

Following is the most extensive investigation to date. The Alleged Victim's name has been changed as required by one of this board's administrators. Some comments have been [deleted] to protect the innocent Thomas M. Kelly to enable their use in appeal and a future post-conviction trial. This material was ignored by the judge, called threatening in the Astorian, and called worthless by DA Brown.

Judge Matyas:

RE: Friend of Court Brief; Request For Mistrial & Acquittal or Reduced Sentence On State V. Thomas M. Kelly, Case 06-1238

There were serious procedural errors or misconduct that resulted in an unfair trial in State V. Kelly, Case 06-1238 based on the following facts which will be supported in the enclosed mistrial report.

- 1) [deleted]
- 2) Alleged Victim was evaluated by experts as telling huge whopper lies and wasn't asked if she was doing it on the stand.
- 3) Alleged Victim fits the classic profile of a child who will do anything to make her second home work.
- 4) Alleged Victim was coached pre-trial, and on the witness stand by the DA proving her susceptibility to coaching.
- 5) Alleged Victim was abused in her biological mother's custody before in custody of dad and visitations to her grandparents.
- 6) Tom Kelly was voted guilty on charges that have a 60% false accusation rate, worse than random guessing.
- 7) Tom Kelly was prosecuted with increased charge counts due to coaching of the accusing child.
- 8) Tom Kelly had incompetence of counsel, failed to make proper objections and presentations at trial and closing statement.
- 9) Tom Kelly had sperm heads which could have been 25 years old used as evidence within the shorter trial time window.
- 10) Tom Kelly had love with no intent of arousing or gratifying the lust or passions or sexual desires of himself or Alleged Victim.
- 11) Tom Kelly was prosecuted with speculation and outright lies which are stated illegal by the Oregon Bar.
- 12) Tom Kelly had no prior sexual molestation accusations in over 28 years of church starting.
- 13) Tom Kelly did not receive the due process of being presumed innocent until proven guilty.
- 14) Alleged Victim has a stepmother who had a vicarious need to punish someone for her sex abuse and a financial motive
- 15) Alleged Victim has a stepmother who is capable of lying when it suits her purpose.
- 16) Alleged Victim has a dad who exhibits a classic preacher's kid disrespect for authority by having kids w/o marriage.
- 17) Alleged Victim had transference of sexual images from video tape to alleged sexual behavior of granddad.
- 18) Alleged Victim had false memories created by suggestions and expectations of interviewers from Annie to police to DA.
- 19) Alleged Victim was diagnosed about age three with autism, spectrum disorder, aspergers disease, post traumatic stress disorder, oppositional defiance syndrome, and possible reactionary disorder. She heard voices in her head seeing colors in her brain.
- 20) Court had different pre-trial and trial judges making trial judge less informed and less likely to accept motions to acquit.
- 21) Court accepted jurors with conflict of interest who stated it wouldn't affect their decision – such are often rejected.
- 22) State suppressed evidence by returning porn tape which had everything Alleged Victim accused Tom of doing to her.

Judge, I'm asking you to retry the case yourself at your desk considering truths not expressed in the trial to justify a decision to acquit. To do a better job than the jury informed by opposing attorneys, please first educate yourself in false sexual accusation topics by watching the first four continuing legal education videos at <http://www.accused.com/library/mcle.vids.html> and the first for clients at <http://www.accused.com/library/client.vids.html>. Then review the trial with the list above to see how they each fit the truth.

To rapidly prove this request has merit, [deleted]

If you do not find enough support to acquit, I ask that you minimize the sentence to concurrent and convert it to probation on the basis that Mr. Kelly has been convicted of molesting his granddaughter without previous accusation from members of home churches he started over the years which I attended since 1980 in Astoria, Clatskanie, Knappa, and Rainier until June 2008 and he won't likely see his granddaughter again so has no opportunity and he will be more benefit to society employed than costing society as a prisoner.

I hope I give you a reasonable doubt about the verdict. Please show Tom Kelly's family, friends, and the public you care about truth.

Sincerely,

Kirk W. Fraser

# Mistrial Report On State v. Kelly Case 06-1238

Compiled by Kirk W. Fraser

## 1) Alleged Victim had access to pornography in her parent's home and parents who developed websites with porn links.

May 27, 2008 11:22:26 AM DA said [deleted]

...it is reasonable to assume the DA used other lies to support his case.

## 2) Alleged Victim was evaluated by experts as telling huge whopper lies and wasn't asked if she was doing it on the stand.

May 22, 2008 4:22:19 PM Psych. Christine Arthur – She told the whoppers, lies no one could believe and it went on and on.

The absence of asking Alleged Victim if she was lying now on the stand reflects badly on the defense and both lawyers' pursuit of the truth.

