

Acknowledgement of Mc's Uncontrollable is
a window to truth.

In his eyes Mc became uncontrollable.
Mc resisted him while he was sexually
assaulted.

ECs will say

If she had struggled she would leave marks

M 340. 37 lb 38" tall,

B 5'6" - 150 lbs

Do you remember Brian's response when Bisek
told him - it doesn't look like she's gonna make it.

He lights a cigarette.

you've heard a lot of testimony on her injuries.

Summarize injuries is important because they
in a compelling way, tell what happened.

- 1) Don't get hymenal inj. from accident but only from
penetration - blunt force trauma
- 2) Brain injuries Dr. Th + case said
forces exerted on Mc were so
bridging veins were torn - causing bleeding in the
brain. They caused disruption / shearing injury
Not from a fall from 1 1/2 story window.
Markers of great force used. Cons. with being
picked up by adult + slammed

Given her size she couldn't fall that hard.

Left side of face.

Massive slam / hemorrhaging

Pattern injury - V-shaped on chest

Consistent with one being struck by hard object
or thrown against something.

Paddle stick to punish

L Chest.

Stick or ruler against abdomen.

Not from fall.

Abrasions like from a struggle

L eyelid. Struck with hand.

Eyes are protected by bone.

L side of face. Scraped / consistent with a struggle

Mc was conscious when it started.

Forehead / abrasions

Cut on lip

Cons. with being struck in face, with hand.

Shaw saw it right away.

on back. being slammed against wall or struck with an object.

Ann saw inj on 2/24 were above buttocks - same area. 2 distinct areas of bruising

Cont injured back + front falling out a window.

bruise on chest - black + blue

Ann said injuries to breast bone.

Brian spans us - hard.

Paddle stick mark

top + lower part of arm - abrasion injuries

These injuries are from a beating - not from an accident.

Bruises on Buttocks -

Nicki said she heard B. spank Mc.

Starway don't give spanking. falls from stair cages windows, Auto accidents

Hypothermia either from outside in 25° temp
from cold bathwater

41° bathwater 20-30 min in a house at 70°
Outside it would take longer.

Timing - there wasn't enough time to get this cold,
Timeline proves that.

I EG will argue that perhaps one fell between
railings

Exh 120 shows plywood against railing

121 shows the other end,

Plywood is standing up. No one crawled through.

Exh 119
Pr. stall measured Mc's head - 6"
4 1/2" between railings

no
Bruises on ankles. Pr. Case. Not ~~unusual~~ unusual
to not see secondary bruises
stemming is ^{the} ~~a good way~~ way to get the injuries to head.

Exh 33 - bruise on arm is cons. with Mc
being stammered.

Children fall.

Dr. Desenko says Dr. treat children for falls.

Been at Children's x 10 years.

Doesn't see kids from stairway falls.

Dr. Desenko treats living kids.

Dr. Breddingstall said ϕ fall down stairs.

Police evidence
Forensic evidence

How many times did def. + Tina said she bruised
easily.

Dr. Olson + Sue Lundberg talked to Tina last summer.
Jan Dr. saw no unusual bruises.

Oh, she bruises easily. It's not my actions.

B. paid bruises.

Face were from a wobbly chair.

Couldnt find those bruises

Always bumping, falling down changing clothes.

Tina's explanation - "She's just clumsy."

How easy to blame inanimate objects.

Problem is the furniture's fault.

Dej told Basil

Fully conscious when picked up at bottom of stairs
"She looked fine"

but Dr. Case - she wouldn't be conscious. She wouldn't
be walking - probably unconscious

830 body temp but 1/2 hour earlier. I just
want to be here till Mom gets home -
That's a medical impossibility.

Someone who really loved this girl

OK I've gotta clean up

I'll call 911 after I clean her up.

More comforted w blood clots on it.

After he saw me vomiting with eyes swollen shut
he decides it's time to lie down + rest his eyes.

Makes no sense.

"Daddy's in trouble," he told Nicki.
"Why are police here?"

Consciousness of guilt. He said over and over
again - she fell down the stairs X III+

911 - Healthspan - officers, Nicki

Injuries were from falling down stairs

Second interview

= I can account for them and the ones that happened today.

Every Dr. said not from stairway fall.

No blood on stairs

Luminal sprayed there but no reaction.
reaction in bathtub + towel in bathroom.

If Lymonal tear was from fall there should have been blood on stairs.

B. feigned ignorance.

Maybe she wondered outside.

