

FILED

1/04/2022

SEP 22 2021

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: PR 22-0001

By Tom Powers Clerk  
Deputy Clerk

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**ORIGINAL****Attorney for the Defendant**

## MONTANA SECOND JUDICIAL DISTRICT, SILVER BOW COUNTY

<p>STATE OF MONTANA,</p> <p>Plaintiff,</p> <p>v.</p> <p>AMY JAMES KADRMAS,</p> <p>Defendant.</p>	<p>Cause No.: DC-20-07</p> <p><b>AFFIDAVIT OF RECUSAL OF JUDGE FOR CAUSE WITH CERTIFICATE OF GOOD FAITH</b></p>
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Kevin E. Vainio, states:

1. I am the Attorney for the Defendant in the above-entitled matter and make this Affidavit, pursuant to §3-1-805, Montana Code Annotated, to recuse the Honorable Robert Whelan from proceeding further in this case.
2. This Affidavit is timely pursuant to §3-1-805 1(a), MCA as there is presently no trial or hearing concerning the issue of guilt or innocence of the Defendant scheduled in this matter. Therefore, this Affidavit is filed more than 30 days before the date set for hearing or trial herein.
3. As required by §3-1-805 1(b), MCA, I hereby certify this Affidavit is made and filed in good faith in that it is not made solely on rulings in the case which can be addressed in an appeal from the final judgment. Further, this Affidavit is made and filed with reasonable cause and is not made or filed with the purpose of hindering, delaying, or taking unconscionable advantage of any other party or the Court.
4. Even the appearance of impartiality may require recusal of a judge under Due Process principles. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009). Procedural irregularities and reliance on misinformation have been

held to be sufficient cause for remand to a new judge. See *State v. Webber*, 448 P.3d 1091, 2019 MT 216, ¶¶ 14, 21 (Mont. 2019) (citations omitted). A review of the facts in this case establishes that there were both procedural irregularities and reliance on misinformation warranting appointment of a new judge.

## I. PROCEDURAL IRREGULARITIES

### A. ILLEGAL VICTIM IMPACT STATEMENT AND TESTIMONY

5. §46-18-115(4)(a), MCA provides:

The court shall permit the victim to present a statement concerning the effects of the crime on the victim, the circumstances surrounding the crime, the manner in which the crime was perpetrated, and the victim's opinion regarding appropriate sentence. At the victim's option, the victim may present the statement in writing **before the sentencing hearing** or orally **under oath** at the sentencing hearing, or both. (Emphasis added).

Section 46-18-115(4)(a), MCA clearly requires all written victim impact statements to be presented “before the sentencing hearing” and oral presentations of the victim impact statement be made “under oath”.

6. H.S., mother of the alleged victim, R.S., presented her victim impact statement both in written form and orally at the sentencing hearing. As shown below, neither presentation, the written one nor the oral one, met the requirements of §46-18-115(4)(a), MCA because the written statement was not provided “**before** the sentencing hearing” and the oral presentation was not made “under oath”. As further shown below, both of these irregularities resulted in the infringement of the constitutional rights of Amy Kadrmas.

7. I was present at the sentencing hearing scheduled for 1:30 P.M. on August 18, 2021.

8. Prior to the hearing, on August 17, 2021, I received an email from Karly Kump Probation and Parole Officer advising me that “I still haven’t heard from the victim,” A copy of the email; message is attached as Exhibit 1.
9. I did not receive the Victim’s Impact Statement prior to the Sentencing of the Defendant and the written Victim Impact Statement was not filed before the 1:30 P.M. hearing.
10. I received the Victim’s Impact Statement via email at 2:07 P.M. on August 18, 2021, well after the sentencing hearing commenced. See the email and the attached Victim Impact Statement. (Exhibit 2).
11. I did not read the Victim Impact Statement until after the sentencing hearing when I checked my email.
12. Neither the Defendant nor I had an opportunity to review and respond to this document prior to the sentencing hearing.
13. Had the Victim Impact Statement been presented before the sentencing hearing, as required by §46-18-115(4)(a), MCA. I would have evaluated it before the hearing and would have been prepared to make appropriate responses to it before the hearing.
14. The Montana and United States Constitutions guarantee against depriving a person of liberty without due process of law, and these protections apply in sentencing hearings. U.S. Const. Amend. XIV, § 1; Mont. Const. art. II, § 17; *State v. Sherman*, 2017 MT 39, ¶ 12, 386 Mont. 363, 390 P.3d 158. “Due process requires that an offender be given an opportunity to explain, argue, and rebut any information, including pre-sentencing information, that may lead to a deprivation of life, liberty, or property.” *State v. Webb*, 2005 MT 5, ¶ 18, 325 Mont. 317, 106 P.3d 521; *Sherman*, ¶ 12. Montana law requires a court to provide both parties a reasonable “opportunity to be heard on any

matter relevant to the disposition . . . .” §46-18-115(1), (3), MCA. The requirement of §46-18-115(4)(a). MCA that written victim impact statements be provided before a hearing is designed to ensure that an accused have an opportunity to review the same prior to the hearing so that she can fairly address the contents of the statement. Amy was denied this due process right.

15. At the hearing, Deputy County Attorney Kelli Fivey presented H.S., mother of the alleged victim, R.S., to present victim impact-type testimony. This was accomplished by reading the late filed written victim impact statement.
16. As shown by the transcript of the August 18, 2021 hearing, attached as Exhibit 3, H.S. was not sworn by the Court prior to giving her testimony as is required under §46-18-115(4)(a), MCA.
17. As shown hereafter, many of the statements made by H.S. in her unsworn testimony were false and misleading. This was made evident by the deposition of H.S. taken on August 26, 2021 in the civil lawsuit filed by H.S. and her husband on behalf of themselves and R.S., their son.
18. As the Montana Supreme Court observed in *State v. Stock*, 2011 MT 131, ¶ 23, 361 Mont. 1, 256 P.3d 899 “[t]he elements of confrontation include physical presence of the witness, **testimony under oath**, cross-examination of the witness, and observation of the witness’s demeanor by the trier of fact.”, *citing Maryland v. Craig*, 497 U.S. 836, 845 - 846, 110 S. Ct. 3157, 3163 (1990). As having “testimony under oath” is part of the guarantee of the Confrontation clauses of the Montana and United States Constitutions (Article

II, Section 24 and 6<sup>th</sup> Amendment), Amy's fundamental rights were violated due to this irregularity.

## **B. PROSECUTORIAL CONFLICT OF INTEREST**

19. H.S. appeared at the hearing and gave testimony from the office of Samm Cox, Chief Deputy County Attorney. H.S. was assisted by Mr. Cox at the hearing, as appears from the transcript of the August 18, 2021 hearing, attached as Exhibit 3. Tr Page 4 Lines 17-23.

MS. FIVEY: Your Honor, before I make my argument, the juvenile victim's mother is linked in. She is actually present in Mr. Cox's office, and she would like to make a statement to the Court. THE COURT: Okay. MS. FIVEY: Samm, I believe you're on mute. You'll have to unmute her. Thank you.

20. I have been informed, and believe, that H.S. is the sister-in-law of Samm Cox and that Samm Cox is the uncle of the alleged victim R.S..

21. As the Chief Deputy County Attorney, Samm Cox has supervisory duties toward the other deputies in the office so that their independence might be swayed.

22. H.S. and her husband have brought a civil lawsuit on their own behalf and for their child R.S., against Amy, Butte Central Catholic High School, and the Dioceses of Helena seeking monetary damages for the events alleged in the Information in this matter.

23. The personal relationships between Mr. Cox, the Butte-Silver Bow County Attorney's office, H.S. and R.S. could adversely influence Amy's treatment by the prosecution.