Statement of reasonable doubt: Is it possible that Alleged Victim might have confessed she made the whole thing up if she were simply and directly asked? Without Anne present?

## 3) Alleged Victim fits the classic profile of a child who will do anything to make her second home work.

A System Out of Balance video at [http://www.accused.com/library/client\\_vids.html](http://www.accused.com/library/client_vids.html) 33:35 into recording

“A long campaign of subconscious programming is more effective than overt brainwashing. It destroys the bond between the ex-spouse and child.”

This divorce scenario sounds like it describes the tug of war relationship between Tom and Annie as partial parents to the child. Annie succeeded in destroying Alleged Victim's love for Tom enough so she changed from a past testimony that she loved him to saying on the witness stand that she didn't love him.

A System Out of Balance video at [http://www.accused.com/library/client\\_vids.html](http://www.accused.com/library/client_vids.html) 34:00 into recording

“A child who has a basic psychological bond with one parent that is stronger than that with the hated parent will do anything to maintain that bond between the loved parent and the child. Remember the child feels they were once abandoned by the hated parent when the divorce occurred. The child does not want to be abandoned a second time by taking sides against the loved parent. They will do anything to maintain that bond with the loved parent. One of the ways this is done is by making complaints against the hated parent. The child then gathers support from the loved parent. The child is fearful of expressing love for the hated parent for fear that it will displease the loved parent. The complaints start out as minor complaints but when the child custody battle becomes ferocious and the small complaints escalate into accusations of child abuse.”

Alleged Victim was in this scenario more than any proposed by the DA. There was an unwritten custody battle between grandpa Tom who Alleged Victim loved and her new step-mom who she saw every day. The mom fine-tuned her psychological warfare as Alleged Victim attacked her dad Tom Jr. with false accusations of hitting her with a stick to attacking her grandpa with false accusations of sex abuse.

Statement of reasonable doubt: Could the charges be just plain wrong? The motives for lying seem very strong.

## 4) Alleged Victim was coached pre-trial, and on the witness stand by the DA proving her susceptibility to coaching.

Proof of coaching the girl is available by comparing the pre-trial documentation with her trial testimony.

Interview between Det. Kristen Hanthorn and Elaine Kelly on June 1, 2006 -- Date of Tom's arrest.

Concerning Alleged Victim's description of Tom's penis.

HANTHORN: I can give you her exact words; She said, "The balls are gushy and the middle is hard and the top is soft."

ELAINE: You know what? Right there, He can't get an erection. He's been humm,  
He's not been able to get an erection for a good year or so.

HANTHORN: So you guys have sexual relations then?

ELAINE: Yes, He's not been able to get an erection.

In the trial Alleged Victim has changed her testimony from hard in Hoover's initial report to say it was soft (May 21, 2008 3:38:24). One instance of lying by coaching means there could be others. Alleged Victim said she lies to not get in trouble (3:51:10). She talked because her mom was being nice (4:12:31). Was she coached by all interviewers being nice?

Alleged Victim claimed on the stand her alleged abuse only happened 2 or 3 times over the whole time with grandparents (May 21, 2008 3:42:07-40). That means most of the alleged counts are absolutely speculative lies which should be thrown out. Later the DA was able to get her to say more than 20 times (4:39:35). Is Alleged Victim that easy to coach? That credibility would argue the whole case with all charges should be thrown out.

Statement of reasonable doubt: Do the few child molesters who start late in life have Erectile Dysfunction AND still have sexual relations with a wife?

**5) Alleged Victim was abused in her biological mother's custody before in custody of dad and visitations to her grandparents.**

May 22, 2008 4:20:29 PM Psych. Christine Arthur - Possible abuse & violence brackets birth to 3.5

Statement of reasonable doubt: If Alleged Victim was violently abused from birth to 3.5, is it likely traumatic reactions could include false accusations about both parents and grandparents?

**6) Tom Kelly was voted guilty on charges that have a 60% false accusation rate, worse than random guessing.**

A System Out of Balance video at <http://www.accused.com/library/client.vids.html> 01:00 into recording

Statement of reasonable doubt: If this modern witch hunt atmosphere produces accusations at a rate weighted worse than random guessing, could it be that Tom Kelly is completely innocent?

**7) Tom Kelly was prosecuted with increased charge counts due to coaching of the accusing child.**

Charge counts were calculated based on the statement of Alleged Victim counting on all her fingers and toes spread over time by the color of houses she lived in at the time of alleged abuses. This pre-trial event was mirrored during the trial. As supported in item 4) the child Alleged Victim was coached by the DA on the witness stand to move her count of occurrences up from 2 – 3 to over 20. According to Tom she also has said he does it all the time. Did the DA also coach her like that pre-trial?

