

Appendix A

Hereafter, the Court quotes and paraphrases the contents of the interview. (*See* State's Lodging A-6 for the complete video interview.)

Oyler: I appreciate you coming down in a timely manner. I know you have some questions for me.

Petitioner: My kids are important. What the heck is going on here?

Oyler: Well, I'm going to go into that. (Oyler verifies Petitioner's identification information.)

Before we go any further, I'm going to read you your rights. You're not under arrest at this time, I'm just going to read you your rights, and if there's anything you don't want to talk about, you don't have to talk about it. (Oyler reads Petitioner his rights. He asks if Petitioner understood.)

Petitioner Yes.

Oyler: If there's anything you don't want to talk about, you don't have to talk about it, all right. So you understand?

Petitioner: Yes.

Oyler: Having these rights in mind, do you want to talk to us? (Petitioner signs and dates the Miranda card. Oyler gives Petitioner a form about state custody of his children.) We sheltered your kids. Within 48 hours there needs to be a hearing. You will get information from the court about when that will be held.

Sounds like you've got some things going on at home. Sounds like you're doing the single dad thing. It's not easy, it's hard every step of the way.

Petitioner: I used to drive truck, but my wife wanted a divorce. I kicked her out because she was on meth. I was trying to drive trucking with the girls. I have been raising [A.R.M.] since she was 3. I have been divorced six years.

Oyler: You work full time?

Petitioner: I did. I'm going to school right now. I did have a job interview for tomorrow. I don't know what's going to happen with that. (He says that he gets child support from A.R.M.'s natural dad, but the payments are sometimes missed. He uses a babysitter when he is in school.

I don't have time for a relationship. The babysitters often want to have a relationship with me.

Oyler: Why do you think you're down here today?

Petitioner: I have no idea. All I was told is [A.R.M.] told her counselor that I beat them.

Oyler: Is that true?

Petitioner: No. I don't abuse my kids, no. I do, I whip 'em, you know I discipline my kids very sternly, but I don't *whip* them, I mean, I don't throw them up against the wall, I play with them, you know, I'm a little abrupt with them, but when they start crying, I stop doing it.

(He admits he has a language problem. He took a parenting class to address that.) Sometimes it flies right out. I am used to being on the road and talking to male truck drivers." (He does apologize to [A.R.M.] when she complains about his language.)

Oyler: We're always going to err on the side of caution with the safety of children. Do you think this is a good thing or a bad thing?

Petitioner: I think it's a bad thing, because the little girls are probably freaking out. They want their daddy. They want to be told it's going to be OK. And that makes me freak out. I love my girls to the fullest extent. I would not change being a single dad. I get the privileges of fatherhood.

(He thinks the reason A.R.M. did what she did here is because A.R.M. disobeyed him and he took away her privileges to go to band and robotics, and come straight from school.)

Oyler: Did you ever have sex with A.R.M.?

Petitioner: No.

Oyler: Why do you think she would say you did?

Petitioner: Probably because she is not getting her way. Pause. Because that is a fucking lie.

Oyler: These are serious allegations.

Tell me about the kids.

If I brought her in, would you call her a liar?

Petitioner: (Long pause.) Probably so.

Oyler: Here's the question. I'm going to cut the BS on this. I'm not here to play games with you. Straight up, if you did not do this, then why did you not deny it when you talked to her on the phone? I did deny it. What was she talking about. She was very explicit. She asked you to stop with the sex and you said you would and that you never meant to hurt her.

Petitioner: No, I said I never meant to hurt the girls.

Oyler: You never denied it once during that whole phone call.

Petitioner: Well, you can say whatever. I know you have a recorder.

Oyler: This is what I believe happened. You got put under some tough circumstances. I believe that you ended up being the only responsible person in these kids' lives that was willing stand up for them when everyone else was flaking out. You've probably done your best to raise these girls. I'm guessing you probably leaned on ARM pretty hard as far as needing her help.

(Oyler praises Petitioner for being the only person who stood up to raise the three girls and suggested that Petitioner leaned on A.R.M. for help with the younger two. Petitioner admitted that A.R.M. did most of the cooking and cleaning and did the laundry for herself and the two younger girls.

Oyler: I'm not saying that these are bad things.

She's almost playing the role of the wife and mother in the house.

Petitioner: Yes, she does a lot. I don't want her to play the role as the mother.

Oyler: It looks like from what you said, it looks like she plays the role of wife and mother. She acts older than her age, kind of like a pseudo-wife. You haven't been able to have a decent relationship because you've sacrificed for these kids, and you're a man and you need a release every now and then.

Petitioner: I got my person for release.

Oyler: Your person?

Petitioner: Yeah, I admit I do need something.

Oyler: So, you have a friend for that?

Petitioner: Yeah, when the kids aren't around. Otherwise my hand works just as well for that.

Oyler: It makes sense, whether you intend it or not, how wires can get crossed with A.R.M. And she's a cute little thing.

Petitioner: Oh yeah, I keep a [unintelligible] on her.

Oyler: I imagine she has some boys chasing after her.

Petitioner: Sad.

Oyler: So this is where we're at with it.

