

1 practice.

2 THE COURT: Oh, absolutely.

3 MR. CRONHEIM: Okay. Good. Thank you. Excellent.

4 [End bench conference].

5 Pause in proceedings - waiting for witness].

6 THE COURT: Good morning, sir. Just remain
7 standing for a moment, and face Mr. Brown.

8 ^ JOSHUA BORTNER CONLEY

9 was called as a witness, and having been first duly sworn
10 on oath, was examined and testified as follows:

11 DIRECT EXAMINATION [By Mr. Brown]:

12 Q Have a seat.

13 THE COURT: Pull your chair right in. If the
14 jurors can't hear you, they'll let me know. I'm positive
15 of that.

16 THE WITNESS: Okay.

17 THE COURT: Mr. Brown.

18 [By Mr. Brown]:

19 Q Can you tell us your name, please?

20 A Josh -- Joshua Bortner Conley.

21 Q Is Amanda Bortner your sister?

22 A Uh-huh.

23 THE COURT: You have to say yes or no, because
24 we're recording.

1 THE WITNESS: Yes.

2 THE COURT: Thank you.

3 THE WITNESS: Yes, sir.

4 [By Mr. Brown]:

5 Q Josh, where do you live right now?

6 A I live in Buckfield, Maine.

7 Q Who do you live with?

8 A My mom and my stepdad.

9 Q How old are you?

10 A Seven -- sixteen right now, but I'll be seventeen
11 soon.

12 Q You're going to be seventeen soon?

13 A Uh-huh.

14 THE COURT: You have to say yes or no.

15 THE WITNESS: Yes.

16 THE COURT: Thanks. That's okay. I'll remind you.

17 [By Mr. Brown]:

18 Q Are you in school?

19 A Yes, I am.

20 Q What grade are you in right now?

21 A Eleventh.

22 Q Besides Amanda, can you just tell us who are your
23 other brothers and sisters?

24 A Chuck Bortner, Jen Bortner, and Scott Conley.

1 Q And Chuck, how old is he?

2 A He's twenty-four.

3 Q And you said Jennifer Bortner? Does she also go by
4 Conley?

5 A Yeah, Bortner Conley.

6 Q And you have a younger brother, Scott?

7 A Uh-huh. Yes.

8 Q How old is Scott?

9 A He's eight.

10 Q He's eight years old?

11 A Uh-huh.

12 Q How much older than you is Amanda?

13 A Three years.

14 Q And have you -- since you were a child, have you
15 lived -- have you lived with Amanda throughout your
16 younger years?

17 A Yes, I have.

18 Q At some point, did Amanda have a baby?

19 A Yes, she did.

20 Q How old was Amanda when that happened?

21 A Around sixteen.

22 Q After -- and the baby was who?

23 A It's what?

24 Q Was it Cassidy?

1 A Yes.

2 Q And did Kassidy ever live with you?

3 A Yes, she did.

4 Q Can you tell us what periods of time Kassidy lived
5 with you?

6 A Like when she was first was born, she lived with
7 us for a while. Then she moved out into an
8 apartment. Then she moved back, and my sister
9 dropped her off on us for some reason, because she
10 couldn't handle her, or something like that.

11 Q All right. So Kassidy ---

12 A Yeah, we got Kassidy back.

13 Q All right. How long was it that Kassidy lived with
14 you and your mother?

15 A Like a couple of months, or more.

16 Q What happened then?

17 A Then Mandy came back and says she wants to be a
18 good mother, or something like that.

19 Q Okay. Did they -- did Amanda and Kassidy then live
20 with you?

21 A Uh-huh.

22 THE COURT: You have to say ---

23 THE WITNESS: Yes.

24 THE COURT: Thanks.

1 [By Mr. Brown]:

2 Q And was there another point where Amanda moved out?

3 A Yes.

4 Q And what happened then?

5 A She moved out with Chad, and she took Kassidy with
6 her to Rochester.

7 Q I want to ask you about your interaction with
8 Kassidy when she lived with you. Would you
9 describe for us Kassidy when she was younger?

10 A She was basically just a normal baby. You know,
11 she's like happy and stuff, and she like, you know,
12 just started talking and stuff the last time I saw
13 her.