Statement of reasonable doubt: Should such inconsistent testimony ranging from about once a year to once a month to unceasingly decide how many years a person's life is wasted in prison? Obviously 2 of the statements are her lies, could all three be lies?

**8) Tom Kelly had incompetence of counsel, failed to make proper objections and presentations at trial and closing statement.**

Defense attorney Susan Reese did not object to many objectionable statements and actions by the prosecution, some of which are noted in the accompanying Preliminary Misconduct Report for DA Brown. Her closing statement was so weak, parts of it were barely audible. Tom Kelly states, "There are at least three boxes of information of the defense that were not brought up in trial for basically the defense attorney stayed with the mental condition of Alleged Victim and Annie Reeves both their past." She said it was not about motives when motives are a key to understanding why the initial abuse charge was made and why lying continued for 2 years to the witness stand. See section 3) and 14).

Time was spent at trial start to redact people praising Alleged Victim on tape which was a part of the pre-trial coaxing that may have embellished some reported events including the charge counts.

Statement of reasonable doubt: Had the defense attorney acted to more aggressively object at the DA's conjectures, lies, coaching, and any other errors, could the minds of the jurors be balanced both attorney's aggression and seen through it to a more accurate picture of the trial instead of simply believing the more aggressive attorney? Might they have changed their verdict had all the evidence collected been presented?

**9) Tom Kelly had sperm heads which could have been 25 years old used as evidence within the shorter trial time window.**

The sperm found on the cushions were not fresh as their tails were gone and could have been up to 25 years old, much longer than Alleged Victim has been alive. It's possible these were deposited by non-sexual activity such as nocturnal emission and carried there in Tom's pants. He may have had sexual activity with his wife there. Whatever the source, after drying they are like grains of sand which may fall on a cushion which eventually bounce under the cushion with repeated sitting and standing over time. There is no evidence the sperm were deposited during Alleged Victim's presence in the house let alone in any direct encounter with her.

Statement of reasonable doubt: Since there is no proof Tom's sperm were deposited in the manner alleged by the DA, is it actually evidence of a crime or the first case I've heard of where a DA uses DNA to lie to a jury?

**10) Tom Kelly had love with no intent of arousing or gratifying the lust or passions or sexual desires of himself or Alleged Victim.**

Loving grandparents had Alleged Victim removed from her mother's abuse. Further expressions of love led Alleged Victim to desire to rest on Tom's breast as disciple John rested on Jesus' breast, out of love, not for sex. That love helped transition her from the abusive home she was in which made her be diagnosed with many disorders, to a better life where psychoactive drugs weren't needed.

Statement of reasonable doubt: Is it possible Alleged Victim climbed up on her grandfather to rest there as an expression of love, much like a pet will climb on its loving provider, instead of as an act of sexual perversion?

**11) Tom Kelly was prosecuted with speculation and outright lies which are stated illegal by the Oregon Bar.**

Although the Oregon State Bar declares lies as illegal behavior by a trial lawyer, the Bar being asked twice by email would not specify what lies they would prosecute as distinct from normal trial behavior. The DA's statements documented in the enclosed Preliminary Misconduct Report are candidate lies.

Statement of reasonable doubt: When a person's future freedom is on the line, should even the appearance of lying be an accepted normal practice to convince a jury? If jury members vote influenced by a lie, isn't the verdict also a lie?

**12) Tom Kelly had no prior sexual molestation accusations in over 28 years of church starting.**

Elected DA Josh Marquis admitted that Tom Kelly had no priors. Tom was in many people's homes while starting churches in Astoria, Clatskanie, Rainier, and Knappa so he had more opportunity than a shut-in, recluse, or hermit yet he didn't abuse the hospitality.

Statement of reasonable doubt: Is it reasonable to think a person who kept himself sexually pure over years of church founding would betray a member of his own family whom he loved enough to help save from abuse?

**13) Tom Kelly did not receive the due process of being presumed innocent until proven guilty.**

The legal processing system is broken since it allows DA's to wildly accuse citizens in their opening statement before proving anything and their peers at the local Bar support it. A much more civilized approach would be to say, "the state will work to prove beyond a reasonable doubt that" ... (list of alleged facts) instead of pretending the accusations immediately have standing as fact.

Statement of reasonable doubt: Since the DA stretched the presumption of innocence rule in his opening statement, it is reasonable to assume he also stretches the law in other areas. Could enough stretching of the law frame a false verdict?

**14) Alleged Victim has a stepmother who had a vicarious need to punish someone for her sex abuse and a financial motive.**

Motives for Annie Reeves to lie include: to stabilize relation with Tom Jr., vicarious punishment on her childhood abuser, punishment to senior Kellys for not babysitting her own kids when having back pain, and future civil suit money. The intent for a civil lawsuit against the defendant's wife Lily has received a warning of since the trial from a person conversant with both sides.

