

1 sitting here with the entire courtroom. I think that I'd
2 probably have discretion to let her testify, even though
3 there is a sequestration order presented, but the defense
4 will have leeway to question her about her presence here
5 during openings. Thank you.

6 [End bench conference].

7 THE COURT: Thank you, very much, ma'am. If you
8 would remain standing and face Mr. Delker.

9 THE WITNESS: Over here?

10 THE BAILIFF: Over here, yes, ma'am.

11 THE WITNESS: Okay.

12 MR. DELKER: Please raise your right hand.

13 ^ JACQUELINE CONLEY

14 was called as a witness, and having been first duly sworn
15 on oath, was examined and testified as follows:

16 DIRECT EXAMINATION [By Mr. Delker]:

17 Q Thank you. Please be seated. Could you please
18 introduce yourself to the jury, and if you could
19 spell both your first and your last name for the
20 record, please.

21 A My name's Jacqueline Conley. My first name
22 J-a-c-q-u-e-l-i-n-e. And Conley, C-o-n-l-e-y.

23 Q Ms. Conley, where do you currently live?

24 A I live in Buckfield, Maine.

1 Q And are you currently employed?

2 A No.

3 Q Did you know Kassidy Bortner?

4 A Oh, yes.

5 Q How did you know her?

6 A She was my granddaughter.

7 Q And who was Kassidy's mother? Who is she?

8 A Amanda. Mandy.

9 Q And what is Amanda's relationship to you?

10 A She's my daughter.

11 Q When was Kassidy born?

12 A February 4th, 1999.

13 Q And you said that Kassidy -- I mean, Amanda, is
14 your daughter. How old is Amanda?

15 A Right now?

16 Q Yeah.

17 A Nineteen. She'd be twenty in January.

18 Q Okay. And how old was Amanda when Kassidy was
19 born?

20 A She was going on seventeen, if I remember. Yeah,
21 it's hard to remember, exactly.

22 Q Do you have any other children?

23 A Yes. I have many.

24 Q How many?

1 A I have five children.

2 Q All right. And do you have a daughter named
3 Jennifer Conley?

4 A Yes, I do.

5 Q Does Jennifer live with you?

6 A No.

7 Q Where does Jennifer live?

8 A Kittery.

9 Q Who does Jennifer live with?

10 A Jefferey Marshall.

11 Q How old is Jennifer?

12 A Jennifer's twenty-one.

13 Q And you said that she and Jeffe Marshall live in
14 Kittery. Do you know how long -- what's their
15 relationship?

16 A They're boyfriend and girlfriend.

17 Q Do you know how long they've been together?

18 A Over two years, I think.

19 Q Now, you said you had some other children. Do you
20 have children living with you now?

21 A Yes, I do. Uh-huh.

22 Q Okay. And what are the names of your children?

23 A Joshua Bortner Conley, and Scott Conley.

24 Q And how old is Joshua and -- are Joshua and Scott?

- 1 A Joshua's sixteen, he'll be seventeen on the 11th;
2 and Scott is eight.
- 3 Q And I'm going to ask you some background questions
4 about Amanda's relationship with Kassidy.
- 5 A Okay.
- 6 Q Where did Amanda and Kassidy live when Kassidy was
7 first born?
- 8 A With me and the Hamel family.
- 9 Q And where were you living at the time?
- 10 A Springvale, Maine.
- 11 Q And how far -- can you give us a general sense
12 about where Springvale, Maine is? How far is it
13 from Rochester?
- 14 A May 15 -- half an hour at the most by the road. I
15 don't drive.
- 16 Q Now, you said that Amanda and Kassidy lived with
17 you at first when Kassidy was born. How long did
18 they stay with you?
- 19 A How long did they stay with me?
- 20 Q Yes.
- 21 A A couple of months.
- 22 Q And then what happened?
- 23 A Amanda moved in with her boyfriend Gabriel Snyder.
- 24 Q Okay. And how long -- and so that was a couple of

1 months, Kassidy was a couple a months old at that
2 point?

3 A Uh-huh.

4 Q And you're going to have to just say yes or no.

5 A Oh, yes or no. Yes. I'm sorry. I'm a little bit
6 nervous.

7 Q And so when Kassidy was a couple of months old, she
8 and Amanda lived with her boyfriend. How long did
9 that go on for?

