

1 yesterday? What's the chance that he's
2 mistaken?

3 JUDGE SIPPEL: He doesn't have to
4 answer that question. You got testimony
5 yesterday. You've got this testimony today.
6 If there's a conflict in it then you can raise
7 it in findings, but unless you've got
8 something harder than this we're not getting
9 anywhere. You're arguing with the -- well,
10 never mind, never mind. Please continue.

11 BY MS. LANCASTER:

12 Q On lines 27 through 33, you
13 discuss, you're talking about your work at
14 Microsoft. You actually worked as an employee
15 of Microsoft for only two years; isn't that
16 correct?

17 A That is correct.

18 Q And you worked as a temporary
19 employee based at Microsoft for the remaining
20 time that you discussed in your testimony?

21 A That's correct.

22 Q Okay. When did you become -- on

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1 the next page, you talk about becoming sick
2 with mononucleosis. When did you become sick
3 with that?

4 A I believe I was 21.

5 Q Okay. On the next page, you
6 discuss your sleep apnea. How was that
7 diagnosed, or has it ever been officially
8 diagnosed?

9 A Yes, it has.

10 Q And when was it diagnosed?

11 A I had, I believe, three different
12 sleep studies over the past six or seven years
13 at the most, I believe. And as far as I
14 recall, the last sleep study I had was within
15 the last four years, I believe. I don't have
16 those medical records with me. I'm sorry.

17 Q Okay. What has been the treatment
18 that they prescribed to treat that?

19 MR. LYON: Objection, irrelevant.

20 MS. LANCASTER: Your Honor, he
21 bases a whole lot of his testimony on the fact
22 that he had sleep apnea and he couldn't work

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1 and he lost his job, and all of this I think
2 is irrelevant but it's in the record and,
3 consequently, I should be able to ask him what
4 treatment he received for it.

5 JUDGE SIPPEL: No, because you
6 have no goal to go to except to argue with the
7 witness as to whether or not he remembers
8 properly. I'm going to sustain the objection,
9 and please move on.

10 MS. LANCASTER: May I ask him if
11 he's currently being treated for it?

12 JUDGE SIPPEL: You may.

13 BY MS. LANCASTER:

14 Q Are you currently being treated
15 for sleep apnea?

16 A Yes.

17 Q So you don't have any sleep
18 problems? I beg your pardon?

19 A I still do have some sleep
20 problems.

21 Q Okay. What do you think is a
22 likely outcome today or in the future, not

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1 today specifically, if you were to admit in
2 this hearing that you had had sex with a minor
3 within the last 15 years?

4 MR. LYON: Objection.

5 JUDGE SIPPEL: Sustained.

6 MS. LANCASTER: Your Honor, that's
7 certainly relevant. His state of mind as to
8 what would happen to him if he is found to
9 have had sex is relevant to this proceeding.

10 MR. LYON: Your Honor, that's
11 somehow question his denial that he has?

12 MS. LANCASTER: It goes to his
13 credibility. It certainly does.

14 MR. LYON: I mean, it's like
15 asking a witness in a murder trial, you know,
16 what do you think would happen if you admitted
17 to committing murder?

18 MS. LANCASTER: He's got it in his
19 statement --

20 JUDGE SIPPEL: Wait a minute.
21 Read what he has in the statement, in his
22 testimony.

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1 MS. LANCASTER: In his statement,
2 on page nine at line 22, it says, "Due to the
3 laws in Washington State, I would go to prison
4 for the rest of my life if I was once again
5 convicted of a sex offense." If he gives
6 testimony here today, I want to know if he
7 thinks it's likely that there would be a
8 criminal proceeding instituted against him in
9 the State of Washington and, thus, he would
10 possibly become convicted of a sex offense.
11 That's relevant to his written testimony that
12 we're reviewing.

13 MR. LYON: I maintain my objection
14 of the relevance, your Honor.

15 JUDGE SIPPEL: I sustain your
16 objection.

17 MR. LYON: Excuse me, your Honor,
18 I apologize.

19 JUDGE SIPPEL: Channel 7?

20 MR. LYON: Wife.

21 JUDGE SIPPEL: More important.

22 MR. LYON: She I can hang up on.

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1 JUDGE SIPPEL: Pay the price.