## **C. BREACH OF PLEA BARGAIN AGREEMENT**

24. There was a plea agreement in this matter between Amy and the prosecutor's office that the prosecutor would recommend a suspended sentence.
25. At the hearing, Deputy County Attorney Kelli Fivey, introduced the testimony of H.S. who was appearing from the office and computer of Samm Cox, the Chief Deputy County Attorney, who is the uncle to the alleged victim R.S. and brother-in-law to H.S.. Mr. Cox not only hosted H.S., he assisted her in presenting her victim testimony. (See Exhibit 3, Tr. Page 4 Lines 17-23).
26. H.S.'s statement clearly advocated rejection of the plea bargain agreement and sentencing Amy to a "justifiable term of incarceration". Exhibit 3, Tr. Page 5. Line 18.
27. A prosecutor may not present information and aggressively solicit testimony clearly intended to undermine the plea agreement and convince the district court the bargained sentence recommendation should not be accepted. *State v. Bartosh*, 2007 MT 59 ¶19 (citing *State v. Rardon*, 2002 MT 345, ¶ 21, 313 Mont. 321, 61 P.3d 132).
28. By introducing R.S. as a witness and having her appear from the County Attorney's office, hosted by Mr. Cox, and having her testify in a manner undermining the plea agreement, it is believed that the County Attorney's office breached the plea agreement under the holdings of *Bartosh* and *Rardon* cited above.
29. A prosecutor must give more than lip service to the plea agreement. *State v. Manywhitehorses*, 2010 MT 225, ¶ 14, 358 Mont. 46, 243 P.3d 412 (citing *State v. Hill*, 2009 MT 134, ¶ 31, 350 Mont. 296, 207 P.3d 307).

30. While stating that she would abide by the plea bargain agreement, Ms. Fivey made it clear that she was regretful that the agreement had been made. Ms. Fivey stated:

And, as you heard from Ms. Stenson today, she does not agree with the plea agreement that has been entered into by the parties. But, at this point, as the Court's aware, **I'm stuck with that agreement, and I'm stuck with arguing for that agreement**, and so that is what I'm going to do today. (Emphasis added). Exhibit 3, Tr. Page 10 Lines 20-25.

31. It is Amy's position that Ms. Fivey merely provided "lip service" to the Plea Agreement.

32. Ms. Fivey stated the following at the sentencing hearing:

And what really stood out to me in this case, Your Honor, is the question of "What reason do you have for your involvement in this offense?" And her response is "I'm a bad judge of character. I'm too trusting and I need to obtain better decision making skills."

The reason I point that out to you, Judge, is that question usually invokes some remorse from a defendant or usually a defendant says, "Boy, I really screwed up." And what she says is she's a bad judge of character and too trusting, as if she should have picked another child to prey upon and maybe that child she could have trusted a little more. -Exhibit 3 Page 11 Lines 13-25.

33. Ms. Fivey emphasizes that Amy was "a bad judge of character" and was "too trusting" and ignores the fact that Amy admitted to mistakes when she stated she "need[ed] to obtain better decision-making skills". Ms. Fivey's purpose in ignoring her admission of mistakes could only be to give the Court reason to reject the plea bargain

agreement. This is what actually unfolded. Exhibit 3, Page 14 Line 16 - Page 15 Line 10.

## **II. MISINFORMATION**

34. There are several discrepancies between statements made in H.S.'s victim impact statement presented during the sentencing hearing and her testimony at her deposition on August 26, 2021. These discrepancies were significant and, combined with the procedural positions that the recusal of the judges is warranted. These misrepresentations are as follows:

### **A. THE ALLEGATIONS ARE LIMITED TO DURING AND AFTER THE NOVEMBER 8, 2019 SLEEPOVER.**

35. In Ex. 1a of the Deposition of H.S. on, Aug. 26, 2021 ("Dep. Stenson") the following Q. But there's no allegations in this case that something improper happened at any of the sleepovers before November 8, 2019, right? · A. No. Dep. Stenson Page 23 Lines 22-28 Page 28 Line 11 See Exhibit 4.

The significance of this is that H.S.'s accusation that Amy caused R.S.'s problems is improper as R.S. had these problems prior to the November 8, 2021 sleepover

### **B. PRESENTATION OF R.S. AS A CREDIBLE WITNESS**

36. H.S. based her victim impact statement on what she was told by her son R.S.. However, it was repeatedly noted by both H.S. and the mental health care providers for R.S. that R.S. was a liar. See Exhibit



5. Exhibit 9 Tr. Pages 65 Lines 19- Page 68 Line 25, Page 225 Line 11- Page 227 Line 17. Page 228- Line 20.

**C. FALSE ACCUSATION OF SEXUAL IMPROPRIETY.**

37. At the sentencing hearing H.S. made the comment that “What kind of mother sends her son’s friends text messages about being naked and available to them?”

H.S. obviously misrepresented the text message the Defendant sent to R.S. That text message read: “hey there give me a text if you come up in case, I’m walking around butt naked. LOL.” Rather than messaging that the Defendant was “available” for R.S., Defendant was requesting that R.S. call ahead of time so that she had notice and was not caught in a condition of undress in her apartment.

**D. CAUSING R.S. TO REQUIRE NICOTINE PATCHES AND GUM**

38. At the sentencing hearing H.S. stated that:

“R.S. had to be prescribed nicotine patches and gum to try to get him over the addiction that you encouraged and enabled.” Exhibit 3 Page 7 Lines 7-10.

At the Deposition, medical records were introduced to show that

R.S. was addicted to nicotine prior to the November 8<sup>th</sup> sleepover.

See Exhibit 5 & 6.

**E. CAUSING R.S. TO HAVE MAJOR PANIC ATTACKS FOR THE FIRST TIME**

39. In her statement made during the sentencing hearing, H.S.

states:

He started to have major panic attacks for the first time in his life that were so severe that he would end up in the emergency room because his heart rate was so high.  
Exhibit 3 Page 7 Lines 14-17.

This statement contradicts H.S.'s testimony at the deposition where she testified that R.S. has had prior panic attacks. See Exhibit 7. Tr Page 242 Lines 13-17.

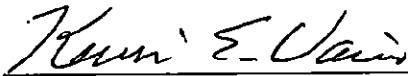
**F. CAUSING R.S. TO CUT HIMSELF**

40. At the sentencing hearing R.S. testified: "He started self-harming. On one occasion we were awakened by a police officer at our door doing a well check on our son because dispatch received a call. And, yes, he was cutting himself and has since cut himself multiple times."

This statement is false on its face, simply to the fact that H.S. and R.S. have admitted that as far back as 2017 that R.S. was self-harming himself and hearing voices. See Exhibit 8, Exhibit 10; TR Page 244- Lines 7-Page 245 Line 5; Page 261 Lines 4-13.

**I DECLARE UNDER PENALTY OF PERJURY AND UNDER THE LAWS OF THE STATE OF MONTANA THAT ALL STATEMENTS AND INFORMATION CONTAINED IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT.**

Dated this 22<sup>nd</sup> day of September 2021.

  
Kevin E. Vainio, Attorney for Defendant

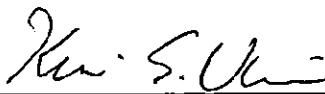
**CERTIFICATE OF SERVICE**

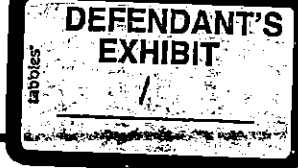
I, Kevin E. Vainio, attorney for Amy James Kadrmas, the Defendant in the above-entitled action, hereby certify that on the 22<sup>nd</sup> day of September 2021, I served the foregoing upon the following, by email a true and correct copy thereof to a representative of:

Butte-Silver Bow County Attorney  
Kelli Fivey  
155 West Granite  
Butte, Montana 59701  
[Kfivery@bsb.mt.gov](mailto:Kfivery@bsb.mt.gov)

Butte-Silver Bow District Court Judge  
Robert Whelan  
155 West Granite  
Courthouse, Room 309  
Butte, Montana 59701  
[Robert.whelan@mt.gov](mailto:Robert.whelan@mt.gov)

Anaconda-Deer Lodge County Attorney  
Ben Krakowka  
800 Main Street  
Anaconda, Montana 59711  
[bkrakowka@adlc.us](mailto:bkrakowka@adlc.us)

  
Kevin E. Vainio, Attorney for  
Defendant



**kvailaw@outlook.com**

**From:** Kump, Karley <KKump@mt.gov>  
**Sent:** Tuesday, August 17, 2021 11:44 AM  
**To:** Fivey, Kelli; kvailaw@outlook.com  
**Subject:** Kadrmas, Amy PSI  
**Attachments:** doc01661720210817113053.pdf

Kelly and Kevin,

I still haven't heard from the Victim. If I do I will forward it on to the Courts. I am e-mailing the PSI, if you need a hard copy, please let me know.