10 A She lived with him 'til Kassidy was like four
11 months old. Only about four months.

12 Q What happened at that point?

13 A They broke up for some reason.

14 Q And where -- where did Kassidy go?

15 A She moved in with me.

16 Q And what did Amanda do?

17 A She wasn't with me. She gave me Kassidy. She
18 didn't want to raise her.

19 Q Do you know where Amanda was living at that point?

20 A At first I didn't know, but she lived with Cathy
21 Nuernberg over in Sanford.

22 Q Now, about how old was Kassidy when you -- when
23 Amanda gave her to you to care for?

24 A Around four months old.

- 1 Q And how long did you care for Kassidy? Did Amanda
2 come back at some point?
- 3 A Yes.
- 4 Q When did she come back?
- 5 A She came back in December, some time in December.
- 6 Q Of 1999?
- 7 A 1999, yeah.
- 8 Q So how old was Kassidy at that point?
- 9 A Months. She'd be going on a year. About, you
10 know, 10 -- 10 months. Would that be December?
11 I'd say 10 months old, yeah.
- 12 Q So you had Kassidy from the time she was four
13 months until she was ten months?
- 14 A Yes.
- 15 Q What was Kassidy like as a child?
- 16 A Fun.
- 17 Q You said you had five kids, you said?
- 18 A Yeah.
- 19 Q In terms of your other kids' development, how was
20 Kassidy?
- 21 A Very smart. Extremely smart. Outgoing. Friendly.
22 Lovelable. Beautiful.
- 23 Q Now, you said that during that time that you had
24 Kassidy, had she started to walk, yet?

- 1 A Yeah.
- 2 Q And how was she in terms of her coordination?
- 3 A Very good for a child that age. Very good. She
4 took to walking very fast. She was very good at
5 it. Of course, she had her little uncle to help
6 her, Scott, you know.
- 7 Q Now, did you notice during that time whether
8 Kassidy bruised easily ---
- 9 A No.
- 10 Q -- or had bruising at all?
- 11 A No, she was normal. You know, when children fall
12 down, they get a bruise. Normal bruising. Never,
13 you know -- normal. She didn't bruise easy.
- 14 Q You said that Amanda moved back in with you in
15 December of 1999?
- 16 A Uh-huh.
- 17 Q And Amanda -- Kassidy was still living with you?
18 Kassidy and Amanda were living with you at that
19 point?
- 20 A Yes. Yes.
- 21 Q Who else was living at your home at that point?
- 22 A My husband, my two sons, and Amanda.
- 23 Q Was Jennifer living there then?
- 24 A She was off and on then. Off and on.

1 Q Now, at some point, did you leave the Springvale,
2 Maine area and move somewhere else?

3 A Yes.

4 Q Okay. Can you tell the jury about that?

5 A Around March, the beginning of the year we moved
6 to Auburn, Auburn, Maine, because our house was too
7 small, and we wanted to live closer to where my
8 husband worked.

9 Q And where -- how far up is Auburn, Maine?

10 A I'd say about an hour and a half. I'm taking a
11 good guess here. Imagine which way you drive, the
12 back roads or the highway, I'd say an hour and a
13 half.

14 Q All right, so it's further north than where you
15 lived in Springvale?

16 A Yeah. Yeah.

17 Q And did Amanda and Cassidy move with you to Auburn?

18 A Yes, they did.

19 Q Now, you mentioned that Jeffe and Jennifer had been
20 dating about two years. Did you ever see Cassidy
21 around Jeffe?

22 A Yes.

23 Q And how did Cassidy react to him?

24 A She liked Jeffe. And she was very friendly with

1 Jeffe. From day one when Jeffe was dating Jen, she
2 would open up to him very well. Even when she was
3 smaller. And they would play together, throw her
4 up, catch her. You know, she'd give him kisses.

5 Q Okay.

6 A I ---

7 Q Sorry.

8 A Okay, go ahead.

9 Q How often would Jeffe -- what was the context that
10 Jeffe would see Cassidy during that time?

11 A Basically, coming over to pick up Jen for a date at
12 the time. And he'd hang around for like an hour.
13 And then we'd be all talking, and Cassidy would
14 be playing with him. Scottie would be joking
15 around with him, my youngest son. They all love
16 Jeffe.

