facts into her story now. Because her story keeps changing.

Why does M.C.'s story change? M.C. was told what Pablo said. She explained that on cross-examination yesterday. She was told what he said, and she quickly learned what he had said that was inconsistent with what she had previously said. So initially, she denied oral sex, but in Pablo's statement, he said it happened. And that wouldn't matter if she had simply never been told what he had said. Once she learned that he had said something different from her, her story changed. And once she gave her version initially to the district attorney, similar to what she first told Detective Skinner and was then asked more questions, her story changed.

What we know is that M.C.'s story got bigger, different, more detailed, more heinous every time she was asked about it. And why would she feel compelled to change her story? Because she's lying. She was and is protecting herself and her brother, and we know she lied to the police because she told us that Detective Skinner -- or Detective Skinner told you that she had reached out to M.C. about the extortion text after learning from them from Pablo. And she had asked M.C. about those text messages. M.C. doesn't answer, says she wants to talk to her brother and will get back to

the detective, and never calls the detective back. So the detective calls Marcos. Marcos denied sending those text messages.

Then we have the general topic of her text messages because when M.C. testified before you today, she told you Detective Skinner asked her about the conversations she had with Pablo. If I looked at those text messages, what are your conversations like? Well, I've actually been ignoring him in Illinois, and I've deleted a lot of those texts. Okay. Well, what about your text messages prior to coming to Illinois? I've deleted all of those, too. There is no good reason to have deleted those text messages unless she's trying to hide the extortion.

The State wants you to ignore the extortion by saying that Marcos was just mad and couldn't kill Pablo, so therefore, he decided to get some money out of him. But that is a ridiculous argument. Marcos explained to you that he had already learned that M.C. was receiving money from Pablo and had in fact gotten money from him earlier that day.

So after putting the pieces together, remembering how much M.C. has been talking to Pablo while on the trip, he confronts her. And as an adult, because he was an adult while she was a teenager, he recognized that this relationship that they had where they spoke and how they spoke to each other was inappropriate. And he decided to take advantage of the situation. And that is why M.C. deleted those texts, so that no one would know about them. And it is only after meeting with district attorneys afterwards that

they ever admit they happened because they had to. They had to because those texts still existed on Pablo's phone.

When you go back to the jury room, I want you to look for jury instructions number eight and number five. Jury instruction number eight talks to you about credibility. It tells you that if you, in hearing the testimony from someone, decide that you have a reason to doubt their credibility, to not believe something that they've told you, that you can disregard it. And that's important here because M.C. has given you reason after reason to doubt her testimony in its entirety.

The State showed you -- I can't remember which instruction number it is right now -- but the State showed you the instruction that tells you you can rely on the word of the victim alone, even if uncorroborated, as long as you believe her beyond a reasonable doubt. But members of the jury, you can't believe her beyond a reasonable doubt, with or without corroboration, because her story keeps changing.

In addition to M.C.'s inconsistencies and motivations to lie, you should also consider the multiple opportunities she had to raise these accusations earlier if they were true. She lived with her mom, claimed that this happened in her mom's house, claimed it happened in the same room as her mom slept at one time, and that makes no sense in and of itself. But she also told you she distrusted her mom, was close to her mom. Yes, she was a teenager, so maybe didn't talk to her mom about everything, but

she still spent time alone with her mom.

She spent time alone with her grandma. They went and visited the grandma without Pablo. So it's not like he was lurking over her shoulder all of the time to make sure she didn't tell anybody or to make sure she was scared of him. She never told her mom. She never told her grandma. She went to school and she never told a teacher or a counselor. She had friends, and the only one she told was her best friend, Allena, who never reported it. She never told any of her friend's parents, family members, nothing until she saw her brother and her brother put the pieces together and decided to put this plan of theirs into action.

The State needs you -- the State needed to prove to you that Pablo was guilty of each individual charge beyond a reasonable doubt. They needed to convince each of you individually that he's guilty beyond a reasonable doubt. And if they haven't proven it to you, then you must find Pablo not guilty.