Karley Kump  
PROBATION AND PAROLE OFFICER  
BUTTE PROBATION AND PAROLE |  
Butte Veteran Treatment Court Officer | kkump@mt.gov  
Office: 406-723-8911 x 209 | Cell: 406.491.1338  
Fax: 406-723-7347  
107 East Granite, Butte, MT 59701

COR.MT.GOV

-----Original Message-----

**From:** COR-BUT-NoReply@mt.gov <COR-BUT-NoReply@mt.gov>  
**Sent:** Tuesday, August 17, 2021 11:31 AM  
**To:** Kump, Karley <KKump@mt.gov>  
**Subject:** Scanned Document BUT-P&P

-----  
TASKalfa 5053ci  
[00:17:c8:8e:67:19]  
-----

**kvailaw@outlook.com**



**From:** Kump, Karley <KKump@mt.gov>  
**Sent:** Wednesday, August 18, 2021 2:07 PM  
**To:** Kuoppala, Janet; Fivey, Kelli; kvailaw@outlook.com  
**Subject:** Kadrmas, Amy Susan PSI DC-20-7  
**Attachments:** Impact Statement.docx

Here is the Victim's statement

## **Karley Kump**

**PROBATION AND PAROLE OFFICER**

Butte Veteran Treatment Court Officer I [kkump@mt.gov](mailto:kkump@mt.gov)

Office: 406-723-8911 x 209 | Cell: 406.491.1338

Fax: 406-723-7347

107 East Granite, Butte, MT 59701



MONTANA SECOND JUDICIAL DISTRICT COURT  
SILVER BOW COUNTY

STATE OF MONTANA,

Plaintiff,

VS.

AMY JAMES KADRMAS,

Defendant.

Cause No. DC-20-07

TRANSCRIPT OF PROCEEDINGS

## Sentencing Hearing

Before the Honorable Robert J. Whelan  
Butte-Silver Bow County Courthouse  
District Court, Department No. 2  
Butte, MT

Wednesday, August 18, 2021

REPORTED BY:

Kimberly C. Carpenter

Butte-Silver Bow County Courthouse

155 West Granite Street

District Court, Department No. 2

Butte, MT 59701

(406) 497-6422

A P P E A R A N C E S

VIA ZOOM

Kelli Fivey  
Deputy County Attorney  
Butte-Silver Bow County Courthouse  
155 West Granite Street  
Butte, MT 59701

ATTORNEY FOR PLAINTIFF

VIA ZOOM

Kevin E. Vainio  
27 West Park Street  
Butte, MT 59701

ATTORNEY FOR DEFENDANT

1 Wednesday, August 18, 2021

2 \* \* \* \* \*

3 BE IT REMEMBERED THAT the following  
4 proceedings came on for hearing at the time and place and  
5 with the appearances of counsel hereinbefore noted before  
6 Kimberly C. Carpenter, an Official Court Reporter and  
7 Notary Public in and for the State of Montana.

8 The following proceedings were had with the  
9 defendant appearing via Zoom and counsel appearing via  
10 Zoom.

11 P R O C E E D I N G S

12 -oOo-

13 THE COURT: Next matter is DC-20-7, State  
14 versus Kadrmas.

15 In this matter, Kelli Fivey represents the  
16 State and Kevin Vainio represents the defendant.  
17 Mr. Vainio and the defendant are both appearing online.  
18 This is --

19 MR. VAINIO: Hello, Your Honor.

20 THE COURT: Good morning. Or good  
21 afternoon.

22 This is the time set for sentencing in this  
23 matter. Have both parties received a copy of the  
24 presentencing investigation report.

25 MS. FIVEY: Yes, Your Honor.



1 MR. VAINIO: Yes, Your Honor.

2 THE COURT: Are there any corrections from  
3 the State?

4 MS. FIVEY: Your Honor, the only correction  
5 I would have is the amount of jail time served has one  
6 day, and it should actually be two.

7 THE COURT: Okay. Any corrections on  
8 behalf of the defense, Mr. Vainio?

9 MR. VAINIO: Your Honor, we do not agree  
10 with the factual statement spelled out in the presentence  
11 report. But, nonetheless, we are prepared to enter into  
12 an admission of the fact that the defendant was guilty of  
13 Count II. And, beyond that, we disagree with what is  
14 stated in the rendition of the facts.

15 THE COURT: Okay. Ms. Fivey, what is the  
16 State's recommendation in this case?

17 MS. FIVEY: Your Honor, before I make my  
18 argument, the juvenile victim's mother is linked in. She  
19 is actually present in Mr. Cox's office, and she would  
20 like to make a statement to the Court.

21 THE COURT: Okay.

22 MS. FIVEY: Samm, I believe you're on mute.  
23 You'll have to unmute her. Thank you.

24 HEATHER STENSON: So my name is Heather  
25 Stenson, and I'm here today on behalf of my son, Ryan,

1 and our family.

2 May it please the Court to allow me to  
3 express my thoughts and my feelings today in the hope  
4 that we can leave this courtroom with some sense of peace  
5 and leave with a resolution of justice for my son.

6 From the moment you see your newborn, you  
7 celebrate the moments this child brings to your life.  
8 You remember their first words, their first steps, their  
9 first artful masterpiece, their first day of school and  
10 the magic that your child shares with the world.

11 So when the horror of the last 18 months  
12 has become so much more than you, Amy, can obviously  
13 comprehend, life has dramatically changed for our family.  
14 And, for that, there are really no words and no simple  
15 solution. I can only offer a small window into the havoc  
16 for which you are solely responsible and admonish the  
17 Court to assess the magnitude of what you have done and  
18 determine a justifiable term of incarceration based on  
19 these facts.

20 In your infinite wisdom, you did all that  
21 you could to make my son feel that he was a part of your  
22 family. My son has a family, one that loves him,  
23 protects him, guides him, pays for a good education for  
24 him, teaches him the dangers of alcohol, nicotine and  
25 drugs. We will never forget how you willfully and

1 without remorse preyed upon someone that we love so very  
2 much.

3 My son truly cared for you, your husband,  
4 and your son, his best friend. You encouraged him to be  
5 a part of your sick, twisted family. You convinced him  
6 that it was cool to smoke, drink and use marijuana. What  
7 kind of mother sends her son's friends text messages  
8 about being naked and available to them?

9 And here are some of the realities that you  
10 can be accountable for. Ryan was devastated at the loss  
11 of his best friend, you and your husband. He felt like  
12 he was a part of your family and he had let you down.  
13 Ryan quit the school band that he pretty much put  
14 together and loved. He hasn't picked up his guitar  
15 since. Friends that he once had now hated him. They  
16 either called him a liar or a narc.

17 Ryan received messages telling him that he  
18 has destroyed your family, that he made your family  
19 homeless, that his mother was a lying bitch, that Mr. K  
20 was losing his job because he was a liar, that he was a  
21 piece of shit and should just kill himself. It got so  
22 bad that our 22-year-old son, who has special needs,  
23 received messages asking if he was related to Ryan, and  
24 when he replied that he was his brother he was told that  
25 he was a piece of shit and that so was his family.

1 That's how our older son found out about what you did to  
2 his brother. That was on Christmas Eve of 2019.

3 We have had to take many days off of work  
4 to bring Ryan to doctors appointments, therapy  
5 appointments, forensic interviews. We have had to pay  
6 doctor bills, therapy bills, ambulance bills, medications  
7 and lawyer fees all because of your actions, Amy. Ryan  
8 had to be prescribed nicotine patches and gum to try to  
9 get him over the addiction that you encouraged and  
10 enabled.

11 Ryan had to transfer schools in the middle  
12 of the year for a fresh start. But living in a small  
13 town, the rumors, cruelty and comments followed him  
14 there. He started to have major panic attacks for the  
15 first time in his life that were so severe that he would  
16 end up in the emergency room because his heart rate was  
17 so high. He fell into a deep depression. He has social  
18 anxiety. Even going to family functions has become hard  
19 for him to do. He started self-harming. On one occasion  
20 we were awakened by a police officer at our door doing a  
21 well check on our son because dispatch received a call.  
22 And, yes, he was cutting himself and has since cut  
23 himself multiple times.

24 Ryan hates himself because he knows that  
25 his real family is hurting or angry and frustrated and

1 protective. Ryan started therapy the day after I found  
2 your text messages to him on my phone -- on his phone.  
3 My husband and I also had to start therapy to deal with  
4 the trauma that you have caused our family.