How got so cold.

Clothing covered with V + Blood. you must divert attention. He was cleaning her up.

Bath tub - while she's in there dying he's putting her pants in garbage. Cleaning L.R.
Move fast. Nicki's upstairs

It's odd he doesn't talk about Comforting Me.
She looks scared. He didn't see Nicki when he ran through playroom to get to stairs.

If truly sleeping why not ask Nicki "what happened to me?"

If he thought a stranger - why not ask N?

Definitely
Health Span operator

"I've got a 5-yr.-old here and she's not aware of anything that happened."

If truly asleep how would he know N wasn't aware that nothing had happened.

After that he tells N

Explain nudity

she sweats excessively - takes her clothes off in her sleep

Pooped on floor - later in underwear.

Grape juice on T-shirt.

Plato blood. I wiped her mouth off with it - from laundry pile.

T-shirt had been upstairs when Tina left. It shouldn't be downstairs now in a laundry pile.

Break for 15 min. No one dares leave their seats (not all at once) because there's people outside who can't get in.

Only 42 seats in courtroom. No standing allowed.

Crime photo

pants beneath another child's + his pants

didn't tell Bleich about them -

In back is fecal matter + cutting.

Pina said when she left they're clean.

No indication of being outside, torn from being in auto

T-shirt + pants were dry.

when beating started Mc was wearing these pants -

Found downstairs.

Contradicts Def.'s version

EG will argue Police staged this scene.

Appropriate for Police to pick up black pants

Def admits putting ^{his} pants + shirt on garbage
underwear, too.

Undressing, take off clothes - pile clothes on top
walk to base of stairs + collapse.

Paradoxical undressing as a person is so confused
they start undressing. If Mc engaged in this
she should have been found outside with
Vornit and blood. No bloody trail outside.

Notice exhibits 79. No blood on ^{MC} underpants.
If hymen torn when she had them on there would
be blood.

No blood.

No vomit on T-shirt + jeans

Def spanked Mo once. Now after hearing testimony
he says he wasn't truthful about spankings.
He meant pats, he says.

EG will say its appropriate to spank and correct a
child. Any caretaker can use reasonable force.
The law allows spanking but not to the point of
bruising on stomach, on back.
excessive force = child abuse = wrong.

Ann saw bruises on buttocks.

Were talking about bruises. Ann said "How
did
B spanked me lots. + hard. Nicki did the same.

EG will Critique / Dr. L. interviews.

Let's note both interviews were taped.

Judge if leading questions were asked.

Over a year after death N testified but Videos
were shortly after. N Confused

Forceably strikes picture worker is drawing
of B. "Don't draw him - Don't"
Didn't want B. in her life.

Bruce's aren't pretend - fantasy. He have
physical evidences.

Did you see B.? Did you see what happened.
She said "No."

She told them M. fell down stairs

Did say B. pushed M. down the stairs

No one else come in + left

I lied when I said B pushed M. down the stairs
She heard M. cry + she heard B. yell. She draw
the conclusion

objection - Judge you go with what you remember.

It was difficult for N

she said NO then looked at defendant immediately.
she test. briefly.

No one come in house

Mother was gone at the store.

Nicki pricked her Clotimus into Vaginal
and past hymen

Tina Verdahl

Never physically harmed her kids.

N. liked Mom

Mc liked Mom

did Mom hurt Mc? No

former boyfriends, worked with her,

Tina didn't use excessive force

Past inj not caused by Tina. 1st spanking on Dec 16
through death weren't caused by Tina.

Robin gone at Mall of America. Tabe on her car expired.

No injuries before Tina left or couldn't hold down.

10 pancakes, runs around with head injuries.

Evidence shows Tina didn't cause but evidence shows
she tried to cover up. N

No, Brian doesn't spank - he pats McKenzie. Tina wasn't
truthful with Ann. about bruises or at Wisconsin

Tina minimized inj.

Afraid of looking like a bad mother. Afraid of losing
her surviving child + you could be angry about that.

All different men invited

Tina is not a good m. + isn't credible to believe
she didn't see bruises. Common, ordinary person +

see that it wouldn't

Moved

Living with a man who was her sole support

Failed to protect me

Don't hold it against state of TX

Evidence sadly shows

Pina wasn't the only one who saw

He confronted B about finger

Megan tried

Hancocks - Rosemary said to Ann. If it was

Brian's own. Mom saw bruises + talked to B about it
but did nothing more.