And when you look at this case, you know exactly what it is. It is about a deeply flawed accusation made by people who were motivated to lie, to get money and benefit, to their own benefit, to get Pablo out of the house and to get his money. And about a simple man who told the police what he thought they wanted to hear, which is why we ask you hold the State to their burden and find Pablo not guilty. Thank you.

THE COURT: Thank you.

Ladies and gentlemen, because the State bears the

burden of proof in a criminal case, they get to close arguments.

State.

REBUTTAL CLOSING ARGUMENT BY THE STATE

MR. ALLMON: Okay. Common sense. Common sense. Common sense. Common sense, right? That's what this case is about. Get him out of the house and get his money. If that's the case, he's in the house, the money comes in. He's a roommate, right? That's how the money comes in. He's paying rent to the mom. The mom does need him, right? That's why she's not telling her mom. That's why she's not telling her mom because her mom let this evil in, right? Her mom, God bless her, but she let the evil in, right?

MS. GASTON: Your Honor, can we approach?

THE COURT: Sure.

[Bench conference begins at 5:20 p.m.]

MR. LOPEZ-NEGRETE: Evil was a disparaging remark, a personal attack against the Defendant, so we're asking to strike, asking for a mistrial.

THE COURT: You're asking what? I'm sorry.

MR. LOPEZ-NEGRETE: Asking for a mistrial or asking to strike.

MR. ALLMON: Asking to strike is fine.

THE COURT: Okay. I'm going to strike that. It's improper to make those [indiscernible] --

MR. ALLMON: I apologize.

THE COURT: -- attacks on the defendant.

[Bench conference ends at 5:21 p.m.]

THE COURT: Ladies and gentlemen, you're ordered to strike statements.

MR. ALLMON: I apologize for my last statement.

THE COURT: I'm sorry. You're ordered to disregard the statements. The statements will be struck from the record.

MR. ALLMON: Just the last statement is what we're talking about. Thank you, Your Honor. Apologies for that.

Make no mistake, the mother unfortunately, let the sexual assaulter in, the man who sexually assaulted her, committed lewd acts upon her. It's hard for the victim to tell her mom that, to go to her and say this man you let in is doing this, especially when she knows that her mom needs the financial assistance. That's why the disclosure takes so long.

It doesn't make any sense that she would make up a scheme to get him out of the house because when he's in the house, there's money coming in. He's giving her stuff. He's buying her a computer. He's buying her shoes, right? That's all continuing the abuse right there. That's keeping her in his orbit at the time. Buying her the gifts, right?

So you know, she says at one point that it was not directly for sex, right? It's not like a prostitution thing. And then later she says, well, you know, the gifts are about the sex. Yes, of course they are, right? They're all the gifts that keep her in his orbit.

Look at those text messages. Look what he's trying to do all the time. He's trying to keep her in his orbit every time that she's pushing away, right? It is a guilt. It's a push. It's I love you. Go ahead and forget about me. Hey, remember all the good things that I did for you, right? Every time, that's what he's doing.

Common sense. Common sense says if this is about finances, if this is about a scheme that defraud someone, you keep them in the house. You keep them in the house, and you stretch it along. You keep hitting them up, you keep asking for more money, right? The money was coming in just fine. In fact, again, that's why she doesn't disclose for a long time. She doesn't tell her mom.

But what she does do is she tests the waters, right? She tells a friend first, and that discloses just a little bit. Just a little bit. She mentions some kind of sexual act, not the details, not that he's putting his penis in my vagina, that he's putting his mouth on my clitoris. Not like she testified here, right? But she just says something's happening. And in that conversation, Allena understood that to be sexual because of some of the stuff that was said, right? It wasn't down to the details of thrusting, inserting, all that stuff, but it was enough. She understood that there was something going on.

She didn't report it. Okay. She's also a 13-year-old girl, right? You're asking 13-year-old girls -- the Defense is asking 13-year-old girls to navigate a difficult world, a world that we hope nobody has to endure. And somehow, we're going to go back.