Tommy tried to pawn children off to Tom and Lily as Annie threatened to leave. With this fabrication, Alleged Victim realizes she can get Annie's approval, that she did not have before. States Annie is her best friend now.

Statement of reasonable doubt: The keys to legal proof seem to be motive, means, and opportunity. Annie had motives. Her means was subtle coaching of Alleged Victim who had greater motives based on classic behavior to maintain a friendly loving parent relationship in her life, and because Annie and Alleged Victim live together Annie had ample opportunity. With all three motive, means, and opportunity present, we have a legal proof Annie Reeves filed false charges against Tom Kelly.

**15) Alleged Victim has a stepmother who is capable of lying when it suits her purpose.**

Pretrial information shows Annie invented testimony by Tom Jr.

"she reads a portion of the DA's report of slanderous lies made by Annie Reeves and Thomas A Kelly Which Thomas A Kelly denies, even saying He didn't make theses statements when interviewed by investigating detectives on the day of first complaint."  
(email from Tom Sr. to lawyer on 17 Aug 2006)

Statement of reasonable doubt: If Annie has lied about the testimony of her apparent spouse, she is capable of lying. Could she be lying about the whole thing? Was she coached into believability by the DA as easily as Alleged Victim?

**16) Alleged Victim has a dad who exhibits a classic preacher's kid disrespect for authority by having kids w/o marriage.**

Although Tom Sr. was not an ordained pastor, he started several home churches over the years. Tom Jr. was aware of his dad's faith enough to call him "an old Jew" in my presence. Sadly Tom Jr. had a preacher's kid's disrespect for authority by having his kids without marriage.

Statement of reasonable doubt: Is it reasonable to assume someone with proven disrespect for authority would obey the law in this matter where his father stands accused? Could he resent the fact his parents saddled him with his kids to avoid abuse?

**17) Alleged Victim had transference of sexual images from video tape to alleged sexual behavior of granddad.**

A porn tape collected by police then returned (see item 22) has video images which portray the very things Alleged Victim accuses her granddad of doing to her. The brief exposure to that tape before Tom found out and stopped her from watching it may explain most of her intimate descriptions of Tom's anatomy and behavior. She learned from it which provided food for her imagination to develop more accurate lies.

Statement of reasonable doubt: If Alleged Victim saw part of a porn tape in her grandpa's house, could she associate that material with her grandpa especially when he showed up to stop her watching?

**18) Alleged Victim had false memories created by suggestions and expectations of interviewers from Annie to police to DA.**

According to Making Memories video at <http://www.accused.com/library/client.vids.html> it is very easy to get completely different reactions by simply asking a child the same question twice. Constantly asking the witness even non-leading questions by Annie, Police, and DA would have produced a spectrum of responses as it did on the witness stand covered in item 7). Subtle key words indicated which false response was desired. And in a friendly environment Alleged Victim would even create new lies integrating material from various sources to not get in trouble. Annie could have simply asked Alleged Victim a few key questions daily over two years of pre-trial work to keep the lie active and in memory.

Statement of reasonable doubt: Creating false memories in young children is so easy, repeating a question will do it. We hope education reduces this gullibility as they get older. Is it possible most words against Tom by Alleged Victim were implanted not by rehearsing a script but by asking questions repeatedly with subconscious cues such as strengthening or withdrawing love showing the desired response?

**19) Alleged Victim was diagnosed about age three with autism, spectrum disorder, aspergers disease, post traumatic stress disorder, oppositional defiance syndrome, and possible reactionary disorder. She heard voices in her head seeing colors in her brain.**

It isn't known if these disorders were from just abuse, a reaction to the cocktail of psychoactive drugs she was prescribed, or a combination. We do know the from about 3.5 on to age 10 she seems to have improved, with the exception of her falsehoods about Tom which can be explained by item 3) above. It seems Tom & Lily helped extract Alleged Victim from a psychologically harmful environment and helped love her back to near normal but the step mother has been using her against Tom.

Statement of reasonable doubt: Could Alleged Victim still be experiencing some residual effects or flashbacks due to her earlier years on drugs? Did she develop a pattern of unrestrained lying back then which carries forward to today? Could that have led to a false conviction?

**20) Court had different pre-trial and trial judges making trial judge less informed and less likely to accept motions to acquit.**

Judge Matias. Who was assigned to the trial 2 wks before the court date, [...]  
Judge Brownhill who listened to over 2 years of pretrial testimony, conveniently took a vacation during the trial.  
(statement of Kathy A Zimmerman, June 12, 2008)

Statement of reasonable doubt: If a judge has heard everything for 2 years, might there be more response to a motion to acquit than from one who has only 2 weeks experience with the case?