5 And then, lastly, addiction. Marijuana is  
6 called the gateway drug for a reason. And I am so angry  
7 that you opened that gate for him. How dare you? You  
8 had no right to take it upon yourself to not only provide  
9 my child with dangerous drugs, but you even taught him  
10 how to use the tools to smoke these drugs. This is  
11 something that you can never unteach my child.

12 And as for the impact that you've had on  
13 family members, know this, Amy. I became so fearful of  
14 losing my son to suicide that I couldn't sleep, I  
15 couldn't leave him home alone, and sometimes I felt like  
16 I couldn't even breathe at the thought of losing him.

17 Our family has been drug through the mud.  
18 The anger that I continue to feel has changed how I view  
19 the world and the people in it. That empathy that I  
20 found so easy to share is hard for me to offer these  
21 days. My trust in humanity is, in general, broken. I  
22 cannot adequately capture the level of disgust I feel  
23 when I think about how this happened. My husband and I  
24 trusted you and your husband. And I let the two of you  
25 into his life, and that is something that we will have to

1 live with for the rest of our lives.

2 We have learned so much over these last 18  
3 months. We are strong and we will withstand the dregs of  
4 society like yourself. We know who our true family and  
5 friends are, for who we are extremely grateful. If  
6 something feels off, trust your instincts. God is bigger  
7 than all of us. And perhaps the day will come where  
8 forgiveness is an option, not because you've asked for it  
9 but because after today we will walk away from this  
10 courtroom knowing that you have pled guilty and you will  
11 be held accountable. We deserve peace and we want to  
12 move on with our lives, rebuild and help our son reclaim  
13 his future. We will focus on our child who has endured  
14 your abuse. This whole nightmare is something that we  
15 will have to live with for the rest of our lives.

16 Judge Whelan, I plead with you to  
17 reconsider the State's plea agreement with Amy Kadrmas.  
18 She continues to lie, manipulate and try to deflect the  
19 magnitude of her actions. There should be consequences  
20 for her cavalier behavior that has so negatively impacted  
21 the young people that she's preyed upon.

22 Thank you so much for the opportunity to  
23 speak today on behalf of my family.

24 THE COURT: Thank you.

25 Ms. Fivey.

1 MS. FIVEY: Your Honor, in this case, the  
2 pretrial agreement is asking the Court to sentence the  
3 defendant to the Montana Department of Corrections for  
4 three years with that term suspended.

5 If this was a simple case, Your Honor, what  
6 we typically do in crafting an agreement is we look at  
7 the circumstances of the offense and the defendant's  
8 criminal history. And the defendant has one prior felony  
9 and she was given the benefit of a deferred imposition of  
10 sentence. And typically what the State does is if  
11 somebody's had a deferred in a case, especially in a drug  
12 case, you start putting the suspended on the table.

13 Initially, Judge, these negotiations were  
14 crafted with a lot of input from the Stenson family. And  
15 offering a suspended sentence wasn't any way to undermine  
16 what had happened to this juvenile victim, but it was, in  
17 large part, to try to prevent him from having to come and  
18 testify at a trial. And that was one of the things that  
19 the State really thought was important and focused on.

20 And, as you heard from Ms. Stenson today,  
21 she does not agree with the plea agreement that has been  
22 entered into by the parties. But, at this point, as the  
23 Court's aware, I'm stuck with that agreement, and I'm  
24 stuck with arguing for that agreement, and so that is  
25 what I'm going to do today.

1                   What I would like the Court to focus on,  
2 Your Honor, is the presentence investigation that we had  
3 ordered in this case. And even though the pretrial  
4 agreement was not for incarceration, the State still  
5 wanted a PSI. And because one of those things that is so  
6 helpful in this case are those questions that the  
7 defendant is asked, and we get statements from the  
8 defendant in their own words, because, as you know, the  
9 State doesn't get to talk to the defendant, the State  
10 doesn't get to hear from the defendant, we don't get to  
11 hear if that person is sorry, we don't get to hear  
12 reasons.

13                   And what really stood out to me in this  
14 case, Your Honor, is the question of "What reason do you  
15 have for your involvement in this offense?" And her  
16 response is "I'm a bad judge of character. I'm too  
17 trusting and I need to obtain better decision making  
18 skills."

19                   The reason I point that out to you, Judge,  
20 is that question usually invokes some remorse from a  
21 defendant or usually a defendant says, "Boy, I really  
22 screwed up." And what she says is she's a bad judge of  
23 character and too trusting, as if she should have picked  
24 another child to prey upon and maybe that child she could  
25 have trusted a little more.



1           Your Honor, the State is asking for a  
2     suspended sentence in this case. Like I said, these are  
3     the terms that we've agreed to, and I will stand by that.  
4     I believe that she does need supervision. I believe that  
5     putting her on probation, subject to all the terms and  
6     conditions of the probation office, is what she needs.

7           The terms that have been set forth in the  
8     pretrial agreement is that we're asking you to sentence  
9     her to the Department of Corrections for a period of  
10    three years with that term suspended.

11          In the pretrial agreement, Your Honor, it's  
12    asked that this sentence run consecutive to any of her  
13    underlying sentences. However, I believe, at this point,  
14    that's been discharged and that determination doesn't  
15    have to be made any longer.

16          The State is asking that the defendant have  
17    no contact with the victim or the victim's family in this  
18    case and that the defendant should be required, as part  
19    of her probation and her sentence, to take a parent --  
20    parenting course through probation and parole.

21          Your Honor, I believe this sentence is  
22    appropriate. You didn't see an amendment of the charges  
23    in this case, Judge. The State was adamant that  
24    Ms. Kadrmas plead to the very serious offense of  
25    distributing drugs on school grounds, which she did. We

1 believe that that conviction was important. And if you  
2 give her a suspended sentence today that conviction will  
3 remain on her record, and I believe that's also  
4 appropriate, Judge.

5 Thank you.

6 THE COURT: Mr. Vainio.

7 MR. VAINIO: Your Honor, I come here today  
8 to ask the Court to consider the fact that the  
9 prosecution has agreed to make a recommendation, and what  
10 I've encountered here today is entirely less than a  
11 recommendation. What I've encountered here today is the  
12 statement, "We're stuck with that agreement." We come  
13 here today with the defendant being vilified by the  
14 victim's mother from nowhere else other than the  
15 prosecutor's office. What we've got here today is  
16 entirely less than what we had bargained for in this  
17 case.

18 Your Honor, a plea bargain agreement is  
19 hinged upon the due process rights. And the plea bargain  
20 agreement must be adhered to meticulously and advocated,  
21 in fact, by the prosecution. And what we've got here  
22 today is entirely less than that advocacy that we're due  
23 under due process of law. And we are -- I think we're  
24 entitled to the enforceability of that agreement and that  
25 we haven't really gotten the full support of the

1 prosecution, I think, as the law requires in this case or  
2 in any other case.

3 The remedy, I think, is to, you know, void  
4 the sentencing, unless, of course, the Court would adopt  
5 the opinion -- the agreement that's been agreed to in  
6 this case. We come here today expecting full compliance  
7 by the prosecution but got entirely less than that. And  
8 I would ask the Court to consider that.

9 And, with that, I have nothing further,  
10 Your Honor, other than to object to the fact that the  
11 prosecution promised something and they didn't deliver on  
12 it.

13 MS. FIVEY: Your Honor, can I respond?

14 THE COURT: Ms. Fivey, I don't need to hear  
15 anything more in this case.

16 The most important thing that I've read in  
17 this entire presentencing investigation was the reason  
18 for the defendant committing this offense. And it  
19 clearly stuck out in my mind, "I am a bad judge of  
20 character. I am too trusting." That does not tell me  
21 anyone is taking responsibility for this action. It does  
22 not tell me -- it tells me that the only remorse is that  
23 they got caught.

24 And, quite honestly, I can't, in good  
25 conscience, accept this plea agreement, period. And,

1     therefore, I am setting aside the plea agreement. The  
2     defendant -- I will give the defendant an opportunity to  
3     withdraw her guilty plea and we may proceed to trial in  
4     this matter. If she wishes to maintain her guilty plea,  
5     we will reset this sentencing at a later date, and I will  
6     proceed to sentencing based on what I believe is  
7     appropriate, unless the parties can come to a different  
8     plea agreement.

9             And that is going to be the order of the  
10    Court here today. The plea agreement is rejected.

11            Mr. Vainio, I will give you an opportunity  
12    of one week to speak with your client, at which time I  
13    would like you to provide the Court as to whether or not  
14    she wishes to maintain her guilty plea or if she wishes  
15    to revoke that guilty plea, and we will proceed  
16    accordingly at that time.