17 Q Now, you said that -- do you know Chad Evans?

18 A I've met Chad twice. But I can remember.

19 Q And how did you come to know him?

20 A Amanda.

21 Q All right. And what was his relationship with
22 Amanda?

23 A When I first met him, they just started dating, and
24 they were just dating at the time.

1 Q Do you remember when they started dating?

2 A I think it was May, the year Kassidy died.

3 Q 2000?

4 A Yeah.

5 Q Last year?

6 A Yeah.

7 Q Now, where -- do you know where the defendant lived
8 at that time?

9 A I didn't know where he lived. I knew he was from
10 the Rochester/Dover area. That's all I knew at the
11 time.

12 Q Where during -- you said Amanda started dating the
13 defendant in May of 2000. During that summer,
14 where did Amanda stay during the summer, or what
15 was her living situation?

16 A She lived with us, and she started dating him. And
17 then at first it was like going out like on the
18 weekends, and then it got more and more that she
19 would be leaving and she wasn't home much.

20 Q And so as it came more and more -- at what part of
21 the summer? Was it still the summer?

22 A It was summer. It was May, summer. It was around
23 June that she really started seeing him a lot more.
24 They would go on trips together. I remember that.

1 And I would have Kassidy a lot during the beginning
2 of probably summer.

3 Q So would Amanda not be staying at your house every
4 night during the summer?

5 A No, she wouldn't. Sometimes she'd be gone, yeah.

6 Q Now, you said during that time you watched Kassidy
7 during that summer?

8 A Part of the summer, yes.

9 Q At some point, did Amanda move out of your house
10 altogether?

11 A All together she moved out of my house the end of
12 September, because that's officially when she
13 told me she was not going to live with us any
14 more, because she didn't want to move to Buckfield,
15 because we were way out in the sticks and to be
16 away from all her friends.

17 Q So sounds like you moved again during the summer

18 ---

19 A Yeah, we did.

20 Q -- from Auburn to Buckfield?

21 A Uh-huh.

22 Q Now, you said Amanda officially moved out of your
23 house at the end of September. Had she stayed at
24 all at your house during the month of September?

1 Was she staying overnight?

2 A No. She came by once or twice to get things, and
3 she'd always run back out to Rochester, or she'd
4 say she was going to her girlfriend's.

5 Q What happened with Kassidy as Amanda spent more and
6 more time away from your house? Did Amanda's --
7 did your supervision of Kassidy change during that
8 summer?

9 A You mean, did I not see her as much?

10 Q Yes.

11 A Yes, I didn't after a while ---

12 Q Okay.

13 A -- didn't see her much.

14 Q Can you explain that?

15 A I had a tumor, and I had to have surgery, and I was
16 not permitted at all to babysit her any more, from
17 my doctor.

18 Q What was Kassidy -- so Kassidy was about a year and
19 a half at the time?

20 A Yeah.

21 Q How often -- when was the last time you saw
22 Kassidy?

23 A I saw her October the 1st.

24 Q And what was the -- can you explain what the

1 situation was?

2 A Amanda was gone for a week in September, the end of
3 September, and I did not know where she was. No
4 clue.

5 Q What happened? I mean, how did you have Kassidy,
6 can you just explain that?

7 A That weekend she was gone for a week, she begged me
8 to babysit, and I still wasn't permitted to
9 babysit. Then I asked the family, I said, do you
10 mind? You can watch her. Because I hadn't seen
11 her for a while, and I missed her. So they said,
12 sure, we'll all pitch in and help watch her that
13 weekend. So, fine, Mandy, you can go with Chad.
14 She didn't say where they were going. She just
15 said they were going to go somewhere, and it was
16 very important to Chad. So they just went, bye.
17 No Mandy. And I finally I found out, they went to
18 a baseball game in New York. That's all I knew.