2 BY MS. LANCASTER:

3 Q On line 34 of your testimony on
4 page nine --

5 JUDGE SIPPEL: Page nine of
6 Exhibit 2, right?

7 MS. LANCASTER: Yes.

8 MR. LYON: Line 34 of page nine?

9 JUDGE SIPPEL: I'm sorry. It's
10 Exhibit 1.

11 MS. LANCASTER: Page nine of his
12 testimony, which is Exhibit 1 --

13 JUDGE SIPPEL: Thank you, ma'am.

14 BY MS. LANCASTER:

15 Q Actually, the sentence starts at
16 31 but the part that I'm interested in is the
17 part which you say that you have chosen to
18 live your life as a model citizen. But, yet,
19 you have had altercations since you have been
20 released, haven't you?

21 MR. LYON: Objection.

22 BY MS. LANCASTER:

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1 Q Do you consider that --

2 JUDGE SIPPEL: Wait a minute, wait
3 a minute. I'm going to overrule the
4 objection, but where is this going? Now,
5 you're going to ask -- where do you see the
6 model --

7 MS. LANCASTER: Model citizen is
8 on the last line, that he's now a model
9 citizen.

10 JUDGE SIPPEL: Of page nine? Oh,
11 I see what it is. Now, wait just a second.
12 And what are you arguing with this witness
13 about?

14 MS. LANCASTER: Well, he's
15 claiming to be a model citizen, and I'm asking
16 him, I had planned to ask him if a model
17 citizen assaults a woman over an auto
18 collision? Does he consider that model
19 citizen behavior?

20 MR. LYON: He wasn't, your Honor,
21 he wasn't charged with assault.

22 MS. LANCASTER: So that's my next

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1 question. Is it only you're a model citizen
2 unless you're convicted of something? Is that
3 his definition of a model citizen?

4 MR. LYON: I think that she is
5 arguing with the witness.

6 JUDGE SIPPPEL: She is arguing with
7 everybody, but model citizen -- okay, let me
8 try it this way. Mr. Titus, what was the
9 definition of the concept in your mind, and
10 it's got air quotes around it, of a model
11 citizen when you wrote it in page nine?

12 THE WITNESS: Yes, your Honor.
13 That's why I put it in quotes because that is
14 a large interpretation to me. You know, that
15 can be a large interpretation of what model
16 citizen means. I did not say perfect citizen.
17 I'm not perfect. I make mistakes. But in my
18 mind, what I consider a legal citizen is I do
19 the things that I believe we are supposed to
20 do. I don't break the law. I go to work. I
21 pay my bills. I've lived in the same place
22 for at least 12 years now. That was, in my

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1 mind, where I was going with that.

2 JUDGE SIPPEL: Thank you. Okay.
3 Well, what's your next question?

4 BY MS. LANCASTER:

5 Q On page ten at line 23, you state
6 that you have mentored newcomers to the rights
7 of amateur radio. I asked you yesterday to
8 tell me the names of anyone that you have
9 mentored, and you were unable to do so. Who
10 did you have in mind when you wrote this
11 sentence?

12 A No one specifically. Sorry.

13 Q On the last line of your
14 statement, line 11, I mean page 11 at line 16,
15 you talk about your integrity and your
16 character. Let me ask you this: how do you
17 describe integrity? What did you mean by
18 integrity?

19 A Where are you reading this at?
20 I'm sorry.

21 Q Line 16.

22 JUDGE SIPPEL: We're on the last

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1 page towards -- it says -- well, you can read
2 it to yourself, or you can read it out loud.

3 THE WITNESS: I've got it now.
4 I'm sorry. I was on the wrong page. My
5 thought was on integrity is my truthfulness,
6 in part, and honesty, not commit any crimes,
7 and that I've not done things that I believe
8 put jeopardy to the reputation in ham radio
9 over the past 15 years. I guess that's the
10 best way to sum it up right now. Sorry.

11 BY MS. LANCASTER:

12 Q Would you agree that a person's
13 character is determined by the sum of that
14 person's actions over their lifetime?

15 JUDGE SIPPEL: He doesn't have to
16 define that. He doesn't have to answer that
17 question. What you're getting at here is
18 perhaps being a legal conclusion. He said
19 what he said. If you think that his record,
20 if you think that there's some reason that you
21 can show that he didn't mean what he said then
22 you can argue that in proposed findings.