17            Anything further from the State?

18            MS. FIVEY: No, Your Honor.

19            THE COURT: Anything further from the  
20    defense?

21            MR. VAINIO: No, Your Honor.

22            THE COURT: Thank you.

23            (The proceedings were concluded.)

24            \*\*\*\*\*

25

## 1 REPORTER'S CERTIFICATE

2 STATE OF MONTANA )  
3 County of Silver Bow ) ss.

4 I, KIMBERLY CARPENTER, an Official Court  
5 Reporter and Notary Public in and for the State of  
6 Montana, do hereby certify:

7 That said proceedings were taken down by me  
8 in shorthand at the time and place therein named and  
9 thereafter reduced to typewriting under my direction and  
10 control.

11 I further certify that the foregoing,  
12 consisting of Pages 1 through 16, contains a full, true,  
13 and correct transcript of the proceedings had,  
14 transcribed by me to the best of my knowledge and  
15 ability.

16 I further certify that I have no interest  
17 in the event of the action, nor am I a relative to any of  
18 the parties or counsel.

19  
20  
21 DATED this the 20th Day of August 2020.

22  
23 (Signature) /s/Kimberly C. Carpenter  
24 Kimberly C. Carpenter  
25 (Seal) Notary Public for the State  
of Montana, residing at  
Butte. My commission  
expires: July 17, 2022.



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1 how many there were?

2 A. At the most, maybe two.

3 Q. Did anything untoward happen in the first  
4 two sleepovers?

5 A. Not that I'm aware of.

6 Q. Okay. So even though there would have  
7 been other sleepovers before November 8, 2019, the  
8 problems that we're concerned with began with that  
9 sleepover on November 8, 2019; is that correct?

10 A. Correct.

11 Q. Okay. I'll just refer to that as "the  
12 sleepover." Okay?

13 A. Okay.

14 Q. So just so we're clear, I won't ask any  
15 more questions about the other ones, I don't think,  
16 because they're not material to wrongdoing, right?

17 A. Correct.

18 Q. Okay.

19 A. As far as I'm aware.

20 Q. I'm sorry?

21 A. As far as I'm aware.

22 Q. But there's no allegations in this case  
23 that something improper happened at any of the  
24 sleepovers before November 8, 2019, right?

25 A. Correct.

1 Q. Okay. So again, timewise, you're not  
2 claiming in this case that Amy or Brad Kadrmas did  
3 anything wrong related to the allegations in this case  
4 before November 8, 2019, correct?

5 A. Not that I'm aware of.

6 Q. But they're not being presented in this  
7 case, right?

8 A. No.

9 Q. So when I say "Plaintiffs," I mean you and  
10 your husband individually, and then you and your  
11 husband on behalf of RLS. Okay?

12 A. Okay.

13 Q. I just won't repeat that. So Plaintiffs  
14 claim that RLS vaped, smoked cigarettes, drank  
15 alcohol, and smoked marijuana as a result of the  
16 wrongful conduct of Amy and Brad Kadrmas beginning  
17 November 8, 2019, correct?

18 A. Correct.

19 Q. And the plaintiffs deny that RLS vaped  
20 before the sleepover, correct?

21 A. To the best of our knowledge, yes.

22 Q. I believe there's a discovery response -  
23 I'm not sure which set; it's Request for Admission  
24 No. 3 in one of the sets - where you indicated that he  
25 did not vape.

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A. [REDACTED] Right.

Q. Do you remember that?

A. Yes.

Q. And now with a lot of discovery responses, there are, to the best of our knowledge, right?

A. As far as we know, no, he did not.

Q. Why didn't you ask him?

A. Excuse me?

Q. Well, first of all, there is a discovery response where you indicated that he did not vape --

A. Right.

Q. -- before November 8, 2019. You know that.

A. Right.

Q. Then there are discovery responses in relation to RLS's conduct where we asked you about it where you indicate that you can't say because -- you deny he didn't do things like smoke, drink, smoke marijuana, smoke cigarettes to the best of your knowledge, right?

A. Yes.

Q. My question is: In response to your discovery responses or the discovery responses you filed on his behalf, why didn't you just ask him?

A. We did ask him, and he said that he  
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hadn't

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Q. Okay. So in responding to discovery and taking your positions in this case, the basis that RLS did not vape, did not smoke cigarettes, did not smoke marijuana, and did not drink alcohol is based on his representation to you that he did not do any of those things before November 8, 2019.

A. Correct.

Q. Do you think that's true?

A. Yes.

Q. I'm sorry?

A. Yes.

Q. Okay. I'm just trying to go down through and get the things we can agree to. Okay?

A. Hm-hmm [affirmative].

Q. So your position is - and correct me if I'm wrong - that but for the wrongful conduct you allege that started with the sleepover on November 8, 2019, RLS would never have smoked cigarettes, smoked marijuana, drank alcohol, or vaped; is that correct?

MR. HENKE: Objection; form.

Q. (By Mr. Luck) Is that correct?

MR. HENKE: If you understand the question, you can answer it.

THE WITNESS That I have sworn off a second.  
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1 Would you please repeat the question?

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2 Q. (By Mr. Luck) You know what we could do  
3 is, because I might say it differently, I'm going to  
4 ask the reporter to read it back to you. Okay?

5 A. Perfect. Thank you.

6 (The record was read back as follows:

7 "QUESTION: So your position is - and  
8 correct me if I'm wrong - that but for the wrongful  
9 conduct you allege that started with the sleepover on  
10 November 8, 2019, RLS would never have smoked  
11 cigarettes, smoked marijuana, drank alcohol, or vaped;  
12 is that correct?")

13 MR. HENKE: Just make sure my objection to  
14 the question remains even after it's been reread.

15 BY MR. LUCK:

16 Q. Go ahead.

17 A. Okay. I think the word "never" is a  
18 strong word. Nobody knows what would happen in the  
19 future.

20 Q. Okay.

21 A. But I would say that with a trusted adult  
22 as your teacher, and his wife, and adults offering it  
23 to you and teaching you how to use it, it sure as heck  
24 didn't help.

25 Q. I got it. And I think you pointed out a

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really good point, a deficiency in my question, so let me ask it this way: Correct me if I'm wrong, but I believe it's your position that RLS would not have smoked cigarettes, smoked marijuana, vaped, or drank alcohol in that period between November 8, 2019, and today had he not been introduced to those substances by Brad and Amy Kadrmas as you allege in this case.

A. I --

MR. HENKE: Objection; form.

Q. (By Mr. Luck) I'm sorry?

A. I believe that.

Q. Okay. You do not allege that Amy Kadrmas engaged in any sexual misconduct with RLS.

A. No.

Q. You don't allege that Brad Kadrmas engaged in any sexual misconduct with RLS.

A. No.

Q. Do you agree that none of the damages you're seeking in this case relate to allegations that either of the Kadrmases had any improper contact with RL -- improper sexual contact with RLS?

A. No.

Q. You would agree with me that all of your claims about the Kadrmases improperly providing vaping material, cigarettes, alcohol, or marijuana to RLS

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SWMTHC ROI DEPT  
445 Centennial Ave  
Butte MT 59701

MRN: 770007637, DOB: [REDACTED] Sex: M

### 11/05/2019 - Office Visit in Butte Community Health Center

#### Progress Notes

Progress Notes by Catherine White, MD at 11/5/2019 0851

Author: Catherine White, MD  
Filed: 11/5/2019 7:22 PM  
Status: Signed

Service: —  
Encounter Date: 11/5/2019  
Editor: Catherine White, MD (Physician)

Author Type: Physician  
Creation Time: 11/5/2019 8:51 AM

#### SUBJECTIVE:

[REDACTED] is a 15 year old male who presents with mother for ADHD med refill.