19 Q How long had you expected to watch her?

20 A Just the weekend. She was supposed to be back
21 Sunday night.

22 Q And how long did you end up watching her?

23 A Until she came back October the 1st, the night
24 before she came up with her girlfriend.

1 Q Was there something going on in your life at that
2 point?

3 A I was really getting ready to move October 1st.
4 And I was still recovering from my surgery.

5 Q I want to show you what's been marked as State's
6 Exhibit 19. Do you recognize that photograph?

7 A I do.

8 Q And can you tell the jury when that picture was
9 taken?

10 A It was taken the last week I saw her. I took the
11 picture. We were getting ready to move, and it was
12 the only chair left in the room, and that's her
13 stuffed animal that I gave her, her first and only
14 Christmas.

15 Q What happened -- what happened after Amanda came
16 back from her trip?

17 A She told me she was sorry for being gone and not
18 calling me. And she left with Cathy Nuernberg,
19 after they took a load over to the new house. I
20 asked her to help take a load over for me, because
21 I really couldn't carry anything. So we all went
22 over to the new house in Buckfield, and they were
23 looking at the pool. There was a pool there at the
24 time, and we were talking about how I had to put a

1 fence up, because we were worried about her
2 falling. You know, the water. So that's ---

3 Q And you were moving at that time?

4 A Uh-huh.

5 Q What did Amanda do? Did she take Kassidy with her?

6 A Yeah.

7 Q And did you have an opportunity to speak with
8 Amanda again at some point during October?

9 A Yes.

10 Q Okay. And can you explain what the conversation or
11 what conversations were you having?

12 A It was some time in October ---

13 MR. CRONHEIM: Your Honor, I'm going to object for
14 a moment and ask if we can approach.

15 THE COURT: Yes, please.

16 [The following is a discussion at the bench].

17 MR. CRONHEIM: I'm just not clear what -- I'm going
18 to ask for an offer of proof, only because I'm not sure
19 whether we're in hearsay issues or not.

20 MR. DELKER: The issue is she's going to testify
21 that Amanda called her several times during October and
22 said that she was planning on coming up to Buckfield to
23 pick up the paperwork, and she never showed up. That's
24 about -- I mean, that's essentially it. It's to lay some

1 groundwork for some later testimony.

2 THE COURT: Do you have a statement of intent?

3 MR. CRONHEIM: I'm not -- I just didn't know where
4 it was going.

5 MR. DELKER: Okay.

6 MR. CRONHEIM: It's a little different from her
7 police interview, so ---

8 THE COURT: Okay.

9 MR. DELKER: Thank you.

10 [End bench conference].

11 [By Mr. Delker]:

12 Q You said you'd spoken with Amanda in October. Can
13 you describe for the jury what it is that you --
14 what the nature of those calls were?

15 A Well, she called me and basically it was she was
16 telling me that she was going to get her own place,
17 because her and Cassidy weren't getting along well
18 there.

19 Q Actually, did she talk to you about visiting you
20 again at some point in October?

21 A Yes, she did.

22 Q Okay. Can you describe what that is?

23 MR. CRONHEIM: Judge, we're going to move to
24 strike. It's inconsistent with the offer of proof.

1 THE COURT: Okay. I'm going to grant that request
2 and ask the jury to disregard the last answer this witness
3 gave, and I'll have Mr. Delker please rephrase the
4 question.

5 MR. DELKER: I'll rephrase the question.

6 THE COURT: Thank you.

7 MR. DELKER: Thank you.

8 [By Mr. Delker]:

9 Q You said you spoke with Amanda a couple of times in
10 October. Did she talk to you about coming to
11 visit?

12 A Yes.

13 Q Okay. And can you describe to the jury what she
14 said to you during those calls?

15 A She said she was going to come up to visit me.
16 Well, actually I asked her when she was going to
17 come up, because I missed Cassidy. And then she
18 said she would be coming up in a couple of weeks
19 and her, me, Jen, and Cassidy would have a good
20 whole day to go shopping.