**21) Court accepted jurors with conflict of interest who stated it wouldn't affect their decision – such are often rejected.**

Every time I've been interviewed for jury duty at every level city, state, and federal, my small experience of being run into from behind by a car while I was on my bicycle which resulted in temporary unconsciousness but no trial, has been used as a reason to release me despite my statement that it wouldn't affect my decision. In my personality, the prejudices of prior meetings with people would carry more weight than an unrelated accident. Thus in my opinion the court did a disservice to the trial by accepting jurors such as John Mattingly, who attends Catholic church with DA Ron Brown. Another had a past association with a Kelly.

Statement of reasonable doubt: Consider a past association may have parted on good terms or bad – regardless of protestations that it wouldn't affect their decision, is there reasonable doubt that it might in some circumstances?

## **22) State suppressed evidence by returning porn tape which had everything Alleged Victim accused Tom of doing to her.**

“The police took two porn tapes during a search of our home. They also took 27 VHS tapes which contained no porn and 8mm home videos which contained no porn. Before the trial these tapes were returned to the defense. They were picked up at the Clatsop County Sheriff's Department by my wife Lily Kelly. When we went through the tapes we noticed that they had returned one of the two porn tapes. Which we thought was odd. On the porn tape they returned was everything Alleged Victim said I did to her. My lawyer told us because this tape had left the custody of the State it couldn't be used as a defense of why Alleged Victim knew these things. We feel it was given back on purpose to keep it out of evidence in the trial.” (From Tom's written defense statement)

Statement of reasonable doubt: The verdict may have been changed by showing the suppressed porn tape to the jury.

Preliminary Report of Misconduct by  
Clatsop County DA Ron Brown  
Case 06-1238 State v. Kelly

Compiled by Kirk W. Fraser

The preponderance of the DA's statements in this case were lies consisting of speculative imagined scenarios and opinions, very few identified as alleged, attributed to any witness or identified as what if possibilities but stated as facts to the jury. The frequency of such statements leads me to suggest investigation into other cases by the DA and others from his office to determine the scope of this culture of lies.

Of course direct name calling such as when he called Tom "evil" in final closing with only circumstantial evidence are also plain lies. Note this report contains comments on time indexed statements which appear to be misconduct, not the entire statements which may also cover other topics.

Date May 20, 2008

9:40:37 AM – 10:46:06 AM Misc.

11:15:33 AM – 12:10:48 AM Jury Interviews & Break Time

1:29:59 PM – 4:51:24 PM Jury Instructions & Interviews & Break Time

4:51:24 PM – 5:08:08 PM Prosecutor

4:51:29 PM Alleged Victim is the victim in this case.

Misconduct: opinion as fact, did not say “alleged” victim.

4:54:34 PM Crimes occurred on Cedar Street.

Misconduct: opinion as fact, did not say “alleged” crimes.

4:55:13 PM Well if grandma was gone, Alleged Victim got sexually abused.

Misconduct: lie to jury, speculation, imagined scenario

4:55:31 PM The defendant would sexually abuse Alleged Victim down in the basement generally

Misconduct: lie to jury, speculation, imagined scenario, and cumulative repeat

4:55:49 PM Defendant would preoccupy Ireland with video games when sexually abusing his sister

Misconduct: lie to jury, speculation, imagined scenario, and cumulative repeat

4:56:39 PM She never puts any of those movies in herself, the defendant would show her those movies

Misconduct: lie to jury, speculation, imagined scenario

4:56:46 PM He would sit there and watch pornographic movies with his granddaughter to desensitize a child

Misconduct: lie to jury, speculation, expanding on imagined scenario, and cumulative repeat

4:57:04 PM So that's what the defendant did, he would show Alleged Victim pornographic movies

Misconduct: lie to jury, speculation, imagined scenario, and cumulative repeat

4:57:09 PM And eventually that led to him sexually abusing her

Misconduct: lie to jury, speculation, imagined scenario, and cumulative repeat

4:57:53 PM The defendant would commit sodomy, lick her vagina, cause her to have oral sex with him  
 Misconduct: lies to jury, speculation, imagined crimes and scenarios

4:58:10 PM He would get whisker burns on the inside of her legs  
 Misconduct: lie to jury, speculation and medically not possible without reverse burn

4:58:21 PM Thought reaction to wetting the bed ... but they were actually whisker burns  
 Misconduct: lie to jury, speculation, opinion not fact

4:58:34 PM He would rub his penis on her vagina, he actually tried to enter her and have intercourse  
 Misconduct: lie to jury, expanding on imagined scenario, opinion not fact, no medical damage

4:58:50 PM He had "him" suck his penis, he had "him" stroke his penis, until he eventually ejaculated  
 Misconduct: lie to jury, imagined scenario, opinion not fact, "him" possible Freudian Slip!

