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FAX COMMUNICATION

Date: 8-16-2010

To: Kenneth Nixon
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From: Karen Harvey
Practice Manager

Total Pages (including cover):

Confidential Message:

Re: US v. Hickman

Mr. Nixon, per your request, find attached an interview analysis completed by Dr. Esplin, as well as a list of documents received in US v. Hickman.

These are the only documents produced by OUR OFFICE to date and are a result of Dr. Esplin's initial review of the file.

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| Notes | S, I or ? | Considerations |
| "What do you do during the day?" -Hang out with my mom. "Do you like hanging out with your mom?" -Yes. "What do you like to do?" -I got a Wii for Christmas, I like to play Wii. "Do you have any brothers or sisters?" -A brother "What's your brother's name?" -Jaylon | I | Narrative About Neutral Topic |
| None | S | Pre-Substantive Portion Instructions |
| "I just wanted to tell you a couple things about our chat today, before we talk about all the stuff we're gonna talk about, ok?" "We'll talk about all sorts of things..." "You're not gonna be in trouble for anything you say today in here." "I'm gonna ask you lots of questions, if there's any questions I ask you that you're | | |

INTERVIEW ENVIRONMENT: Interviewer begins by giving the child crayons and paper to color on. The rest of the environment is satisfactory. Both the interviewer and the child were coloring throughout the interview and it was very distracting to the child.

DURATION OF FORMAL INTERVIEWS: This interview was about 28 minutes

Interview Of: Jeremiah Wiley
 Interview By: Dawn Hawn
 Date of Interview: January 21, 2010
 Age of Child at Time of Interview: 4
 Videotaped: Yes
 Transcript Available: No

Interview Analysis

Part II

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| <p>not sure the answer to, just tell me you don't know." -OK "We wanna make sure that kids don't make any guesses or make anything up ok?" -OK "Like if I said, 'Jeremiah, what's my last name?' what would you say?" -I dunno. "Good answer, that's right, cuz you don't know my last name." "It's ok to say I don't know." "Another thing is that I might repeat some of the things you tell me during our chat today. It's not that you said anything wrong, I just wanna make sure I understand everything we're talking about, ok?" -OK "And if I repeat some things and they are wrong, you can correct me, can you do that?" -OK "I know sometimes grown ups don't like to be corrected, but I do." -OK "So you can just stop me and tell me that's not what you meant, or that's not what you said." -OK</p> | <p>S</p> | <p>Truth/Lie</p> |
| <p>"Another thing that's really really important Jeremiah, is that everything we talk about here today needs to be the truth. Do you know what that means?" -OK (while nodding head yes) "What's it mean to tell the truth?" -Mmm, I don't know. "What is a lie?" -Mmm, I don't know. "If I said, Jeremiah is 2 years old, is that the truth or is that a lie?" -Mmm, a lie. "If I told you, the walls in this room are blue, would that be the truth or would that</p> | | |

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| <p>be a lie?" (The walls of the room were blue) -The truth. Interviewer did 3-4 examples of truth/lie, child answers all correctly "Ok, I can see that you know what the truth is." "We wanna talk about things that actually happened, we don't wanna make up any stories or tell any lies." -(nods head yes in agreement) "Can you promise me you'll only talk about things I here that are true?" -(nods head yes)</p> | <p>S</p> | <p>Transition To Salient Issue</p> |
| <p>"So do you know how come you had to come and talk with me today?" -(Nods head yes) "Ya? What'd you come to talk to me about?" -(Very Fidgety) Mmmmm... I don't know. The child was still very tentative at this point and very fidgety so the interviewer reverted back to some more rapport building questions about friends, before moving on to the substantive portion of the interview.</p> | <p>I</p> | <p>Substantive Portion</p> |
| <p>Very few invitation questions, almost all questions were directive or option posing questions. "I'm gonna ask you kind of a silly question but I have to ask all kids this ok?" -Ok "Do you know where your privates are?" -Ya (while pointing to his penis) "Ya, what are your privates for? What are they used for?" -For using the potty. "Has anyone ever touched you in your private before?" -(Shakes head no) "No?"</p> | | |