21 Q Did she say anything about picking something up at
22 your house?

23 A Yes.

24 Q What was the -- what did she say?

1 A She needed to pick up her Social Security card and
2 her birth certificate.

3 Q Did you go -- did you actually see Amanda in
4 October?

5 A No. Well, the first day of October.

6 Q Well, I mean other than that day?

7 A No.

8 Q Again?

9 A No, I did not see her at all.

10 Q And did you go on a trip in October?

11 A Yes, I did.

12 Q And how long was that trip?

13 A About two days.

14 Q At some point after that trip, did you have an
15 opportunity to speak with the defendant?

16 A Chad, yes.

17 Q Yes.

18 A Yes, I did.

19 Q Can you tell the jury about that conversation?

20 A I got back from my trip, and my son, Joshua - at
21 the time he would have been fifteen - he told me
22 that he ---

23 MR. CRONHEIM: Objection.

24 THE COURT: Sustained.

1 MR. CRONHEIM: May we approach?

2 THE COURT: Sure.

3 [The following is a discussion at the bench].

4 MR. CRONHEIM: I guess I -- this is hearsay, but I
5 would ask the Court to instruct the jury not to take it
6 for the truth of the matter, but rather to explain why she
7 called the defendant.

8 MR. DELKER: By offer of proof ---

9 THE COURT: What ---

10 MR. DELKER: Yeah, by way of offer of proof, I
11 think she's going to say is that she went on the trip, and
12 when she come back -- came back, her son told her she had
13 seen bruises on Kassidy -- her son saw bruises on
14 Kassidy's face. And so she called the defendant to ask
15 him about it, or to find out what the situation was. And
16 the defendant told her about the trampoline story. So, I
17 mean, the fact -- I mean, Joshua will come in and testify
18 about that, you know, at the time that Amanda visited, and
19 then he told his mother about it. But ---

20 THE COURT: Joshua is going to come and testify?

21 MR. DELKER: Eventually, yeah. But I think she --
22 it needs to set the context for why she spoke to the
23 defendant about bruises on Kassidy.

24 THE COURT: Okay.

1 MR. CRONHEIM: Continue with hearsay objection. It
2 is our view that in light of what just happened, I really
3 don't know what Jackie Conley is going to say. I am
4 concerned. I mean, if she wanted to testify that there
5 was a conversation between she and Chad because she had
6 some questions about Cassidy, I think that's admissible.
7 To get into other uncertain testimony [inaudible -
8 unidentified noise].

9 THE COURT: I think you're going to have to ask
10 her: Did you have a conversation with your son? As a
11 result of that, did you talk to ---

12 MR. DELKER: That's it.

13 THE COURT: -- Chad?

14 MR. DELKER: Yes.

15 THE COURT: And then you can get into her
16 conversation with Chad and what she asked him.

17 MR. DELKER: Okay. Fine. Okay. I'll ask it that
18 way. Thank you.

19 THE COURT: If it's inconsistent with [inaudible -
20 unidentifiable noise].

21 [End bench conference].

22 [By Mr. Delker]:

23 Q I think you said you had gone on a trip in October,
24 and, some time after that, you spoke with Chad, the

1 defendant, correct?

2 A Yeah. Uh-huh.

3 Q Okay. Did you speak with the defendant after you
4 spoke with your son, without getting into the
5 substance of what your son told you?

6 A Yes, after I talked to my son.

7 Q Can you tell the jury about your conversation with
8 the defendant?

9 A I asked him what happened to Cassidy, because there
10 were bruises -- I heard there were -- okay, I can't
11 say that? I heard there were ---

12 MR. CRONHEIM: Objection.

13 THE COURT: Sustained. You can tell what you asked
14 Chad and what he told you.

15 THE WITNESS: Okay. I asked Chad what was going on
16 with Cassidy, because I heard -- well ---

17 MR. CRONHEIM: Objection.

18 THE WITNESS: I asked him if there were bruises on
19 her face ---

20 MR. CRONHEIM: Objection.

21 THE WITNESS: -- and why.

22 THE COURT: Overruled.

23 MR. CRONHEIM: Can we approach?

24 THE COURT: Overruled. The objection's overruled.

1 MR. CRONHEIM: Okay. Thank you.

2 [By Mr. Delker]:

3 Q Go ahead.

4 A I asked him that.

5 Q Okay. So you asked him about what Cassidy's
6 condition was. What did he tell you?

7 A He told -- explained to me how it happened.

8 Q What did he explain to you had happened?

9 A That Cassidy was on the trampoline jumping around,
10 and she was falling and he caught her by her face,
11 and they fell to the ground.