4:58:56 PM "The Good Stuff" is disparaged as a term for semen  
 Misconduct: misleads jury to view "the good stuff" as worse than term "semen"  
 (NAPA ads use "get the good stuff" on TV)

4:59:35 PM He would touch her breasts WHICH DIDN'T EXIST AT THAT AGE  
 Misconduct: lie to jury, speculation, imagined scenario, opinion not fact

5:00:04 PM He would actually put cushion on ground and abuse her until he finally ejaculated  
 Misconduct: lie to jury, speculation, imagined scenario, opinion not actual fact

5:01:48 PM Crime lab said his semen was on 3 of those cushions, corroborating what Alleged Victim's going to say  
 Misconduct: Semen could be 25 years old -- imagined scenario, corroboration opinion not fact

5:02:01 PM The defendant told her not to tell anybody and if she did the police would really hurt him bad.  
 Misconduct: mislead jury, no evidence, no specific topic, imagined scenario

5:02:21 PM He convinced her that she was a willing co-participant in this and she had guilt feelings about it  
 Misconduct: mislead jury, no evidence other than frequently lying witness, imagined scenario

5:02:32 PM She kept this inside from 2002 until 2006  
 Misconduct: lie to jury with no evidence, imagined scenario

5:04:28 PM Almost never any evidence – had he attempted actual intercourse there might have been evidence  
 Misconduct: lie to jury, contradicts claim at 4:58:34 of intercourse attempt.

5:07:24 PM Does Alleged Victim have any kind of motive to lie in open court to get her grandfather in trouble?  
 Answer: Yes, bonding with Anne Reeves who had been abused, to reduce family instability  
 Misconduct: mislead jury into prejudice that Alleged Victim has no such motive.

5:07:36 PM Look for whether Anne Reeves has any kind of motive to try to get the defendant in trouble.  
 Answer: Yes, to stabilize relation with Tom Jr., vicarious punishment on her abuser,  
 punishment to senior Kellys for not babysitting her other kids when having back pain,  
 and future civil suit money.  
 Misconduct: mislead jury into prejudice that Anne Reeves has no such motive.

5:08:10 PM – 5:09:35 PM Judge

#### Misconduct Summary

True justice presumes innocence until proven guilty. Repeatedly programming the jury over and over with speculation, imagined scenarios and opinions without support of evidence or honest witnesses is not proof of guilt but the cumulative programming effect often gets unjust wins for the state. The DA's setup against motives is carried into his final closing statement indicating inability to discover the truth with his speculations.

Date May 21, 2008

3:38:24 PM Alleged Victim says penis was soft, indicates coaching after initial report of being hard

3:42:07-40 PM Alleged Victim claimed her alleged abuse only happened 2 or 3 times over the whole time with grandparents

3:51:10 PM Alleged Victim said she lies to not get in trouble

4:12:31 PM Alleged Victim talked because her mom was being nice

4:39:35 PM The DA was able to get Alleged Victim to say more than 20 times

5:11:59 PM Prosecutor asks Annie availability of pornography in the house but fails to inquire about computer porn.

#### Misconduct Summary

Coaching the witness was covertly demonstrated by DA Brown with Alleged Victim on the stand. The DA accomplished coaching by approaching the child and having her do a very easy task to gain her confidence then ask the question in a

more familiar way she'd already been coached on. DA also neglects to ask Annie specifically about computer pornography in the house.

Date May 22, 2008

2:14:16 PM Tom Jr. says there are no pornographic tapes or magazines or anything like that in house

3:39:59 PM DA claims "victim" testimony is credible, Dr's opinion of sexual abuse, "happened all the time"

4:20:29 PM Psych. Christine Arthur - Possible abuse & violence brackets birth to 3.5

4:22:19 PM Psych. Christine Arthur – She told the whoppers, lies no one could believe and it went on and on.

#### Misconduct Summary

DA fails to ask Tom Jr. if anyone in the house has seen pornography on the computer, which would make it available in house and in temporary files still in the house, when in fact a website link on Tom Jr.'s profile page is linked to a pornographic website. DA continues to ignore Alleged Victim's problem of lying relative to this case. DA didn't ask if the Dr. alleging sexual abuse could narrow the time of alleged abuse to before Channel was brought under Tom Jr.'s custody or during the times of grandparent visitation addressed by this case. DA ignores both of Alleged Victim's numeric assessments on abuse frequency lying to Judge and Jury by claiming it happened all the time. DA implies abuse prior to arrival at defendant's house is abuse by defendant, a direct lie. DA said a child diagnosed as capable of extreme whopper lying is giving credible testimony without justification at all, let alone justification to override a Psychiatrist.