History of Present Illness: 1) He has been out of Vyvanse for over a week. Mother noticed that he is more chatty without his Vyvanse. He notices that too and he also has trouble concentrating at school. He is doing well in school. Grades are excellent except computer class and that is b/c not liking the teacher. He has good appetite and sleep he has trouble falling asleep til 11-1 am and then has trouble getting up in the am. He is taking Melatonin 5 mg at HS. He did better with 10 mg but father cut him back. He will try taking it at 5:30 pm. If that doesn't help he will take 10 mg and if that doesn't help he will f/u. Vanderbilt is significant for ADHD inattentive type=6 but that might be since off meds, mother stt. 2) Problems with depression lately. FH+ for both parents have a h/o depression. He is sad at times he tells me. His friends help to pull him out of these lows, but he feels that is not enough. He would like medication for this and has told mother that. Mother thinks he spends too much time alone and when with friends the past few times he tells me he has been vaping. PHQ-9=9 and mothers is 8. His GAD-7=10. 3) he is having issues with asthma. He is wheezing and coughing daily with exercise or gym. He also had issues with hunting. One day his inhaler fell out of his backpack and mother had to go home and find it and take it to school for him. They feel they need more inhalers. He has a cough at night about once a month he thinks. He has been vaping the past 6 months off-and-on when he gets together with friends. He tells me he has tried to stop and he has this need to vape that he can't stop. He would like nicotine NRT with patches and gum to help him stop. His ACT today was 16, which I think is a direct reflection of his vaping and its effect on his asthma. I will increase Singulair to 10 mg po q am #30 and will have him use inhaler prior to any exercise or exertion. If these are not helping then I will add a long acting inhaler corticosteroid.

#### Past Medical History:

- Diagnosis
- Asthma
  - Multiple allergies

Date

No past surgical history on file.

#### Current Outpatient Medications on File Prior to Visit

Medication	Sig	Dispense	Refill
• montelukast (SINGULAIR) 5 mg chewable tablet	CHEW AND SWALLOW 1 TABLET BY MOUTH ONCE DAILY AT BEDTIME - NEED APPOINTMENT FOR FURTHER REFILLS	30 Tab	0
• albuterol sulfate 90 mcg/actuation Inhaler	Inhale 2 Puffs Into the lungs every 4 (four) hours as needed for shortness of breath or wheezing	18 g	1
• cetirizine (ALLERGY RELIEF,	Take 1 Tab by mouth	90 Tab	3

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1 and assessment. Mother is c/o" - concerned about him,  
2 I guess - "because he is a loner and is often in his  
3 room by himself. Part of this is to avoid his older  
4 brother, who has delays, who teases him unmercifully  
5 and then he hits him and gets in trouble so tries to  
6 avoid him to avoid that."

7 Was that an accurate assessment of the situation  
8 at that time?

9 A. That's her interpretation of the  
10 conversation.

11 Q. Let's go down several pages to 75. This  
12 is a note from Dr. White for August 20, 2019. This  
13 would be just in the months before the sleepover,  
14 correct?

15 A. Right.

16 Q. It says: "He has been vaping recently so  
17 we discussed SE and stopping and he tells me he can,  
18 and will come back if that is not working."

19 So he was vaping in the summer of 2019, wasn't  
20 he?

21 A. Well, he must have been.

22 Q. And he told you he wasn't, and you've  
23 represented in your deposition that you had no  
24 information that he was.

25 A. Well, I must have remembered it wrong.

1 Q. He was also having trouble with his asthma  
2 at that time. Could that have --

3 A. He's always had trouble with his asthma.

4 MR. HENKE: Wait for him to ask you a  
5 question.

6 Q. (By Mr. Luck) Vaping can't be good for  
7 asthma, can it?

8 A. (No audible response.)

9 Q. Let's go to 368. You're filling out  
10 another Vanderbilt form on 11/5/19, just a couple days  
11 before the sleepover, correct?

12 A. It appears so.

13 Q. You mark that he lies to get out of  
14 trouble and cons people often. Is that accurate at  
15 that time?

16 A. Apparently.

17 Q. And then page 362, this is the note from  
18 the visit on that date from Dr. White. It's  
19 11/5/2019. At that point, you say:

20 "He is doing well in school. Grades are  
21 excellent except computer class and that is b/o not  
22 liking the teacher."

23 Was that accurate?

24 A. So that was right before parent-teacher  
25 conferences.

1 he got in trouble bringing alcohol to school until  
2 this office visit, he did not vape.

3 A. I don't know about that.

4 Q. Okay. In any event, when he came to the  
5 doctor's office, it says he was screaming in agony.  
6 His pulse was way up, grabbing his chest. They called  
7 an ambulance. That was an anxiety attack, correct?

8 A. Correct.

9 Q. And you've assumed that that anxiety  
10 attack is related to the wrongdoing of the Kadrmases,  
11 correct?

12 A. Correct.

13 Q. Can you think of any reason he might have  
14 had anxiety, a racing heartbeat, pain in his chest at  
15 that time?

16 A. Well, considering that isn't the only  
17 panic attack that he's had, no.

18 You do know we're talking about a 14-year-old  
19 child going to the emergency room and having a panic  
20 attack, right?

21 Q. I understand.

22 A. Like how do you sleep at night?

23 Q. Let's go to page 356. This is 12/4, a  
24 visit with Dr. White. He says:

25 "Eventually it came out that the Math

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1 because she was concerned that he was going to harm  
2 himself, correct?

3 A. Hm-hmm [affirmative].

4 Q. Who was the girl?

5 A. I don't know.

6 Q. Did he say -- strike that.

7 Let's go to 328. This is part of a psychiatric  
8 evaluation in February of 2020. At the bottom, it  
9 says:

10 Patient admits to engaging in intentional  
11 self-injury in which there was no suicide intent. He  
12 reports that he has been self-harming by cutting since  
13 "4th or 5th grade." Patient's mother appears to be  
14 unaware of how long RLS has been self-harming. She  
15 states, "I didn't know that it was a problem for this  
16 long."

17 Is that accurate of your discussions with the  
18 physician?

19 A. Well, obviously I was aware that he was  
20 having troubles because I was going to the doctor  
21 constantly trying to get him help.

22 The fourth grade was when -- there's obviously a  
23 pattern there when he goes into distress. Something  
24 traumatic happens like with a teacher bullying him.  
25 Going through what he did, he goes through that

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1 about two small bottles. I've never seen any other  
2 record of RLS having two small bottles of alcohol  
3 somewhere, in school or otherwise. Do you know what  
4 that is?

5 A. Where is that at?

6 Q. Yeah. It's under "Substance Use" in the  
7 top quarter.

8 A. (Perusing document) -- I'm not sure.

9 Q. Okay. "Other information" - now, remember  
10 this is November 21, less than two weeks after the  
11 sleepover - it says:

12 "RLS has trouble with honesty and he's a  
13 very good liar. RLS is good at saying what you want  
14 to hear. RLS has always had trouble fitting in and  
15 hasn't had many friends. He spends most of his  
16 days sitting in his bedroom by himself either watching  
17 TV or playing video games."

18 Is that an accurate statement?

19 A. Well, he doesn't need to be because Amy's  
20 admitted to it. You know, it really is making me mad  
21 that you are just painting him as this horrible kid  
22 who's lying and making all of this up when he she's  
23 admitted to it. She's an adult. She's admitted to  
24 it. She's admitted to it, guilty, admitted to it.

25 So why are you doing this?

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1 depression and that, that piece of it.

2 Then he got better. He went to Central, he got  
3 better, and he was doing good.

4 Then this happens, and he goes back to that same  
5 pattern.

6 Q. Let's go down. There's going to be a  
7 blank page, and then you get into Dr. Valentino's  
8 records. Go to 382. This is a note from Dr.  
9 Valentino on November 21, 2019, which would be right  
10 at the time that he took alcohol to school, right?

11 A. Correct.

12 Q. Down under "Background Information,"  
13 Dr. Valentino relates that RLS told him:

14 "I get either really sad or mad.

15 "Onset: About in the 4th or 5th grade ...  
16 maybe sooner."

17 "Trauma History:

18 "Nature of trauma: Being bullied.

19 "When occurred: My whole life.

20 "Persons involved: My brother."

21 Do you have any reason to question whether your  
22 son gave that history to Dr. Valentino?

23 A. No, I do not.

24 Q. On page 383, there's a reference to  
25 bringing whiskey to school and there's a reference

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1 date, and I didn't want it --

2 MR. LUCK: Thanks.

3 Q. (By Mr. Luck) Before the sleepover on  
4 November 8, 2019, before that, would you agree with me  
5 that RLS had a long history of telling untruthful  
6 things to people?

7 A. I think he liked to make up stories, not  
8 so much lies to be deceitful or -- I think he just  
9 wanted to be liked so he would embellish things but  
10 not lie to -- not lie about getting somebody fired or  
11 --

12 Q. Okay.

13 A. Yeah.

14 Q. Before the sleepover in November of 2019,  
15 did RLS have a history of telling untruths to  
16 manipulate people?