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1 That's all. Did he mean to say what he said
2 here, and I've seen nothing to show that he
3 hasn't.

4 MS. LANCASTER: Okay.

5 JUDGE SIPPEL: Go ahead. I'm
6 sorry, ma'am.

7 BY MS. LANCASTER:

8 Q On page ten of your testimony, on
9 line 34 --

10 A We're going backwards now?

11 Q Is that a disparaging remark?

12 A I'm asking because I was on page
13 11.

14 Q Page ten.

15 A Okay.

16 Q You refer to Detective Shilling as
17 a quote/unquote expert. Were the quotes meant
18 to be a disparaging remark or comment on
19 Detective Shilling's expertise?

20 MR. LYON: Objection.

21 MS. LANCASTER: Why?

22 MR. LYON: For one, it's

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1 irrelevant. For two, it's immaterial. For
2 three, I think you're just poking the witness.

3 JUDGE SIPPEL: All right. I'm
4 going to let him answer this question. I'm
5 overruling the objection, but this is going
6 far afield. What did you mean to say when you
7 said Seattle Police Department expert in air
8 quotes, Detective Robert Shilling?

9 THE WITNESS: Yes, your Honor.
10 What I was meaning is that I don't have any
11 firsthand personal knowledge that he's been
12 classified or defined by some god or authority
13 that he's an expert. The only reason I put
14 quote/unquote expert is I read in a document
15 where he was quoted as being, I believe it was
16 an expert in community notification. That's
17 why I put it that way, and that's the only
18 reason.

19 JUDGE SIPPEL: All right. Well,
20 it might have been a, you know, it might not
21 have been the best way to say it, but that's
22 what he said.

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1 MS. LANCASTER: Okay. I have no
2 further questions, your Honor.

3 MR. LYON: I hate to do this, but
4 I do have one question.

5 REDIRECT EXAMINATION

6 BY MR. LYON:

7 Q Ms. Lancaster used a term in
8 asking you a question about assaults, and so
9 I want to clear this up. Tell us briefly what
10 was the physical contact between you and the
11 woman with whom you had the accident.

12 MS. LANCASTER: I'm objecting,
13 your Honor. How many times have I heard the
14 objection that what I'm asking was asked and
15 answered yesterday, and his version of their
16 facts were certainly put in the record
17 yesterday.

18 JUDGE SIPPEL: So you're satisfied
19 with his answer yesterday?

20 MS. LANCASTER: His answer
21 yesterday stands. He does not need to re-give
22 it to us. It's asked and answered, and when

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1 I would ask something that was asked and
2 answered I was told to move on.

3 MR. LYON: Well, your Honor, she
4 was asking the questions that she had already
5 asked.

6 JUDGE SIPPEL: I've been very
7 fair. I mean, I've been very fair to both
8 sides as best I can, in light of what you're,
9 you know --

10 MS. LANCASTER: No, your Honor.
11 I'm just saying, under that theory, his was
12 asked and answered yesterday. It's in the
13 record. It does not need to be reiterated
14 again here today.

15 JUDGE SIPPEL: Then I can assume
16 and conclude that the government is satisfied
17 with his answer on that subject?

18 MS. LANCASTER: Well, satisfied is
19 a judgment call, your Honor. I know that it
20 was asked and answered. His version was put
21 in the record. I'm not saying I'm satisfied
22 or not satisfied, but it's stated in the

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1 record and we don't need to hear it again.

2 MR. LYON: All right. Well, I am
3 not satisfied by it, and I didn't ask it. So
4 I think I am entitled to ask it.

5 JUDGE SIPPEL: I'll permit it.

6 BY MR. LYON:

7 Q Do you know the question?

8 A Yes, I do. And I think it
9 probably is worthy of a little clearing up.
10 When the lady's hand was in my face and she
11 did not remove it from my face or back away,
12 I grabbed her hand. Her hand was in front of
13 mine, and I did not twist it behind her back.
14 I grabbed her hand and brought it downwards to
15 her side. And that was all the physical
16 contact there was; that was it. I did not
17 twist her up in any way.

18 Q All right. Thank you.

19 RECROSS EXAMINATION

20 BY MS. LANCASTER:

21 Q Had this woman made any physical
22 contact with you before you grabbed her?

1 A No.

2 JUDGE SIPPEL: But before he
3 grabbed her hand.

4 MS. LANCASTER: Her hand is part
5 of her, your Honor. He grabbed her. She had
6 not touched him beforehand. He grabbed her.
7 That's an assault.