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| <p>-Dee was touching me on it. "Dee was touching you on it?" -Ya, first he touched it, then he hit me. "Oh ya? Tell me about that." -... (no response) "Who's Dee? Who's that?" -Umm.. I don't know. "How do you know Dee?" -mumbles "You said first he was touching on your private and then he hit you?" - (nods yes) "Ya, where did he hit you?" -Mmmm, my leg. "What did he do when he touched your private? What did he do with your private?" -Mmmm, I don't know. "Where were you when that happened?" -At Sara's house. (Defendant's wife) "Was anybody else there when that happened?" -Umm, Dee was sleeping with us upstairs. "What happened next when you went to bed with Dee?" -Umm, I was not sleeping in bed, I was sleeping in the computer room. "You were sleeping in the computer room?" -Yes, he touched my pee pee and then he hit me. "Ok, when he touched your pee pee, did he touch your pee pee on top of your clothes or underneath your clothes?" -Under. "Did he touch you on your skin on your pee pee?" - (Shakes head no) "Tell me how he touched you there." -Umm, he touched me with two hands. "And, were you wearing any clothes?" -Umm, I was wearing pajamas. "Did he touch you under your spider man pajamas or on top of your pajamas?"</p> | |
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| <p>-No response, so interviewer asks if he understands the questions, child shakes his head no.</p> <p>"Did he touch you inside your pants or on top of your pants?"</p> <p>-Down my pants.</p> <p>"Were you wearing anything underneath your pants?...Like any underwear or anything like that?"</p> <p>-Um...I was wearing a pull-up.</p> <p>"Did he touch you underneath your pull-up or on top of your pull up?"</p> <p>-Um...under my pull-up.</p> <p>"And what did he do with your pee pee when he touched you there?"</p> <p>-Mmm, I don't know.</p> <p>"What did he touch you with when he touched your pee pee?"</p> <p>-Mmm, I don't know.</p> <p>"Did he touch you with his hand, or his foot, or his head, or something else?"</p> <p>-Um, with his hand.</p> <p>"And then what did he do to your pee pee when he touched you there?"</p> <p>-(No response)</p> <p>"Did he say anything to you when he did that?"</p> <p>-Mmm Mmm (negative)</p> <p>"Has he done that one time or more than one time?"</p> <p>-More than one time.</p> <p>"Tell me about the other times he did that."</p> <p>-Umm, I don't know.</p> <p>"Was there another time that he did that?"</p> <p>-Um, yes</p> <p>"Ya? Where were you that time?"</p> <p>-I don't know.</p> <p>"Did he touch you a different way day besides that day?"</p> <p>-(nods yes)</p> <p>"Ya, tell me about that."</p> <p>-I don't know.</p> <p>"The other time he touched you, were you</p> | | |
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| <p>at someone's house?" -I was at Sara's house. "What were you doing when he touched you the other time?" -He walked upstairs. "What were you doing?" -When I went to go pee. "When you went to go pee he touched your private?" -uh hmm..(affirmative, then a pause, then shakes his head no) "Tell me what he did." -I don't know. "Did he touch you when you went to go pee?" -Mmm mmm (negative)</p> <p>Throughout the interview so far, the child has been coloring and not sitting in the chair, walking around the table to color different pictures on different pieces of paper.</p> <p>"Have you ever seen him touch anyone else's privates like that?" -No "Was he wearing clothes when he did that?" -Yes "Did he ever ask you to touch his privates?" -Mmm mmm. (negative)</p> <p>A short break was taken at this point while the interviewer stepped out of the room, about 20 minutes into the interview. The child walked around the room restless while the interviewer was gone for a few minutes, tries to walk outside but the interviewer is on her way back in.</p> <p>"Where was Jaylon when Dee touched your private?" -He was in bed with me. "What was Jaylon doing when Dee</p> | | |
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| <p>He didn't touch his private, just mine.</p> <p>"Was he being mean when he hit you? Or was he being nice or was he being some other way?"</p> <p>-Umm.....mean.</p> <p>This was followed by a repeat of the same question several times asking where he was the other time that Dee touched his private, with many no responses and a few "I don't know".</p> <p>"Was that a long time ago or just a short time ago?"</p> <p>-Short time ago.</p> <p>"What room were you in?"</p> <p>-The computer room.</p> <p>"What were you doing?"</p> <p>-Sleeping and he touched me.</p> <p>"Was there any other time besides that time that he touched you?"</p> <p>-No.</p> <p>"Have you ever seen him touch anyone else before?"</p> <p>-No.</p> <p>"Has anyone else ever touched your private parts before?"</p> <p>-Hakes his head no.</p> <p>"Why do you think he touched your private?"</p> <p>-I don't know.</p> <p>"Did you tell anyone when he touched you?"</p> <p>-My mom.</p> <p>The interviewer then asked him a few more questions regarding telling the truth, which the child had mixed responses to. When asked if he was telling the truth, said no, then asked again and said yes, then asked a third</p> | | |
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- Motion on special procedures during presentation of child victim's testimony per Mil.R.Evid. 611(d)
- Hospital Record – Medical exam of Wiley conducted 1/15-1/16, 2010
- Charge Sheet
- Report(s) of US Naval Criminal Investigative Service
- Child Protective Team Interview Summary, dated 1-21-10
- Statement of Donald Lynn Hickman, dated 1-27-2010
- Article 32 Report
- Continuation of Article 32 IO Report
- DVD of Child Protection Team Interview
- DVD of Interrogation of AM3 Hickman
- United States v. Linus P. Romey, United States Court of Military Appeals - Decision
- Maryland v. Craig, Supreme Court of the United States – Decision

Documents on file

Hickman