Date May 23, 2008

11:05:53 AM DA confirms if child is telling the truth suggestive questions won't have much effect.

Application: If Alleged Victim was telling the truth, why could the DA so easily manipulate her on counts?

11:21:00 AM DA associates "the good stuff" term with indicating a sex abuser, which expert denies.

3:31:30 PM DA associates dates with counts to pin down for jury the time frame for each count

#### Misconduct Summary

DA confirms with expert if a child is telling the truth the child won't be very suggestible yet the day before, DA easily manipulated Alleged Victim's testimony from 2-3 counts to over 21, implying Alleged Victim wasn't telling the truth. The DA did not expose or submit to that truth. DA over the course of the trial and especially on this day exposes a deep seated fantasy that "the good stuff" means sex abuser in his mind and even though refuted by an expert, uses his lying point the following day, May 27. A particularly subtle act of embellishing speculation occurred when DA moved to correspond dates with counts, thus making a framework for considering the counts actually happened when they did not.

Date May 27, 2008

9:37:21 AM – 9:43:07 AM Misc.

9:43:08 AM – 10:25:15 AM Prosecutor

9:46:45 AM Crime occurred in Clatsop County

Misconduct: Assuming there was a crime, lie to jury, imagined scenario, opinion not fact

9:48:34 AM Election to associate all 42 counts with separate blocks of time, 3 mo. to 6 mo..

Disregards coached testimony of 2-3 counts and DA coached testimony of 21 counts.

Misconduct: pure speculation of times, imagined scenario, opinion not fact

9:52:11 AM More likely there was a lot more oral sex on victim than on defendant

Misconduct: speculative lie to jury there was any sex, emphasis of imagined scenario, not fact

9:53:00 AM Count 22 for instance was defendant touching vagina

Misconduct: speculative lie to jury touching vagina happened, imagined scenario, not fact

9:53:30 AM How many possible crimes? .... I submit it happened a lot

Misconduct: speculative lie to jury any crime happened, submitting imaginations not facts

9:53:57 AM 21 is one more than fingers and toes, it means a number you can't count on fingers and toes.

Misconduct: speculation not supported by any professional witness, lie to jury

9:54:09 AM DA says she said on stand it happened lots and lots of times

Challenge: I don't remember her saying that phrase "lots and lots" only 2, 3, and 21

Misconduct: embellishing a lie to jury to imply more counts than alleged

9:54:20 AM DA submits defendant committed these kinds of crimes hundreds of times

Challenge: I remember her saying only 2, 3, and after DA's coaching 21

Misconduct: embellishing lie to jury implying more counts than he could coach witness to say

9:54:38 AM Must show defendant knowingly had deviant sexual intercourse, explains sodomy counts  
Challenge: Can't knowingly do something that didn't happen  
Misconduct: lie to jury to imply any sexual contact occurred

9:56:25 AM Second charges sexual abuse in first degree, touching sexual or intimate parts to arouse or gratify  
Misconduct: Setting up framework for lie to jury, imagined scenario, opinion not fact

9:58:36 AM Direct and circumstantial evidence – eyewitnesses, chain of events – jury can believe anyone  
Misconduct: Although this may be law, there is no direction to seek truth.

10:04:04 AM She has worse credibility problems than most other kids, said he rubbed vagina w/fingers, penis  
Challenge: She lies worse than other kids so how can she be believed?  
Misconduct: lie to jury by repetitive catharsis on lying then repeating the lies as fact

10:05:09 AM Said defendant's beard hurt inside of legs  
Challenge: Hair cannot hurt one person's skin without hurting the one with hair.  
Lily Kelly says her husband's face was never marked from being rubbed raw.  
Misconduct: lie to jury by repeating a lie as fact

10:13:00 AM Annie's instincts true? Digging deeper to discover or create a vacuum requiring made up truth?  
Challenge: If jury couldn't tell Alleged Victim was lying, was Annie projecting?  
Misconduct: lie to jury, speculative conjecture, opinion not fact

10:15:27 AM It all shows this happened many dozen, hundreds of times.  
Challenge: If each gets 8.3 years, isn't it important to show how times grow to 100's?  
Misconduct: lie of omission to jury, complete speculation on 100's

10:16:19 AM Lily said you could get porn on the TV in the bedroom  
Challenge: Porn is available by internet, how was it not available in Tom Jr.'s several homes?  
Misconduct: lie of omission to jury