12 Q And was there anything more to that conversation
13 that you remember?

14 A Not really. I just kept asking -- I kept asking
15 him if she was all right, because I was really
16 concerned. You know, it was like I've never seen a
17 bruise on her face at all, number one, and it was
18 just -- I couldn't understand what was going on.
19 So I made sure -- I wanted to feel secure that, you
20 know, she was all right.

21 Q What was his demeanor when he explained about the
22 trampoline story?

23 A He was very kind of calm talking to me. It was
24 like he was trying to calm me down. And he was

1 kind of like laughing a little bit. Like, you
2 know, when someone tries to calm you down and
3 they're kind of like a slight little laugh, you
4 know, trying to make you feel better? That's how
5 he was talking to me on the phone.

6 Q Now, did you have another conversation with Amanda
7 a few weeks before her death with respect to what
8 her intentions were?

9 A Yes. That was about her moving out.

10 Q And what did she tell you what her intentions were?

11 MR. CRONHEIM: Objection.

12 THE COURT: Can I see counsel, please?

13 [The following is a discussion at the bench].

14 MR. CRONHEIM: Hearsay.

15 MR. DELKER: I think it falls entirely under the
16 state-of-mind exemption for intent, future intent when
17 Amanda told ---

18 THE COURT: Give me an offer of proof.

19 MR. DELKER: I think what she's going to tell --
20 what she told Jackie was that she wanted to move out of
21 Chad's house and get her own apartment with Cassidy.
22 That's it.

23 THE COURT: Is this witness going to say she wanted
24 to move out because things weren't going well with Chad,

1 and that he was hurting Cassidy?

2 MR. DELKER: I don't now, exactly -- well, no, I
3 don't think she's going to say he was hurting Cassidy. I
4 don't -- no, I don't think she was going to say that.

5 THE COURT: I'm going to sustain the objection
6 because there's a risk she's going to say it's because
7 things weren't going well [inaudible - two speaking].

8 MR. DELKER: Can I -- can I -- can I lead her by
9 asking her, you know, whether Amanda talked to her about
10 moving out?

11 THE COURT: You can lead her by asking did she tell
12 you she was going to move out. That's it. Because if you
13 say did she tell you about it, she'll say no, because she
14 didn't ---

15 MR. CRONHEIM: I still think that that's hearsay.
16 I mean, it's a -- it's offered for the truth that she's
17 going to be moving out.

18 THE COURT: Right. And the exception is the
19 statement of future plans. This is an exception to the
20 hearsay rule. So I'm going to allow that, but I want no
21 comment about why.

22 MR. DELKER: Got it. Okay.

23 MR. CRONHEIM: I still think that it's not
24 contemporaneous to her current intent, her speculative

1 future intent. First off, I think it's questionable as
2 fact, but, secondly ---

3 THE COURT: Then that makes it not hearsay if it's
4 a question ---

5 MR. CRONHEIM: But -- but -- but I think that this
6 witness is trying to get in as much as she can about her
7 strong feelings regarding Chad, and that is coloring her
8 current information that she's providing to the jury. And
9 I think that this is all part of that.

10 THE COURT: The objection's overruled.

11 MR. DELKER: Thank you.

12 [End bench conference].

13 [By Mr. Delker]:

14 Q I think you said that you had a conversation with
15 Amanda a few weeks before Cassidy's death. Did she
16 tell you in that conversation that she was planning
17 on moving out and getting her own apartment?

18 A Yes.

19 Q Did you go to the police station on the night that
20 Cassidy died?

21 A Yes, I did.

22 Q Did you see the defendant there?

23 A Yes, I did.

24 Q Did you see Amanda there?

1 A Yes, I did.

2 Q Can you -- did you see the defendant and Amanda
3 together?

4 A Yes, I did.

5 Q Can you tell the jury what you saw?

6 A When we walked out with Amanda, because she was
7 with me, and Chad was waiting in the parking lot,
8 and I don't know who the people were, because I'm
9 not aware of the other people, they kept telling
10 Mandy: There's Chad. He wants to talk to you.
11 And I kept telling her don't, don't talk to him.
12 And then he walked over and they started hugging,
13 and kept telling Mandy he was sorry and he loved
14 her. And she kept telling him she was sorry and
15 that she loved him.