14 Q When you -- when she lived with you, did you ever
15 care for her?

16 A Yes, I did.

17 Q Can you explain that?

18 A I used to baby-sit her a lot. Yeah, basically
19 that.

20 Q How did Kassidy interact with you?

21 A She liked me.

22 Q Did you have any concerns about Kassidy, about her
23 development, or anything about her?

24 A She was perfect before she went down with Mandy,

1 so ---

2 Q Did she have any problems with having accidents or
3 bruising?

4 A No, she didn't.

5 Q Do you know Jennifer -- your sister Jennifer's
6 boyfriend?

7 A Yes, I do.

8 Q And who is that?

9 A Jeffe Marshall.

10 Q When did you meet Jeffe?

11 A When she started going out with him.

12 Q And where would you see Jeffe?

13 A When he came to my house with Jen and stuff.

14 Q Did you ever see Jeffe Marshall interact with
15 Kassidy?

16 A Yes, I did.

17 Q What did you see?

18 A They were actually really nice to each other and
19 stuff, you know, he used to bring her stuff and
20 stuff like that, you know, like presents or
21 something. You know, she liked -- she actually
22 liked him a lot.

23 Q How did he -- how did he appear to interact with
24 her?

1 A He was really good to her.

2 Q And you said you saw Jeffe how frequently?

3 A Like a couple times a month, I guess.

4 Q All right. You mentioned that Amanda and Kassidy
5 moved in with Chad Evans?

6 A Yes.

7 Q How many times did you see Kassidy after they began
8 that relationship?

9 A Like just a couple times.

10 Q Did you ever see Kassidy at your home in Buckfield?

11 A Yes.

12 Q When was that?

13 A When she brought her there.

14 Q When you say ---

15 A When she ---

16 Q When you say "she," what do you mean?

17 A When Mandy brought her there with one of her
18 friends to pick up money to buy Chad a birthday
19 present.

20 Q Who was home at the time?

21 A Just me and my brother.

22 Q Would that be ---

23 A Scott.

24 Q -- Scott? All right. Did you know that Amanda was

1 coming?

2 A Yeah, she called first.

3 Q Do you know if it was a weekend or a weekday?

4 A It was a weekday.

5 Q Was it morning or afternoon?

6 A It was around afternoon.

7 Q Did you see Kassidy that day?

8 A Yes, I did.

9 Q What did you notice about Kassidy?

10 A She had bruises on her face like around her chin
11 area.

12 Q And you describe, in detail, exactly where the
13 bruises were that you saw?

14 A Yeah, they were like brownish bruises, just like
15 kind of close down to her neck, around her chin.
16 Like around the front part and the sides.

17 Q One side of the face, or both sides?

18 A Both sides.

19 Q What color were these bruises?

20 A Brownish. Dark brownish color.

21 Q How noticeable were they?

22 A They were really noticeable.

23 Q Could you tell how new or old they were?

24 A No, I couldn't, but they looked kind of new,

1 because, you know, they're still kind of dark, so I
2 guess they were new.

3 Q How quickly did you observe them?

4 A Right away.

5 Q What did you do when you saw them?

6 A I asked her what the heck was going on, you know.

7 Q You're asking Amanda that?

8 A Amanda, yeah.

9 Q What was her answer?

10 A She came out with some excuse or something that
11 Chad caught Kassidy when she fell off the
12 trampoline or something, by her face. That's what
13 she said.

14 Q How was Kassidy behaving that day?

15 A She was happy to see us, me and Scott.

16 Q How do you know that?

17 A Because she was like saying our names and stuff.
18 And she's like, give us a hug and stuff like that,
19 you know.

20 Q Did her mood ever change that -- that afternoon?

21 A Yeah, when she left.

22 Q Why?

23 A She didn't -- she didn't want to leave?

24 Q Why do you say that?

1 A Because she didn't really want to leave Buckfield,
2 you know, where we lived, because ---

3 Q Well, what did you see that day that makes you say
4 that?

5 A Because she was crying a lot and stuff before she
6 left.

7 Q Where was your mother that day?

8 A She went with my dad, truck driving.

9 Q Do you recall when she came home next?

10 A Yeah, the next day.

11 Q What did you -- what did you tell your mother that
12 day?

13 A I told her right away about the bruises on
14 Cassidy's face.

15 Q What did you see your mother do?

16 A She called Chad -- Chad's house and talked to him.

17 Q How soon after you told her about what you saw?

18 A Within five minutes.

19 MR. BROWN: May I have a moment?

20 THE COURT: Sure.

21 [Pause in proceedings].