Petitioner: Well, I'm not... No... Guess from here on out, cause I know you guys got your things, and better talk to an attorney. I have no idea. (Interview time: 28:30.)

Oyler: (He ignores the last statement.) Let me ask you this, Guy. Like I say, you seem to be a straight shooter. What are we going to do? A.R.M. is getting a sexual assault exam, and we find your sperm inside her from Sunday night. That is what it is. It's embarrassing to talk about. Ya know. Things these come out. Ya know. We justify them; we cross some lines.

I know that's not the type of guy you want to be. I know you want to be a good dad to these kids. I know you want to raise them right. But if that is, it is what it

is, proof positive. And you know we're going to find it. (Oyler tells Petitioner that he believes sperm live up to 19 days.) They float around in there for a while.

So, you can either work with me or against me on this one.

Petitioner: Well, I don't know what to say, because, you know, it's

Oyler: Trust me, I know that a lot of people have a hard time understanding why this happens; this happens commonly; you are not a monster. I don't believe you did anything with your own kids, your own biological kids. You are not a pedophile. You have a physically mature pretty girl in your house that's you've been taking care of that's not blood, It's not incestuous. You don't have any of those taboos there, ok? Yeah, she's a little young, but other than that, is there anything wrong with it? You're not crossing any other lines, are you?

Petitioner: Yeah, that's all; [unintelligible] if you put it that way, but her age.

Oyler: Well, other than her age. We have guys in here who are having full blown sex with their biological kids.

Petitioner This has got me scared.

Oyler It's okay to be scared. It was probably going to come out, You knew that there was a fairly good chance this day would come. Once you cross the line one time, once you get into that territory you know that could always come back, and today's the day.

Oyler What are we going to do to work through this process?

Petitioner What do you mean by that?

Oyler I mean, here we are. This is not a cryptic disclosure case by a little kid, where I'm not sure if anything happened or not. A.R.M. is very bright, very articulate, she could sit down with anyone and explain anything, she's extremely believable; you did not deny having

sex with her on the confrontation call. For all practical purposes, you've admitted it. It's done, it happened. It's not a fishing expedition on my part. because the DNA evidence will be clear. It happened.

Petitioner (Very long pause.)

I don't know.

Oyler: It just is what it is.

Petitioner: I knew I was going to jail tonight anyway for something. (Long pause.)

Oyler: I'll tell you what [A.R.M.] described. I get quite a few cases where a lot of disturbing sexual stuff happened, sexual deviancies where they are doing pretty off the wall weird stuff, ok?

[A.R.M.]'s description was nothing like that. Typical encounter straight intercourse, no sodomy, no sex toys, no hard core pornography, here, straight up regular sexual intercourse. not every day, average couple of times a week, sounds like a married couple.

Petitioner: Really?

Oyler: Once you get in that territory, you kick yourself in the rear end, you feel grief, you don't want to let it happen again. "Moment of weakness, regret, cycle, then it becomes very regular. Again, I understand how it happens. She could have been very into it, really enjoy it, she wouldn't admit that to me." I don't know.

Petitioner: Well, I guess my next question is, you're not going to stop here, Detective, where do we go from here?"

Oyler: Right, we're at talking. Except we got a process and part of the process is collecting DNA evidence, and it's time consuming, because once you collect it and send it to the lab, it sits down there for months and months and months and months.

It depends on if you want to play ball or not. Do you want to work with us through this? I meant, is this

something where you want your kids back? Do you want to, you know, go easy through this process or hard through this process. Do you want to sit in jail for three months while we are waiting from DNAs to come back?" Do you know what I mean? (Video interview 39:40.)

Petitioner: Yeah, but either way no matter what goes on, I'm going to jail anyway.

Oyler: At this stage, yeah, I'm going to arrest you, I'm not going to lie to you. I'm going to arrest you. Unless you told me something that totally turned this thing around. Are you going to work with us or against us?

I am going to arrest you today. Everything was in my mind leaning that way. Unless there's something I don't know. We don't know 100% 'til you come in the door. Are you going to work with us or against us?

Petitioner: I'm going to work with you guys. But there is one little detail she left out.

Oyler: And what's that.

Petitioner: I don't know if I really want to go in that area, though.

Oyler: Well, if there's a key thing, I need to know about it. I mean, for all I know, she was coming on to you. She could be crawling into your bed at night for all I know. I heard her side of the story; I want to hear your side of the story.

Petitioner: All right, I will play ball. This is going to happen anyway.

She did it to me the first time when I was sleeping. After that I said, you need to sleep in your own room. She won't let me have a girlfriend. I have to sleep on the couch. After the first time, it happened a couple of times a month.

(Petitioner admitted to ejaculating inside A.R.M., that his last sexual encounter was the previous Sunday, that

they used the term “love-ins” to communicate when one of them wanted to have sex.”)

[A.R.M]. is using sex as a weapon,” even though I “tried to give [her]everything. Today I am here because I took away things she wanted.

Oyler and Petitioner discussed a custodian (Petitioner preferred his mother) for the two younger children. Petitioner then consented to an oral swab. When Oyler finished the swabbing, he arrested Petitioner for lewd conduct with a minor.