We're going to ask them to endure a world that nobody has to endure, nobody should endure, and we're going to question the way that they endure that. That's no different than questioning a veteran in the way they handle their trauma. That's no different.

MS. GASTON: Your Honor, can we approach?

THE COURT: Sure.

[Bench conference begins at 5:24 p.m.]

MS. GASTON: That's an improper argument being used to inflame the passions of the jury.

MR. ALLMON: I disagree. They raised the issue of her disclosure, and the State is arguing that how she relays her trauma is not up to the expectations of Defense counsel. They've laid out a plan in which they think that she should portray her trauma, and I'm saying that there's no specific way to do it, which is exactly right.

MR. LOPEZ-NEGRETE: The State is explicitly arguing that we're disrespecting veterans -- service members.

MR. KEACH: I never said that.

MR. LOPEZ-NEGRETE: That's exactly what you're saying.

THE COURT: Okay. State's allowed to make an argument in their rebuttal. I know that I admonished you to refrain from trying to appeal to sympathies. I'm going to admonish you to refrain from appealing to sympathies or passions or making just unnecessary emotionally-induced arguments.

MR. KEACH: Your Honor, just to clarify that, this is an

emotional case. Mr. Allmon is going to get emotional.

THE COURT: I understand, but what has already been said and has already been spoke was the statement that the Defendant is evil.

MR. ALLMON: And I agree. I went too far.

THE COURT: So I want you to be really careful --

MR. ALLMON: Yeah.

THE COURT: -- in walking the line and you're not trying to appeal to the passions because that would be improper.

MR. KEACH: Agreed.

MR. ALLMON: I'm not doing that.

THE COURT: Okay. So I'm going to overrule the objection as objected to based on this line of argument. I believe that's a proper argument; however, I will just keep my admonishment in mind.

MR. ALLMON: Thank you.

[Bench conference ends at 5:26 p.m.]

THE COURT: Counsel, approach.

[Bench conference begins at 5:26 p.m.]

THE COURT: I'm going to take a break. A juror needs to use the restroom.

MR. ALLMON: Okay.

[Bench conference ends at 5:26 p.m.]

THE COURT: All right. Ladies and gentlemen, we are going to take a break at this point. We'll take a 15-minute break.

We've been going at this for a little while, so I understand we need a break.

So I'm going to give you the quick admonishment. During this break, you must not discuss or communicate with anyone including fellow jurors in any way regarding the case or its merits, either by voice, phone, email, text, internet, or other means of communication or social media; read, watch, or listen to any news or media accounts or commentary about the case; do any research such as consult dictionaries, using the internet, or using reference materials to make any investigation; test the theory of the case, recreate any aspects of the case or in any other way, investigate or learn about the case on your own; or form or express any opinion until the case is submitted to you.

We'll see you back in 15 minutes. Thank you.

THE MARSHAL: All rise for the jury.

[Jury exits at 5:27 p.m.]

THE COURT: All right. We're outside the presence of the jury. We will take -- let's be back in 10 minutes, please.

MR. ALLMON: Thank you.

MS. GASTON: Thank you, Your Honor.

[Recess taken from 5:27 p.m. to 5:37 p.m.]

[Jury enters at 5:38 p.m.]

THE MARSHAL: Jury is present and accounted for, Judge.

THE COURT: Thank you.

Still on the record in State of Nevada versus Pablo Cesar Liera-Perez.

Counsel, will you stipulate to the members of the jury being present?

MS. GASTON: Yes, Your Honor.

THE COURT: State?

MR. ALLMON: Thank you, Your Honor.

THE COURT: Will you stipulate to the presence of the jury?

MR. ALLMON: Sorry. Yes, Your Honor. Apologies.

THE COURT: All right. Go ahead.