17 A. I don't see it that way, no.

18 Q. I'm sorry?

19 A. I don't see it that way.

20 Q. So the answer is "no"?

21 A. I'd say -- I'm not going to say "no"  
22 because I think sometimes and sometimes not. I  
23 just -- that's a hard one to answer.

24 Q. But just so we're clear, and I'm going to  
25 move on --



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1 husband would say something like that to him.

2 Q. And this is why -- first question: You  
3 never said to a Butte Central teacher or administrator  
4 that that conversation included, "You can't go out for  
5 golf because you'll embarrass me"?

6 You never said that to anybody?

7 A. No.

8 Q. You said that's RLS's story. Are you  
9 aware that RLS told people that?

10 A. I'm aware that RLS told the gym teacher  
11 that his dad didn't want him to go out because he  
12 didn't know that he'd be good enough to go out for it.

13 Q. But you know of no statement by anybody -  
14 your husband, RLS, anybody else - that indicated that  
15 he didn't want him to go out for the golf team because  
16 he would embarrass his father?

17 A. I can't speak for RLS. I don't know that  
18 RLS didn't interpret it that way.

19 Q. RLS tells a lot of stories, doesn't he?

20 A. RLS also speaks the truth, too.

21 Q. Yeah. But he's got a history of lying,  
22 doesn't he?

23 A. Such as?

24 Q. He's got a history of lying, doesn't he?

25 A. Such as?  
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1           **Q. Does he have a history of lying?**           August 26, 2021  
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2           A.       Such as?

3           **Q.       Well, we're going to go through records.**  
4       I'm telling you right now we're going to go through  
5       records that you said on multiple occasions that he  
6       manipulates people with lying. You know he lies,  
7       don't you?

8           A.       That I said he manipulates people with  
9       lying?

10          **Q.       Yes.**

11          A.       Okay. Well, I guess we'll just wait for  
12       that to come.

13          **Q.       I'm asking you straight-out: Does RLS**  
14       **have a history of lying?**

15          A.       You know, I think that all human beings  
16       lie, and I think that as a 14-year-old child put in  
17       the situation that he was put into, there were times  
18       he probably wasn't as truthful as he could have been,  
19       but I'm not going to say he has a history of lying.

20          **Q.       Let me ask it this way: Before the**  
21       **sleepover, before August 8, 2019 --**

22               MR. HENKE: That's the wrong date. Sorry.

23               MR. LUCK: Pardon me?

24               MS. MEDIK: Wrong date.

25               MR. HENKE: The question used the wrong  
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1 date, and I didn't want it --  
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2 MR. LUCK: Thanks.

3 Q. (By Mr. Luck) Before the sleepover on  
4 November 8, 2019, before that, would you agree with me  
5 that RLS had a long history of telling untruthful  
6 things to people?

7 A. I think he liked to make up stories, not  
8 so much lies to be deceitful or -- I think he just  
9 wanted to be liked so he would embellish things but  
10 not lie to -- not lie about getting somebody fired or  
11 --

12 Q. Okay.

13 A. Yeah.

14 Q. Before the sleepover in November of 2019,  
15 did RLS have a history of telling untruths to  
16 manipulate people?

17 A. I don't see it that way, no.

18 Q. I'm sorry?

19 A. I don't see it that way.

20 Q. So the answer is "no"?

21 A. I'd say -- I'm not going to say "no"  
22 because I think sometimes and sometimes not. I  
23 just -- that's a hard one to answer.

24 Q. But just so we're clear, and I'm going to  
25 move on --

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1           A.     Okay.

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2           Q.     -- it's not your position that RLS had a  
3 long history of telling untruths to manipulate people  
4 and situations before the sleepover in November of  
5 2019?

6           A.     Well, I'm just going to be clear that he's  
7 a child. Children lie, so do adults. The things  
8 that -- the important things that we're here for today  
9 have been pled guilty to and he was not lying about  
10 them. So if that's where you're going with this, he  
11 was not lying about those things. That's where I want  
12 to be very clear. Yes, he was a child, and children  
13 lie. So that's my answer.

14          Q.     Okay. Did he tell untruths about Brad  
15 Kadrmas in order to manipulate a situation?

16                 MR. HENKE: Wait a minute. There's two  
17 questions there.

18                 MR. LUCK: Okay, that's right.

19          Q.     (By Mr. Luck) Did he tell untruths about  
20 Brad Kadrmas that are involved in this litigation?

21           A.     Not that I believe.

22          Q.     Okay. Is it true that you told a teacher  
23 or administrator at Butte Central that RLS would  
24 continually lie and he didn't know right from wrong?

25           A.     No. I've asked you to report that he does  
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1 A. I know what they are, yes.

2 Q. Yeah, I know you know. You've filled out  
3 many over the years, right?

4 A. Yes, I have.

5 Q. This one is 10/22/14 filled out by you.  
6 On No. 24, you mention he's grouchy or annoyed with  
7 others, you mentioned it's just his older brother, and  
8 that's very often, right?

9 A. Hm-hmm [affirmative]. Wouldn't that be  
10 with a lot of siblings?

11 Q. Then No. 29: Lies to get out of trouble  
12 or avoid obligation; that is, cons others.

13 And you indicated that that happened very often.  
14 Was that accurate?

15 A. I don't know. He was 10. I don't  
16 remember.

17 Q. We're going to move all the way up to  
18 later dates.

19 A. You can. He was 10 years old, for God  
20 sakes.

21 Q. Okay. Let's go to 243.

22 A. Are you going to do this with Amy, go all  
23 the way back there?

24 Q. By this time, we have a diagnosis of ADHD  
25 and oppositional defiant disorder, and the doctor



1 diagnoses depressed mood, correct? That's on the  
2 bottom part of 243.

3 A. It was on the teacher's paperwork.

4 Q. This is the doctor's statement noting  
5 depressed mood, right?

6 A. And it said it on the teacher's paperwork,  
7 which was the teacher that was bullying him.

8 Q. Let's go to 244. This is what I was  
9 talking about before. This is an evaluation of RLS,  
10 not his older brother. It says: Refer to Dr. Velin  
11 if not improving with treatment for ADHD.

12 That's the first time I saw that name.

13 A. Velin [pronouncing].

14 Q. Right? That's what it says.

15 A. (Quoted as read): "May refer to Dr. Velin  
16 if not improving."

17 Q. Right.

18 A. But she never made a referral for  
19 Dr. Velin. He never had a psych eval.

20 Q. Then on page 236 later in 2014,  
21 Mr. Dennehy indicates down at the bottom, I think 25,  
22 that very often, again, he lies.

23 A. You know, Mr. Dennehy also indicated that  
24 -- he sent us an email saying he had good grades and  
25 was doing much better when somebody else who worked at

1 the school sent us -- went and looked at the school,  
2 and he had all F's. That was the day we pulled him  
3 from that school and put him in Central.

4 Q. Okay.

5 A. So I wouldn't hold too much on that one,  
6 either.

7 Q. I'm just asking you about conditions --

8 A. I'm just saying that, you know --

9 Q. Let's go to page 232.

10 A. -- there was a reason why he was pulled  
11 from that school.

12 Q. I understand. Page 232, this is another  
13 Vanderbilt from you from April of 2015. On No. 29,  
14 you indicate that RLS lies to get out of trouble or to  
15 avoid obligations, cons others often; is that  
16 accurate?

17 A. When he was 10.

18 Q. Then on --

19 A. Did you also read this: RLS felt very  
20 unwelcome at his school. He had given up on himself.  
21 His relationships were problematic?

22 I mean, there's other things there, too.

23 Q. That sounds identical to the description  
24 you just gave me of where he is right now.

25 MR. HENKE: There's no question pending.

1 Q. (By Mr. Luck) Is that correct?

2 A. No, it's not correct.

3 Q. Okay. Let's go to 233.

4 A. Wow.

5 Q. You wrote: His relationship with his  
6 brother is very problematic, and he's been snapping at  
7 us without much pushing.

8 A. So he's cranky?

9 Q. Is that accurate?

10 A. I don't know. That was 2004.

11 Q. I understand. Then 224, he's in to see  
12 Dr. White again. It says that he's become depressed,  
13 so they're moving him to the Central Catholic School,  
14 and that he had problems with the teachers at Margaret  
15 Leary. That's accurate?