16 Q Did you see Amanda before Cassidy's funeral?

17 A Did I -- yes, I did.

18 Q Okay. And did Amanda talk about her plans for her
19 life at that time?

20 A Yes, she did.

21 Q What did she tell you?

22 A She told me ---

23 MR. CRONHEIM: Objection, again.

24 THE COURT: Can I see counsel, please?

1 [The following is a discussion at the bench].

2 MR. CRONHEIM: Again, hearsay, and I think we're
3 getting far afield. The State is calling Amanda Bortner's
4 as a witness and can rely on that.

5 MR. DELKER: Well, I think it's not hearsay for the
6 same reasons it's the Hillman rule, the U.S. Supreme Court
7 case, Hillman, that's been adopted by New Hampshire for
8 state of mind. The gist of the testimony is that Amanda
9 told her mother that she -- now that she didn't have
10 Cassidy, and she was free of Cassidy, she could go off to
11 college and do all the things she wanted to do with her
12 life. I think that that evidence is, even regardless of
13 the hearsay, whether it's true or not, the fact that she
14 spoke those words is relevant to show her bias towards the
15 defendant, against Cassidy, why it's going to explain her
16 testimony when she gets on the stand. It will help the
17 jury understand the context of Amanda's state of mind.

18 THE COURT: Yeah, I think it's an exception under
19 rule [inaudible - coughing] is it not, or is it an
20 exception under 803(3)?

21 MR. CRONHEIM: I understand. I think that that
22 speculative testimony isn't reliable, isn't an exception,
23 and ought not to be admitted.

24 MR. SISTI: Okay. The reason -- I hate to jump in

1 here, but they've already painted her as an unreliable
2 witness in the opening. How in the world are they putting
3 her -- how are they putting hearsay in under that
4 exception, when there's no way ---

5 THE COURT: Because I think their argument is that
6 she's reliable, depending on who she's talking to.

7 MR. DELKER: Actually, if I could just ---

8 THE COURT: That's not -- the exception is 803(3)
9 and it falls squarely within that exception.

10 MR. DELKER: And, for the record, I think it's not
11 only that it's reliable, but just -- it's not hearsay,
12 because what's important is the fact that Amanda said
13 these things. It shows -- it shows -- I guess it's state
14 of mind, in that it shows what her -- what her present
15 state of mind at the time was.

16 THE COURT: Okay. Your objection is overruled

17 MR. DELKER: Thank you.

18 [End bench conference].

19 [By Mr. Delker]:

20 Q You said that Amanda -- you spoke with Amanda
21 before Cassidy's funeral. What did Amanda tell you
22 about her future plans at that time?

23 A She was strange. Her girlfriend was there with
24 her, Melissa Chick.

1 Q And without getting into what other people said ---

2 A Okay.

3 Q -- just what Amanda told you about her future.

4 A That, in a way, she was -- be able to get on with
5 her life, go to college and be like other normal
6 girls; that she was relieved, actually. It was
7 very strange. And that was something that I
8 couldn't believe I heard, because I couldn't
9 believe a mother would say that.

10 Q What was Amanda's demeanor?

11 A Very calm. Strangely calm.

12 MR. DELKER: If I could just have one moment, your
13 Honor.

14 THE COURT: Sure.

15 [Pause].

16 MR. DELKER: No further questions.

17 THE COURT: Okay. Mr. Cronheim.

18 ^ CROSS-EXAMINATION [By Mr. Cronheim]:

19 Q Ms. Conley, I have some questions for you, as well.

20 A Sure.

21 Q During the time period -- my questions are going to
22 focus the time period that Amanda knew Chad.

23 A Okay.

24 Q I understand that from your perspective it started

1 roughly in May or early summer of 2000?

2 A Yeah.

3 Q And they started dating. They started getting
4 involved. She started staying in Rochester with
5 Chad?

6 A Yes.

7 Q There's a point in time that because of your
8 physical condition -- that you were not able to
9 care for Kassidy?

10 A Right.

11 Q And that coincided with the time that Amanda wanted
12 to care for Kassidy?

13 A How are you saying that?

14 Q Amanda also was indicating an interest in caring
15 for Kassidy?

16 A Actually, I told her she had to care for Kassidy.

17 Q Amanda also expressed an interest in caring for
18 her, did she not?

19 A I can't say that.

20 Q Okay.

21 A I can't.

22 Q Going back to the time that you were directed by
23 your doctor that you could not care for Kassidy,
24 that was weeks before your operation?