MR. ALLMON: All right. We're talking about the disclosure. She kind of puts her foot in the water with a friend. She doesn't tell her mom. We've explained all the reasons why she doesn't tell her mom, but when she gets to Illinois, that's the moment when she's away from the abuse. She's away. She's safe. She kind of gets a sense of herself outside of the abuse that she's been suffering, and then because of that, because she's away, she keeps delaying the trip back. She doesn't want to go back. He keeps asking her about it, right?

And so there was questions about whether or not she was ignoring him or not. She's replying sometimes. Yes, she is. She's ignoring other times. That's not an inaccurate statement for her to say that she was ignoring him a lot. That's true. Okay. You've got those text messages. He is bothering her a lot, asking her, sending

her loving messages, and a lot of those, she's not replying to.

She's in Illinois. She's in a safe spot, and then she makes the actual disclosure that sets the whole thing in motion, right? She tells her sister-in-law. She tells her brother. Then she was asked questions about the disclosure to her brother and how her sister-in-law wasn't there. She does mention her sister-in-law. She says we were all around the table, right? And she was asked, tell us about your discussion with your brother, and she's talking about her discussion with her brother. And at that point, her sister-in-law is in and out. That's exactly what she said. It's exactly consistent with what the disclosure witnesses told you.

That makes perfect sense that she wouldn't tell her mom. She puts her foot in the water with her friend, and then she finally makes a disclosure when she's safe. That makes perfect sense. Then look at what she does when she gets home. She doesn't want to go back. Defense said, well, Pablo's not even there. You're right, but the place is still there. The place where the abuse happened.

Exhibit 6, the place is still there. That couch, that couch where she took the abuse, that rug where he moved her down, moved her down onto a tiled floor and sexually assaulted her on a simple kitchen rug. That's still there. She has to walk over that rug. She has to sit on that couch. She has to see her grandma sitting there looking at that couch where she was abused. You can see her grandma in this photo, who you saw here testifying. She doesn't want to go back there.

Let's go through what was said in the closing from the Defense. Look closer at the statement. Look closer at what she said, right? And so what you have, you have statements that match up again and again and again. You have the abuse happened a year and a half ago -- a year, a year and a half ago, right? It's over a year. We know that she's -- so she has to be 12, going onto 13. Okay. It stops because she leaves. It happens on the couch. It happens on the floor. That same couch and that same floor. It happens at the work sites. He mentions that in his statement. It happens in the work sites, okay?

The text messages, the text messages paint a picture of a man who is in a relationship with a teenager girl. The child's sexual abuse material photo, that's on his phone. That's a photo the Defendant kept because he had a sexual attraction to her, a sexual attraction to a child under 14. He took the picture. It's in that house. There's only three people live in that house. It's on his phone, and it's deleted, okay? You want to attack the victim about whether or not the messages were deleted. The Defendant deleted a bunch of text messages, a bunch of them, and so he gets the call, then he gets the text message the night before. The genie is about to be out of the bottle, and then the messages are deleted before he meets with law enforcement. The CSAM photo, that child sexual abuse material photo. Sometimes we refer to --

MS. GASTON: Your Honor, can we approach?

THE COURT: Yes.

[Bench conference begins at 5:44 p.m.]

MS. GASTON: Your Honor, this argument that the State is now making misstates the evidence. There's been no testimony that those -- when those messages -- when those messages or the picture were deleted. So to argue that it happened after the text messages by M.C. is not in evidence and is not just an argument. That is misstating the evidence because the detective said he couldn't tell us when the things were deleted.

MR. ALLMON: It's an argument.

THE COURT: The photo?

MS. GASTON: No, the photo or the text messages. He never testified to either of those.

MR. ALLMON: And I've laid out a timeline in which he has the opportunity, and that's what I'm saying. He had the opportunity to delete those at that time. They are deleted before law enforcement gets it, and I point out the fact that he has the opportunity to delete those messages --

THE COURT: Text message or photos or both?

MR. ALLMON: Text messages and photos. They were deleted. The detective testified the photo had been deleted from the phone, and that the text messages, many of them were gray and a red "X" were deleted messages but the user would no longer see.