8 JUDGE SIPPEL: Grabbing a person
9 is a different concept in my mind than
10 grabbing a person's hand.

11 MS. LANCASTER: Your Honor, I
12 think the transcript is going to show that he
13 testified yesterday that he grabbed her hand
14 or arm and twisted it behind her back. That's
15 going to be, as I recall, the testimony.

16 MR. LYON: Your Honor, if that's
17 true, then I'm sure counsel will write very
18 interesting findings on it.

19 JUDGE SIPPEL: All right. That's
20 it. Everybody is finished here, so my best
21 advice to you would be to say nothing more
22 except tonight and the afternoon --

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1 MR. KNOWLES-KELLETT: We actually
2 have one more matter, your Honor. You were
3 going to ask him a couple of questions about
4 Exhibit 15.

5 JUDGE SIPPEL: Yes, but not with
6 this witness. He's finished.

7 MR. KNOWLES-KELLETT: We faxed it
8 to him.

9 JUDGE SIPPEL: Oh, I'm sorry. I
10 apologize. There was a document that was
11 faxed to you. Do you have the document?

12 THE WITNESS: Yes, I have that.

13 JUDGE SIPPEL: I'm sorry, Mr.
14 Knowles-Kellett, you're absolutely right.
15 What is the document now?

16 MR. LYON: If I may, your Honor.

17 JUDGE SIPPEL: Certainly. You may
18 approach the witness.

19 MR. LYON: I will. Mr. Titus, can
20 you identify the document that's been marked
21 as Titus Exhibit 15?

22 THE WITNESS: Yes.

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1 MR. LYON: Okay. What is that
2 document and how did it come to be sent from
3 the Benton County Clerk's Office?

4 THE WITNESS: I contacted Benton
5 County Clerk via e-mail asking for resolution.
6 I don't think resolution was my word. I can't
7 remember what my exact word is. Essentially,
8 I was asking for the resolution to my
9 probation violation when I was on probation
10 after the adult arrest. And this is what the
11 clerk's office said was the only record of the
12 court hearing that day. Well, this is the
13 clerk's minutes of the court hearing that day
14 regarding my proceeding, my legal proceeding
15 that day. And so he faxed this to you.

16 MR. LYON: Your Honor, do you need
17 any more information?

18 JUDGE SIPPEL: Are you satisfied
19 with that identification?

20 MS. LANCASTER: No, sir.

21 JUDGE SIPPEL: What would you like
22 more --

1 MS. LANCASTER: I would like to
2 know if he has any personal knowledge of the
3 events. First of all, how did he pick the day
4 that he requested for a document about a
5 hearing on a specific day, and how did he pick
6 that day?

7 JUDGE SIPPEL: All right.

8 MR. LYON: Mr. Titus, did you ask
9 for a document with respect to a particular
10 day, or did you ask for a document --

11 MS. LANCASTER: If he could just
12 state it without leading, your Honor. I would
13 object to the leading.

14 JUDGE SIPPEL: All right.

15 MR. LYON: That wasn't leading,
16 your Honor.

17 JUDGE SIPPEL: No, I know you
18 weren't, I know you weren't. But let's go
19 ahead.

20 THE WITNESS: I have the e-mail
21 right here, and I'll just read exactly what I
22 requested from the e-mail.

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1 MR. LYON: That would be great.

2 THE WITNESS: I'm looking for that
3 right now.

4 MR. LYON: E-mail is a wonderful
5 thing, isn't it, Mr. Titus?

6 THE WITNESS: Yes, it is.

7 JUDGE SIPPEL: Some people, like
8 Enron, would disagree with you.

9 THE WITNESS: And so would people
10 in the President's office.

11 JUDGE SIPPEL: Many people I would
12 suspect.

13 THE WITNESS: Okay, I'm ready.

14 MR. LYON: Okay. Please read the
15 e-mail that -- this is an e-mail that you sent
16 to the clerk's office in Benton County?

17 THE WITNESS: Yes, that's correct,
18 on July 14th at 11:19 a.m.

19 MR. LYON: All right. And would
20 you identify the person to whom you sent it?

21 THE WITNESS: It was Sarah, I'll
22 spell the last name, W-E-I-D, as in dog, N-E-

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1 R.