10:25:21 AM – 11:22:15 AM Defense

11:22:26 AM – 11:46:25 AM Prosecutor

11:22:26 AM [deleted]  
Misconduct: lie to jury, speculation, emphatic opinion not fact

11:23:12 AM It was not a failed investigation  
Answer: Failed to discover above information on the parents computer(s)  
Misconduct: lie to jury, conjecture, opinion not fact

11:29:09 AM Do you want to change your story suggests it was a story and it's not true.  
Answer: It was a story and not true – also denies expert testimony on May 23.  
Misconduct: lie to jury, imagined scenario, opinion not fact

11:31:26 AM not implanted memory, total speculation, no motive  
Answer: No more speculation than DA's side. Motives see May 20, 5:07:24-36  
Misconduct: lie to jury, imagined scenario, opinion not fact

11:32:22 AM Sex abused kids have problems with lying  
Answer: the child was abused for years before custody changed - experts said all kids lie  
Misconduct: lie to jury, imagined scenario, opinion not fact

11:34:16 AM You are entitled to disregard expert testimony particularly on if Alleged Victim will tell  
Answer: DA is taking the word of a documented whopper liar over expert testimony.  
Misconduct: Encouraging jury to lie to themselves on expert testimony, opinion not fact

11:35:40 AM Do you think a little girl would watch pornography over and over?  
Answer: Of course, little kids want to repeat fun experiences again, again.  
Misconduct: lie to jury, imagined scenario, opinion not fact

11:38:46 AM Back to the beginning, no motive, nobody's got any axe to grind against the defendant  
Answer: Her email 'I don't care about your problems any more than you care about mine'  
Implies case is retribution for failure to take her kids too, enabling parent freedom days.  
Misconduct: lie to jury, imagined scenario, opinion not fact

11:40:35 AM ejaculate went on edge, horrible deeds on back of cushion, no other explanation  
Answer: Semen only sperm heads could have been carried there in pants up to 25 years ago  
and years of sitting on cushions would have shaken sperm heads to undersides of cushions.  
Misconduct: lie to jury, imagined scenario, opinion not fact

11:43:13 AM Why "The Good Stuff"? Why secret?  
Answers: So kid would have something more polite to say. Tom is on the spot creative.  
Misconduct: create false image to jury, ignored expert testimony

11:45:01 AM Little girls are princesses

Answer: Some are not. Depends on being raised well which Alleged Victim wasn't at first.

Alternative: Grandparents helped transition Alleged Victim from abused to loved.

Misconduct: lie to jury, imagined scenario, opinion not fact

11:45:45 AM Call a man who would sexually abuse his granddaughter horrible, despicable, evil

Misconduct: lie to jury, imagined scenario, opinion not fact

11:46:08 AM This evil man needs to be held accountable, tell him he did it and is guilty

Misconduct: complete lie to jury, implying jury should make up for others

11:46:30 AM – 12:03:46 AM Judge

#### Misconduct Summary

DA's lie count is shocking in closing argument and final closing. It's surprising the jury was so gullible to believe the DA. The variety of lies spans many categories, lies of omission to mislead the jury, lies of speculation, lies of failure to consider or mention possible motives, alternate explanations, availability of pornography in parent's home(s) by computer and TV, so many that for accuracy readers should explore each misconduct in the timeline and realize there may be more to discover.

Date May 28, 2008

DA Brown did not speak.

Jurors polled on votes provided no reasons and appeared to have been guessing the defendant into the pen.

Date May 29, 2008

Front page story in the Daily Astorian, byline author Joe Gamm wasn't at trial, said he got the information from the DA's office. So it's more lies from DA Brown.

Paragraph 3 Defendant did not show pornographic videos to or assault his granddaughter. Speculation, lie not fact.

Paragraph 6, 7 Kelly did not yell or shout but spoke in a calm voice. For proof trial CD May 28 2008, 3:56:34

Paragraph 8 Twelve police officers were not present. Eyewitnesses said two escorted him out. Lie not fact.

Paragraph 10 The good guy is in jail. The case was a real win for the good guys? Speculation, lie not fact.

Paragraph 11 The true victim is the innocent defendant. The false accuser is to be praised? Speculation, not fact.

#### Misconduct Summary

DA publishes his false speculations, false assessments, and false self glorification, praising the wrong person.

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#### Misconduct Review

DA Brown is taking the position of a social parasite interpreting facts to fit his agenda instead of serving the truth. The DA fails to consider alternative explanations of the child's testimony, including the suggestions of several expert witnesses that she may be lying and fails to ask or conceive of motives for that lying and the misguidance of her female parent which poisoned the relationships of that family with one pair of grandparents. The true story is DA Ron Brown was the evil one in this case and the office which employs and supervises him should be examined for evil also.