THE COURT: Okay. Was it not the Court's ruling that -- remind me if I'm wrong -- specifically, let's talk about both of them,

but one at a time. The photo, you couldn't say who had deleted the photo.

MR. ALLMON: Not in the testimony, but we're in argument, Your Honor. This is just like a cell phone, right, and the CDR records. In testimony, nonstop. You never saw the Defendant's phone. You never say that because if we do, that's objectional. It's always the device moved. The device moved here, the device is located here, but then in closing, clearly, we get to say the Defendant's phone was here. That means the Defendant was here.

MR. KEACH: The circumstantial evidence supports it because if you look at everything else that was admissible, we can now make the argument to connect the dots that circumstantially, it would be the Defendant who deleted these photos and it had to be the Defendant who deleted messages. That's the argument. It's fair, fertile ground for attorney argument to make the argument that circumstantially, he's the one who had to have deleted these messages and he's the one who had to delete the [indiscernible] because he had the motive, he had the opportunity, and he's the only one with the possession of it.

The argument that he's making goes to weight, not admissibility. There's already been the evidence laid that the messages were deleted.

THE COURT: Argument is argument.

MR. ALLMON: Right. And all I'm going to say is he had

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the opportunity because the night before --

THE COURT: I think you may have said with the photo at least that he deleted it.

MR. ALLMON: And he did delete it. That is my argument at this point. Just like my argument would be with a CDR, that when we testify, it's the device moved, but then in argument, in closing argument it's the phone is here because the Defendant was here.

MS. GASTON: I guess I just want to clarify. I'm not -- that's not what I'm objecting to. I'm objecting to the argument of when the messages and the photo were deleted. There was zero evidence by the detective that he could say when those things happened. So it's not just argument that the State gets to make now that the evidence shows those messages were deleted before he got interviewed by the police.

MR. ALLMON: No, that is actually what was testified to.

MS. GASTON: No.

MR. ALLMON: The message -- the messages were deleted before he was interviewed by police because they took phone off of him, so they had to have been deleted. That was testified to.

MR. LOPEZ-NEGRETE: Not in anticipation of being arrested. That was the statement made to the jury.

MR. ALLMON: No, I never did. So he had the opportunity to delete those messages when they came in. That's fair for

argument at this point.

THE COURT: He can argue based on the evidence that was elicited. I think it's a fair argument. I would ask you not to say that we know he deleted it because that wasn't the testimony.

MR. ALLMON: I can say the evidence shows.

THE COURT: Okay. Yeah, you can certainly say the evidence shows.

MR. ALLMON: Thank you.

THE COURT: Okay. It's overruled.

MS. GASTON: Thank you, Your Honor.

[Bench conference ends at 5:48 p.m.]

MR. ALLMON: Okay. The evidence showed that the Defendant deleted the CSAM photo. The evidence showed deleted -- Defendant deleted the text messages. Okay. The photo was taken with the device and deleted. He had possession of the phone. It's password protected. He gave the password. That's the only way the detectives got in the phone. He had control of that phone, and those were deleted. The evidence shows that he's the one who deleted it because those are damning, because they show exactly what the State is arguing, that the Defendant had a sexual interest in this child.

He had a sexual interest in this child because of the text message. You can tell that from the nature of the text messages, asking about her menstruation cycle, right? That's more than just whether or not he has sexual interest, too. That's something that

someone that's having sex with the child is concerned about. Someone who's having sex with the child is concerned about her menstruation cycle.

Whatever he said about whether or not he can have kids or not, he's asked, never been diagnosed. Just a theory of his essentially, right? But he keeps asking about her menstruation cycle in part because he wants to make sure he can have sex with her, but even when she's away, he keeps asking about her menstruation cycle.

And then a follow-up message, you didn't do anything bad, did you? Like a jealous boyfriend. A man in his 40s, jealous of what a young girl who is 13 years old is doing. Why? Because he's sexually abusing her. Because he -- that is who he is having sex with. It's the only person he's having sex with. That's what he told the detective. It's the only person he's having sex with.