16 A. They were [verbatim].

17 Q. Then on page 226 down in the ODD  
18 assessment, it says: He has problems with his  
19 brother, his older brother, as he expressed here again  
20 today.

21 That's accurate? That was continuing?

22 A. (Gesturing.)

23 Q. Yes?

24 A. Yeah.

25 Q. Okay. Let's go to 191. This is December

1 of 2015. You were filling out another Vanderbilt  
2 assessment, and you indicate that this happens very  
3 often: He argues with adults, he loses his temper, he  
4 actively defies or refuses to go along with adults'  
5 requests and rules, and deliberately annoys people.

6 Is that accurate?

7 A. When he was off his medicine, yes.

8 Q. That he was angry and resentful, blames  
9 others for his mistakes or misbehavior, correct?

10 A. Wow.

11 Q. Again, you note that he lies to get out of  
12 trouble.

13 A. Well, he also hasn't pled guilty to this,  
14 either. He was 10.

15 Q. I understand.

16 A. You don't understand.

17 Q. Yes, I do. We're going to get up to the  
18 same forms where you said exactly the same thing many,  
19 many years later.

20 A. This is bull. How dare you.

21 Q. Well, let's just go up farther.

22 A. Let's do that.

23 Q. Let's go up to 159.

24 A. I don't have 159. Mine be goes to 148.

25 Q. Keep going. They're not exactly in order

1 because they didn't come in exact chronological order.

2 Do you want me to find it for you?

3 MR. HENKE: Yeah, let him find it for you.  
4 He can find it.

5 MS. MEDIAK: (Handing documents to  
6 Counsel.)

7 MR. HENKE: Is this the bottom --  
8 (indicating)?

9 MS. MEDIAK: Yeah. This is the top,  
10 that's the bottom -- (indicating.)

11 Q. (By Mr. Luck) This is an office note from  
12 January 9, 2017. RLS was brought in because of an  
13 incident the night before where, in the middle of the  
14 night, he came in the room screaming. It describes  
15 the situation. He pulled up his left pajama sleeve,  
16 had cut marks up and down his left arm, and said, "I  
17 kept hearing voices telling me 'cut arm,' so to shut  
18 them up, I did it."

19 A. Hm-hmm [affirmative].

20 Q. Is that accurate?

21 A. Yes. I remember that because he had a  
22 very high fever.

23 Q. And he was 13 at this point. We're not in  
24 the fourth grade.

25 A. He had a 105 fever with the flu, and the

1 doctor said it was hallucinations from the fever.

2 Q. Let's go down about four or five pages to  
3 145. This is another visit with Dr. White in January  
4 of 2007: RLS is a 12 year old male who presents for  
5 evaluation and treatment of depressive symptoms.

6 If you go down, it says: "Family history of  
7 depression."

8 Do you know why he was depressed at that time?

9 A. Not that I can recall.

10 Q. Let's go down a few more pages to 119.  
11 This is from January of 2018. You mark as "very  
12 often" No. 19, argues with adults; and again No. 29,  
13 lies to get out of trouble or avoid obligations (cons  
14 others). Was that accurate at that point in time in  
15 2018?

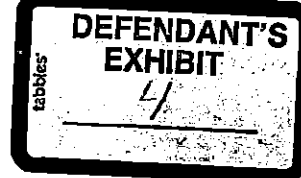
16 A. I believe so.

17 Q. Let's go to the next page, 120. On No. 46  
18 and 47 under the "very often" column, you indicated  
19 that he is sad, unhappy, and depressed; is  
20 self-conscious and easily embarrassed. Correct?

21 A. Yeah.

22 Q. Page 114 is an office visit from January  
23 2018 (quoted as read):

24 "At last visit he did not want to talk  
25 about his depression but now has agreed to treatment



## **EXHIBIT 1**

### **What is This Case Really About?**

The record verifies the claims in this matter arise because of events totally confined to a 13-day period, beginning with a sleepover on November 8, 2019 and ending when RLS brought Black Velvet to school from his parents' house on November 20, 2019.

It is alleged that misconduct by Brad and Amy Kadrmas during this period caused RLS to vape, smoke cigarettes, drink alcohol and smoke marijuana.

This allegedly led to RLS's emotional damage, physical addiction, and predisposition to abuse drugs in the future.

Religious Defendants deny breaching any duties owed to the Defendants or having any knowledge of any of the alleged improprieties.

\* \* \*

The issues regarding these events, liability and damages are:

- What are the duties of the Religious Defendants to Plaintiffs in a situation where Butte Central rented a top floor apartment to a teacher and his family?

- Did Religious Defendants breach any duty owed to Plaintiffs in relation to the conduct of Brad and Amy Kadrmas in the apartment from the date of the sleepover on November 8, 2019, to the date that RLS brought his parents' alcohol to school on November 20, 2019.

- If so, were Plaintiffs damaged as a result of Defendants' breach of duties during this period.

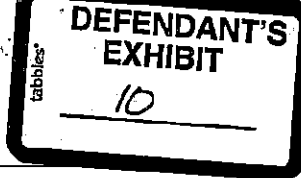
**Ex. 1a: Deposition of Heather Stenson, Aug. 26, 2021 ("Dep. Stenson"):**

**The claims:**

**Q. But there's no allegations in this case that something improper happened at any of the sleepovers before November 8, 2019, right?**

**A. No**

Dep. Stenson 23:22-25.



1 because she was concerned that he was going to harm  
2 himself, correct?

3 A. Hm-hmm [affirmative].

4 Q. Who was the girl?

5 A. I don't know.

6 Q. Did he say -- strike that.

7 Let's go to 328. This is part of a psychiatric  
8 evaluation in February of 2020. At the bottom, it  
9 says:

10 Patient admits to engaging in intentional  
11 self-injury in which there was no suicide intent. He  
12 reports that he has been self-harming by cutting since  
13 "4th or 5th grade." Patient's mother appears to be  
14 unaware of how long RLS has been self-harming. She  
15 states, "I didn't know that it was a problem for this  
16 long."

17 Is that accurate of your discussions with the  
18 physician?

19 A. Well, obviously I was aware that he was  
20 having troubles because I was going to the doctor  
21 constantly trying to get him help.

22 The fourth grade was when -- there's obviously a  
23 pattern there when he goes into distress. Something  
24 traumatic happens like with a teacher bullying him.  
25 Going through what he did, he goes through that



1 depression and that, that piece of it.

2 Then he got better. He went to Central, he got  
3 better, and he was doing good.

4 Then this happens, and he goes back to that same  
5 pattern.

6 Q. Let's go down. There's going to be a  
7 blank page, and then you get into Dr. Valentino's  
8 records. Go to 382. This is a note from Dr.  
9 Valentino on November 21, 2019, which would be right  
10 at the time that he took alcohol to school, right?

11 A. Correct.

12 Q. Down under "Background Information,"  
13 Dr. Valentino relates that RLS told him:

14 "I get either really sad or mad.

15 "Onset: About in the 4th or 5th grade ...  
16 maybe sooner."

17 "Trauma History:

18 "Nature of trauma: Being bullied.

19 "When occurred: My whole life.

20 "Persons involved: My brother."

21 Do you have any reason to question whether your  
22 son gave that history to Dr. Valentino?

23 A. No, I do not.

24 Q. On page 383, there's a reference to  
25 bringing whiskey to school and there's a reference

1 he's provided in relation to the Kadrmases that might  
2 not be accurate?

3 A. Absolutely not.

4 Q. Then down a little farther, he recounts:

5 At the time of the interview, he had not  
6 cut himself for four months. Two weeks ago, he got  
7 upset and cut across his face with a shaving razor.  
8 He said he saw a spider, bent down and it was an  
9 accident. RLS then changed his story.

10 Do you see that?

11 A. I do see that, I remember it too. He  
12 knows how upset I get when he cuts himself, but he had  
13 sliced his whole face open.

14 Q. Then on page 492, the second complete  
15 paragraph:

16 Strengths include being kind-hearted,  
17 funny, smart, talented artist, plays guitar and sings,  
18 witty, loves history, good kid. A weakness is he  
19 can't say no when offered something. RLS has trouble  
20 with honesty and he's a very good liar. He is good at  
21 saying what people want to hear.

22 Is that accurate from your standpoint?

23 A. I've been very honest and I have never  
24 sugarcoated any of that.

25 Q. On page 502, he says: "Before the events