1 A Right.

2 Q Perhaps more than a month before your operation?

3 A Actually, my operation was two weeks prior to my
4 operation that I found out that I had a tumor and I
5 had to get ready for it.

6 Q Your operation was on August 27th?

7 A 27th, yup.

8 Q And Cassidy and Amanda were living in Rochester in
9 at least August, from your perspective, at least
10 August of 2000?

11 A I had not known her to be living with him.

12 Q She wasn't living with you.

13 A She was off and on at our house. All her
14 belongings were at my home. And she told me she
15 wasn't sure where she was going to live after a
16 while, because she was in love with Chad.

17 Q So she was in love with Chad, seeing and dating
18 Chad, but you had no idea where she was, is that
19 your testimony?

20 A She would say she'd be going to her girlfriend's
21 house for the weekend at first, because she knew I
22 wouldn't approve of her living with any men, number
23 one.

24 Q It is the case, is it not, Ms. Conley, that Chad

- 1 came and visited with you in August of 2000?
- 2 A Yes. Right after my operation.
- 3 Q And he was there before the operation, as well?
- 4 A One time. That's the time I actually met him,
5 actually.
- 6 Q And it is the case that Amanda stayed with you for
7 a week after your operation, correct?
- 8 A No. She left that night with Chad right when I
9 came home. She wasn't with me that week.
- 10 Q And Kassidy was with you -- was not with you that
11 week?
- 12 A No. Kassidy left with Chad and Mandy that night
13 when I came home.
- 14 Q And so you know that Chad was involved with Amanda,
15 and Amanda had Kassidy at least during the period
16 of August of 2000?
- 17 A I know they were together off and on, that's all I
18 know, sir, because she told me she was also with
19 her girlfriends.
- 20 Q And then you were -- you had your operation at the
21 end of ---
- 22 A August.
- 23 Q August?
- 24 A Uh-huh.

- 1 Q And you saw Kassidy about twice in September,
2 correct?
- 3 A Yes, it was about twice. One time Mandy came in to
4 pick up some stuff and leave.
- 5 Q Okay. So you saw Kassidy twice in September and
6 the very last time you saw her ---
- 7 A The last week of September, October 1st.
- 8 Q -- was on October 1st of 2000?
- 9 A Uh-huh.
- 10 Q And the time period that you saw Kassidy during
11 July, August, and September, through October 1st of
12 2001 [sic] she didn't have bruises, correct?
- 13 A Correct.
- 14 Q She didn't have difficulties with her arms,
15 correct?
- 16 A Correct. I didn't see anything.
- 17 Q She did not have difficulties with her legs,
18 correct?
- 19 A Correct.
- 20 Q And this is through the time frame of October 1 of
21 2000, correct?
- 22 A Correct.
- 23 Q And there was absolutely nothing that caught your
24 eye about her physical condition through October 1

1 of 2000, correct?

2 A I didn't see anything.

3 MR. CRONHEIM: Thank you.

4 THE WITNESS: You're welcome.

5 THE COURT: Any redirect, Mr. Delker?

6 MR. DELKER: No, no further questions.

7 THE COURT: Thank you, very much, ma'am. You may
8 step down.

9 THE WITNESS: Thank you.

10 MR. DELKER: State calls Detective Steven Hamel.

11 Please remain standing.

12 ^ STEVEN HAMEL

13 was called as a witness, and having been first duly sworn
14 on oath, was examined and testified as follows:

15 DIRECT EXAMINATION [By Mr. Delker]:

16 Q Please be seated. Would you please introduce
17 yourself to the jury, and if you could spell both
18 your first and last name for the record.

19 A It's Steven A. Hamel, S-t-e-v-e-n, H-a-m-e-l.

20 Q Where are you currently employed?

21 A I'm employed by the Kittery Police Department.

22 Q What's your position?

23 A A detective.

24 Q How long have you been a detective with the Kittery