Okay. The victim's testimony, again, we're asking -- she's still a young woman. She just made it to being a young woman. She's 18 years old today. She's 18 years old, and she was sexually abused when she was 12 and 13. She walked up into the witness stand, and she stood and she told you the abuse that she suffered.

MS. GASTON: Your Honor, can we approach?

THE COURT: Yes.

[Bench conference begins at 5:50 p.m.]

MS. GASTON: Your Honor, this is inappropriate witness vouching.

THE COURT: Okay.

MR. ALLMON: How so?

MR. LOPEZ-NEGRETE: He's putting himself literally in the place of the victim where she testified from. That's vouching and it's repeating everything that we've been objecting to throughout the trial.

THE COURT: I don't find that that's vouching for the credibility of the victim. He is arguing. You're allowed to argue. Objection overruled.

MR. KEACH: Thank you, Judge.

MR. ALLMON: Thank you, Judge.

MS. GASTON: Thanks, Your Honor.

[Bench conference ends at 5:51 p.m.]

MR. ALLMON: Again, she walked up here. She sat in the witness stand. She told you what happened to her. She sat here. She endured the cross-examination for hours. She didn't have to do that. If this was all made up, she wouldn't be here. She wouldn't keep going on with this.

MS. GASTON: Your Honor, we raise our previous objection.

THE COURT: Okay. Approach, please.

[Bench conference begins at 5:51 p.m.]

THE COURT: Okay. Go ahead. Your objection.

MS. GASTON: Inappropriate vouching.

THE COURT: Okay.

MR. ALLMON: How so?

THE COURT: Okay. What was your last sentence?

MR. ALLMON: I said if this was made up, she wouldn't be here.

THE COURT: You're walking the line of vouching. So I'm going to sustain the objection, and I'm going to remind the jury that argument is not evidence.

MS. GASTON: Your Honor, we'd ask for a mistrial based on those comments by the District Attorney.

THE COURT: Motion for mistrial is denied.

MS. GASTON: We'd ask the jury be admonished to ignore those statements.

THE COURT: I'm going to admonish the jury that arguments of counsel are not evidence, okay?

MS. GASTON: Thank you.

[Bench conference ends at 5:52 p.m.]

THE COURT: At this point, I'm just going to admonish the jury that arguments of counsel are not evidence.

Go ahead, Mr. Allmon.

MR. ALLMON: Thank you, Your Honor.

We talked about -- if I could get the WePresent.

So the confession the Defendant gave:

[Video playing.]

MR. ALLMON: The explanation is beginning. The Defendant is putting his best foot forward at this time. Okay. She

doesn't look like she's younger. She looks older. She acts older. It was consensual. And then just less than five minutes in.

[Video playing.]

MR. ALLMON: Detective Skinner gave him an out. If he was just telling her what she wanted to hear, there's the out right there. So tell me exactly what, quote, it happens means. Does that mean you're having sex? Does that mean you're kissing and you're holding hands? You're going on dates? What does that mean? He could have just said holding hands. Yeah, it's gross. I got it. He said sex because that's what's happening. That's what's real.

This was just never supposed to get out. M.C. was just supposed to go along with the abuse and never tell anyone. And as long as that happened, nothing would happen to the Defendant. But if it did, bad things would happen to the Defendant. He tells the detectives he knows that if she ever tells anyone, bad things are going to happen to me, and it got out. Now it's out, and he knows it. And so he has got to come clean, but he's got to put his best foot forward. He's got to be the hero of his own story.

And so she doesn't look -- so she doesn't look so young. She acts older. It was consensual. A bunch of things that don't make him look as bad, right?

What else? There's not going to be any photos. There's not going to be photos because having a photo of her, that doesn't look great. A photo -- especially a photo of her when she's sleeping, a photo that's not consensual at all. Even if you take