Ann saw bruises + made appt with P.A but didn't
follow through. All were aware but didn't want to rock
the boat.

Brian sparks up + sparks us hard.

Tragically is that when girls told - Nobody answered -
not even her own mother.

EG will try to show wrongdoing by Police or Prosecutor.

Today you are the Criminal justice System.

2 shirts in one evidence bag
Coroner's camera malfunctioned
lot of evidence was gathered.

Kirkgaard said evidence is analyzed.
They look at a lot of things
officers were called to a medical emergency.
They were focused on getting Mc to breathe.
They didn't put every detail into their report.

When brought to Dep Hous. floor board loose in stairs examined
No blood on hands or swabs but evidence presented
Towel off floor -
All was presented to you

Glue gun still plugged in - Police not looking for glue gun.
Should have unplugged it.

EG will argue - why will B kill Mc with living witness up stairs.
why? That argument presumes premeditated murder.
That's not what's charged.

Merkel sleep deprived lost his self control. He didn't set out
to kill Mc. Sexually abusing Mc & situation escalated
and after he killed her he had to clean up.

N told Kaley I can't come downstairs when my
sister's downstairs

Once B realized what he did he panicked. He
called 911

Facts of the case makes us uncomfortable + foreign,

Murder does happen.

Winston Ch. said men occ. stumble across the truth and then

Genesis

1st - murder loss of control due to anger

Cane killed Abel - Cane feigned ignorance,
+ God said to him. Here's Abel?

Your brother's blood cries out to me from the ground?

EG will say the client doesn't look like - and isn't
a lunatic. Family members don't kill each other.
Person who killed me did so in anger + age
Inj on head + trunk. Head slam was done out of
anger + rage.

All of us lost our temper. Children take patience,
full bladder = potty accidents.
People exercise self control. By size they are
vulnerable. Inj to me are highly personalized.
They are inflicted injuries.

He denied it in courtroom but that can't overrule
physical evidence.

Her feet were clean because she'd been placed in cold water.

Sad but true Step father can kill a step daughter

Rage can result in fam. members killing fam members

to overlook evidence would be contrary to common sense.
Don't ignore evidences

B treated girls well

Mc saw a different side of B.

Not truthful with Basil about div. from Army.

E.G. will argue a stranger did this.

Absurd to believe a stranger did it.

Towel found at Hoop.

No reason to run sex registry based on blood.

Towel under E.C. table

Maki stranger's bleed on towel.

Robin - no towel in ambulance

Mc doesn't say she was beaten up by a stranger

He has her saying she was called.

B testified that he had pants on when he laid down -
or had taken them off.

Mc Blood found on crotch + vomit, too.

Def. now says he was wearing underwear.

Spatters are from CPR, EG will say CPR got
spatters on long und.

Vomit is on crotch - not on shoulders - but B was
carrying Mc.

Black Pants absent on when beating starts
Spatter travels only short distance,

did you hold crotch over mouth when giving CPR,

Robson test B put pants on after Police
arrived,

spatters are from CPR

wants us to believe he put pants on afterward,

Wearing long johns Police would have noticed
blood.

Mc mouth close to crotch when vomited.

Zipper down - Pants unbuttoned, That's consistent
with M being Sexually Assaulted.

You'll recall from Tina they hadn't had sex x 2 wks.
Semen on underwear.

Penis back in underwear after ejaculation. Photo
Consistent with sexual abuse.

Clear up - disorganized. Time to
wash hands
Striped underwear

M Not planned - spontaneous
22 y.o man who plays with farm toys

Don't have to prove motivation.
Def did kill Mc

Jury Advocate - as is Mr. Gray,

Emotioned speech & gestures aren't evidence.

Review anticipated instructions: 1st degree

☒ Murder in 1st degree

☒ Caused death - doesn't matter if intent

☒ Def at the time B was committing criminal
sexual ^{misconduct} ~~abuse~~ in 1st degree or attempting to do so.

Forecasts transaction is crim. sexual misconduct.

EG object, over ruled.

What's a continuous transaction?

When her mom left at 12:45 Mc was okay.

When Police arr. at 2:12 Mc serious inj. — 1 hr 27 min

making
her call - part of crime

Nothing broke cont. chain of events.

Just common sense that whoever killed + raped
her

He didn't allow her to escape to find K - but wasn't able

~~by~~

Prove that def acted with force / violence.