22 MR. BROWN: Thanks, Josh. I have no other
23 questions.

24 THE COURT: Mr. Cronheim?

1 ^ CROSS-EXAMINATION [By Mr. Cronheim]:

2 Q Josh, we've not met; my name's Alan Cronheim. My
3 understanding is that you last saw Kassidy the
4 middle of October, correct, of 2000?

5 A No, not middle of October, the end of September.

6 Q Okay. Let's get this clarified. Amanda was up to
7 try to get some money to buy a present for Chad's
8 birthday?

9 A Yes, she was.

10 Q Chad's birthday is October 15th?

11 A Yes. She came up in September to get the money.

12 Q Have you ever told anybody that she definitely came
13 up in September?

14 A Yes.

15 Q And who was that?

16 A Mom. My mom knew about it.

17 Q Did you ever tell the attorney general's office
18 that she definitely came up in September?

19 A Yes, I did.

20 MR. CRONHEIM: May we approach?

21 THE COURT: Sure.

22 [The following is a discussion at the bench].

23 MR. CRONHEIM: We don't have a police report on
24 this witness, but we have a letter and oral representation

1 from the State that he has never said that it was
2 definitely in September, that it could have been in
3 October because of Chad's birthday. So we're sort of in a
4 parallel circumstance as with the prior witness.

5 THE COURT: Let me see the letter.

6 MR. CRONHEIM: What's that?

7 THE COURT: Let me see the letter. What does the
8 letter say?

9 MR. DELKER: I don't have it in the file. Do you
10 have it handy? I have to go back in the conference room.

11 MR. CRONHEIM: See, I don't know that the letter is
12 what references the date. I do have it in my file, and I
13 can get it, but there was an oral representation from the
14 State. I think Will and I had might have spoken this
15 morning.

16 MR. DELKER: Yeah. Well, I wasn't at the whole
17 meeting with Josh. I'd stepped out to tell Mr. Cronheim
18 about that he was going to testify, just give him a
19 general overview. And I said that he said it was
20 September, but then it was -- I think I said he wasn't
21 sure if it was September or October, and that what he
22 remembered was that Amanda came up to get -- Amanda came
23 up to get money for Chad's birthday.

24 THE COURT: When -- when is this meeting?

1 MR. DELKER: Just this morning, like an hour before
2 court.

3 THE COURT: You didn't have a chance to talk to
4 him, right?

5 MR. CRONHEIM: No.

6 THE COURT: Okay.

7 MR. CRONHEIM: He was not an announced witness for
8 today. We agreed that we would give witnesses the day
9 before, and I agreed not to object, because he's come
10 down.

11 THE COURT: Okay.

12 MR. CRONHEIM: But he was not one of the listed
13 witnesses from yesterday.

14 THE COURT: Okay. You can just ask him on cross:
15 Did you tell the attorney general this morning that it
16 could have been October? And if he says no, just stop at
17 his answer.

18 MR. CRONHEIM: All right.

19 THE COURT: Okay.

20 [End bench conference].

21 [By Mr. Cronheim]:

22 Q Josh, you had an opportunity to meet with the
23 representatives or the prosecutors this morning,
24 did you not?

- 1 A Yes, I -- yes, I did.
- 2 Q Okay. And you talked with them about the day that
3 Amanda came up to Buckfield?
- 4 A Yes.
- 5 Q And you told them, did you not, that it was
6 September or October, is that correct?
- 7 A Yes.
- 8 Q Okay. And this was in connection with Chad's
9 birthday?
- 10 A Yes, that's what she said.
- 11 Q And when you saw Kassidy that day, you noticed
12 bruising?
- 13 A Yes.
- 14 Q But she was happy, correct?
- 15 A Happy to see us, yes.
- 16 Q She was happy to see you. She was full of life?
- 17 A Not full of life.
- 18 Q She was happy to see you. She was active with you,
19 talking with you, was she not?
- 20 A Yes.
- 21 Q And the visit was for how long?
- 22 A For about probably under an hour.
- 23 Q Half hour to an hour time period?
- 24 A Yes.