2 MR. LYON: Okay. Please read the
3 e-mail.

4 THE WITNESS: And Sarah was S-A-R-
5 A-H.

6 MR. LYON: Okay. Please read the
7 e-mail.

8 THE WITNESS: "Hi, Sarah. I hate
9 to bug you, but I have a hearing tomorrow
10 morning and my attorney just notified me that
11 we need to get a copy of the judge's dismissal
12 of my probation violation from about 11 years
13 ago. Is this something that you have readily
14 available and could e-mail to me and my
15 attorney? Thank you once again," and my
16 signature and date of birth.

17 MR. LYON: And did you get an e-
18 mail response from the clerk?

19 THE WITNESS: Yes.

20 MR. LYON: And what was that
21 response? Can you read that?

22 THE WITNESS: Yes, I can.

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1 MR. LYON: Please do.

2 THE WITNESS: "Hi David. I have
3 looked through your file, and I cannot find an
4 'order' dismissing a probation violation. You
5 did have a hearing on 10/25/96 where Judge
6 Taylor denied the state's motion to violate
7 your probation and the only evidence of that
8 is clerk's minutes. There was no formal
9 written order entered. Sorry I could not help
10 you more, but the judge will have your file at
11 the hearing and will be able to review it and
12 will see the clerk's minutes showing the
13 denial. Let me know if I can do anything
14 further. Sarah."

15 MR. LYON: Okay. And do you know
16 what the clerk is talking about when she talks
17 about the judge at your hearing?

18 THE WITNESS: I believe that Sarah
19 thought I would be having a hearing in Benton
20 County that morning, and I think that's what
21 she meant by that.

22 MR. LYON: And is that on your

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1 pending request to be relieved of the
2 requirement to register as a sex offender?

3 THE WITNESS: That's correct.

4 JUDGE SIPPEL: That's it.

5 MS. LANCASTER: Okay. The
6 problem, your Honor, that we have with this
7 is, first of all, as I recall and my notes
8 indicate from yesterday's testimony, Mr. Titus
9 went to a hearing. The only hearing Mr. Titus
10 attended had to do with viewing pornography.
11 This has nothing to do with viewing
12 pornography. This has to do with polygraph.
13 Mr. Titus testified, as I recall, yesterday
14 that he was not present at anything except
15 when they had the hearing to view pornography,
16 about the violation of him viewing
17 pornography.

18 MR. LYON: But, your Honor, can I
19 make a suggestion? If the Bureau believes
20 that -- plainly, this document relates to Mr.
21 Titus' sex offender file and should be in
22 evidence. If the Bureau believes there's

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1 something else out there, I think the Bureau
2 can do the research with Benton County and
3 move to supplement the record. But I think
4 this should come in. It is plainly relevant.
5 It is plainly part of his file. And if we
6 want a complete record, it should be here. If
7 the Bureau thinks that there is something else
8 out there then they are very capable lawyers
9 and I'm sure they can find it.

10 MS. LANCASTER: Your Honor, my
11 problem is not that I don't know if there's
12 anything else out there or not. And based on
13 the e-mail to Mr. Titus, there may not be
14 anything out there. But the problem is this
15 doesn't address the issue of the hearing that
16 we discussed yesterday. This may be something
17 that's in his file, and it may be another
18 hearing, but it's not the one we talked about
19 when he had an infraction for viewing
20 pornography.

21 JUDGE SIPPEL: All right. Let me
22 slow down one minute here.

1 MR. LYON: Counsel and I disagree.

2 JUDGE SIPPEL: Let me slow down
3 one minute. The question of this document
4 came up with respect to an exhibit. Would
5 somebody please direct me to what that exhibit
6 was?

7 MR. LYON: Your Honor, it is
8 Exhibit 4 of the Bureau's.

9 JUDGE SIPPEL: Page 43. All
10 right. Let me look at it.

11 MR. LYON: It's specifically a
12 recommendation that there be a violation
13 hearing. I objected to that document based
14 upon there was no indication of the result of
15 any such hearing, and the recommendation, in
16 and of itself, had no probative weight and
17 shouldn't be admitted.

18 JUDGE SIPPEL: No, I remember that
19 specifically. In fact, you told me that your
20 witness would probably testify that the
21 hearing was held and that the case was
22 dismissed, words to that effect. And I was

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