? Evidence shows that - very strong

— Bruises in Dec lines

different in January

No accidental

— June-July bruises in no pattern

— Feb 24th bruises, breastbone, small of back.

That evidence is compelling that past were intended.

BM's guilt is etched in the flesh of Mc B.

only to BM came into Mc's life.

only at
Sean Christmas + ~~Feb~~ Feb 24.

Extreme indifference to human life. Rep blows to head

Fatal head stain while rape - while beating

Chest of inj. to face.

I life

II 30 years

Sentence usually

III M in 2ND degree / 12 1/2 years

Failing to get medical attention is manifest indifference

EG objection - not against the law.

CPR 5-10 minutes. Could have called 911 right away.

Slamming head is

Home
Zone of Privacy

Child Abuse. - meets definition,

I = Assault in 3RD degree, assault. Battery on her person

= Assault 5TH degree, ^{Proven} Excessive under circumstances.

He didn't have to intend to kill her.

2ND highest form of murder. / upward departure - because Tom believes B was committing sexual assault. So should be more.
will ask to double it - if he can.

IV Crim Sex Conduct in 1ST degree - sexual penetration

- Def intentionally sexually penetrated Mc

If is intentional you to look at behavior

Hymenal inj. due to penetration - intentional,

Not by cleaning or other means

- Sexual penetration - Penis into opening constitutes penetration

- Age > 13

- where + date

V Elements of Criminal Sexual Conduct

Penetration

Penetration without Consent (she was child)

Causes

Personal injury - pain, injury, mental anguish
pregnancy

def used force - coercion to accomplish

Took place on or about 3-9-96 in Scott Co.

Facts proved by direct or circumstantial evidence.

From witnesses

From Physical evidence

By circumstantial reasonably inferred by facts presented

Not ~~only~~ by only circ. evidence, tho.

Nicki is an ear witness and has testified.

Apologized

EG will argue that

Circ. isn't good - but can be just as compelling
its not biased

Drain trap - human protein on towel.

Luminal glowing in tub - bloody person.

Rust water.



Walls didn't glow. If rest - showering
would cause walls to glow. Def. does shower.

If you wake up + poured a carton of milk +
out flowed a Trout you would know the
Milk was contaminated.

All these inj dont belong on me.

He was alone with N + Me

He raped + he killed her.

Members of Jury - There's direct conflict between
Def + witnesses testimony. There's direct contradiction.
Whose Contradictory? Defendant.

Reasonable Doubt is based on what an
Ordinarily Prudent Man

Reason + Common sense. ^{not} Fanciful.

Dont have to prove everything.

Legal Prin. of Proof beyond Reasonable doubt vs Presumed D.

Once Def. is proven beyond a Reasonable Doubt
he is not presumed innocent any longer.

2000 years ago Children were considered property
Sustained.

Accident didnt kill - Brain dis
Recess til.

Defense Closing Argument

Will Rogers wondered why it took so long for some people to say very little.

At 2:12 a phone call was made. He's responsible when state comes to a conclusion right away and tries to make that

Comforter was not under Mackenzie

Blood on Comforter

Vaginal wall was bruised

Lindsay Thomas assumed there was a mark from swabbing

She could be uncontrollable, not that she was uncontrollable

worst sin was when N told Deborah Peterson that Brian spanked Nichole. N didn't say B spanked Mc. /

In this idea that B. tried to convince everybody that Mc fell down the steps. Didn't say I saw her fall or I heard her fall.

Beitch said. She's real cold. When did you take her outside?

dangerous when State Pros. who is supposed to be interested in justice instead tortures the evidence to build a case that isn't there.

EG will take evidence and apply it to law so we can see where the truth lies in this case.

All your power and all their money to convict my client.
Object That hasn't been objected to in 27 years.

When state points their finger at you + uses all their power and all their money to convince you

4 Agencies. Scott, Shakopee, Hennepin + BCA.

4 Prosecutors

Experts on Experts to convict

Pictures, Videotapes, Computers . . . all ^{to} ~~the~~ convict my client.

How does a person get justice.

Presumption of Innocence - you were asked - even in this despicable case - you answered "yes".

Those 2 Constitutional rights safeguard our liberty.

To follow law + presume Brian innocent

Piece of evidence + see that all this circumstances evidenced.

Nicole is direct evidence - All she said was "No" She didn't see anything.

As long as that piece of evidence has inference that could ~~be~~ presume this evidence you are required to do.

Can't find ~~of~~ guilty based on Circ. evidence