1 Q She was walking around?

2 A Mandy was holding her mostly the whole time, so she
3 wasn't really walking around.

4 Q She was on the ground and walking ---

5 A Yes, she was.

6 Q You have had a chance to speak with the prosecutors
7 before, have you not?

8 A Yes, I have.

9 Q You never told them, other than the bruises, that
10 she had any other physical problems?

11 A No, I never noticed any.

12 Q Okay. So she was walking around okay?

13 A Yes.

14 Q You had a half hour to an hour observation of her,
15 and the only thing that you saw that was physically
16 wrong with her were the bruises, correct?

17 A Yes.

18 Q And you said that Amanda had called before she came
19 up, correct?

20 A Yes.

21 Q And the trip that your mom took was an unexpected
22 trip, it wasn't a planned trip?

23 A Yes, I guess.

24 Q So Amanda expected to see your mother?

1 A Yes.

2 Q Okay. So it's not the case that she came up to
3 Buckfield trying to avoid your mother, in fact, she
4 was there to see her, and to see you, and to see
5 your brother?

6 A Yes.

7 Q Okay. So she wasn't hiding from you or from your
8 mom, Amanda -- excuse me -- Kassidy or her
9 condition?

10 A Yeah, I guess so.

11 Q And that when they left, Kassidy and Amanda, she
12 cried because she missed you?

13 A No, she didn't want to leave.

14 Q And are these words that she's talking to you?

15 A No, it's not, but you can tell, okay. Yeah.

16 Q So you can tell all this stuff from the
17 year-and-a-half-old baby?

18 A You can tell the way she's acting and stuff, yes,
19 you can.

20 MR. CRONHEIM: Thank you, very much.

21 THE COURT: Anything further, Mr. Brown?

22 ^ REDIRECT EXAMINATION [By Mr. Brown]:

23 Q Josh, how long have you been living in that house
24 in Buckfield before that day when Amanda came up?

1 A For like about a month.

2 Q And before Amanda came up, she called ahead of
3 time?

4 A Yes, that day.

5 Q Did you tell her, or did she ask about where your
6 mom was?

7 A She asked to talk to my mom, and she wasn't there,
8 so, I was like she's not there.

9 Q Did you tell her ---

10 A And she said -- yeah, I told her. And she said
11 that she could come up to my house to pick up a
12 check for \$100 to buy Chad a birthday present.
13 That's what she said.

14 Q So you told her that your mom wasn't home before
15 she came up?

16 A Yes, I did.

17 Q Did you tell her where your mom was?

18 A Yes.

19 Q What did you tell her?

20 A I told her she went on a truck-driving trip with my
21 dad.

22 MR. BROWN: Thank you.

23 ^ RE-CROSS-EXAMINATION [By Mr. Cronheim]:

24 Q Josh, I just want to clear up the date issue a

1 little bit more. Your mother's already testified,
2 as I think you know. She's indicated that she saw
3 Kassidy on October 1. Would you have any dispute
4 with that?

5 A No, I wouldn't.

6 Q And at that the time that Amanda and Kassidy came
7 up, where she missed the visit, was after that
8 October 1 date, would you have any dispute with
9 that?

10 A No.

11 Q So the time that you saw Kassidy was sometime in
12 October of 2000?

13 A Yes.

14 MR. CRONHEIM: Thank you.

15 THE COURT: Thank you, very much, sir. You may
16 step down. Why don't we take the morning break at this
17 time. Ladies and gentlemen, we're going to take about a
18 15-minute break. Again, please don't discuss the case
19 amongst yourselves. Don't decide the case until you've
20 heard all of the evidence. And we'll see you in 15
21 minutes. Thank you.

22 THE BAILIFF: All rise.

23 [Court recessed at 10:36:54 A.M.].

24 [Court resumed at 10:55:54 A.M.].