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1 HEARING COMMENCED (APRIL 16, 2002, 1:23 P.M.)

2 THE COURT: Good afternoon.

3 ALL COUNSEL: Good afternoon, your Honor.

4 THE COURT: Is there anything I need to take up
5 before we begin with the hearing?

6 MARK SISTI, ESQ.: I don't believe so, Judge.

7 SIMON BROWN, ESQ.: No, your Honor.

8 THE COURT: All set? Okay. Why don't we hear
9 from--first from the State. If you could indicate for the
10 Court on the record your recommendation and explain your
11 rationale, and if there is anyone that would care to
12 address the Court, do so then.

13 MR. BROWN: Thank you.

14 THE COURT: Thank you.

15 MR. BROWN: Your Honor, in December the jury
16 unanimously determined the defendant murdered Cassidy
17 Bortner and inflicted serious assaults upon her during the
18 last several months of her life. For this conduct the
19 State is asking the Court to sentence the defendant to a
20 total of 60 years to life in State Prison. This
21 recommendation is designed to address the totality of the
22 defendant's abuse. The breakdown in sentences is as
23 follows, and it's reflected on the sentencing sheets we've
24 submitted. On the second-degree murder charge, 00-S-888,
25 we are seeking a sentence of 45 years to life in prison;

1 for the second-degree assault occurring in September of
2 2000, 00-S-891, we are seeking a sentence of 5 to 10 years
3 stand committed consecutive to the murder charge. On the
4 other four second-degree assault convictions, four of which
5 occurred in October and one of which occurred in November
6 of 2000, those are Indictments 00-893, -94, -95 and -96, we
7 are seeking 10 to 30-year stand committed sentences
8 consecutive to the September assault and the murder charge.
9 As for the endangering the welfare charge, 00-S-934, and
10 the simple assault charge, 00-S-935, we are seeking
11 12-month stand committed sentences concurrent with each
12 other and concurrent with the murder charge. The total for
13 all of these offenses is a minimum of 60 years. This
14 sentence is obviously significant, but in the State's view
15 it is wholly appropriate and fits the seriousness of the
16 defendant's criminal course of conduct in this case. I'd
17 like to review the factors supporting a 60-year minimum
18 sentence, and I'd begin with the victim, Cassidy Bortner.
19 The victim was less than two years old. By all accounts,
20 before the defendant came into her life, Cassidy was a
21 healthy, well-developed and happy little girl. Cassidy had
22 a lifetime of potential ahead of her, and it is potential
23 was never realized because of what the defendant did. Like
24 all little girls her age, Cassidy was totally dependent on
25 her parent figures and totally vulnerable. Obviously, Chad

1 Evans, who had a son of his own, knew the tremendous
2 responsibility he had and the opportunity he had to be a
3 positive influence in her life, to be a father figure to a
4 child born to a single mother. Yet, for whatever reason,
5 Kassidy became the focal point of the defendant's
6 aggression and rage, and unfortunately for Kassidy, Chad
7 Evans began to hurt her, and no one took steps to protect
8 her. What were the offenses in this case? I'd like the
9 Court to consider that this was not one event. This was
10 not one crime, one punch or one moment of extremely poor
11 judgment. These assaults were systematic. They occurred
12 over weeks and months, culminating in one final and awful
13 beating which caused Kassidy's death. At the trial the
14 defendant's conduct was revealed. In anger he routinely
15 grabbed Kassidy's face and squeezed her cheeks, causing
16 ugly bruising. Despite Amanda Bortner's protests and the
17 obvious injuries that were occurring, the defendant
18 continued to grab Kassidy in this manner, and new bruises
19 took the place of old ones. Disturbingly, the defendant
20 was not deterred by the visible injuries he was causing.
21 Instead, his conduct only escalated, and his response was
22 not to stop the abuse, but to stash Kassidy away from
23 authority figures and daycare and to make up outrageous
24 lies to cover up the abuse. As we heard at the trial, the
25 defendant's abuse was not confined to grabbing Kassidy's

1 face. Evidence was presented that he hurled her into a
2 wall, slammed her into a closet, jerked her arm up behind
3 her back before propelling her into a wall, he jabbed his
4 finger into her throat, he picked her off the ground by her
5 neck, he stuck Cassidy's head under a faucet, and he
6 routinely smacked her in the mouth, allegedly to stop her
7 from using foul language. Corresponding to the abuse,
8 Cassidy's whole personality changed. She became withdrawn
9 and quiet. She was not the precocious, playful girl
10 recalled by Melissa Chick and others. Her demeanor
11 regressed to the point that the defendant crudely called
12 her a "retard." And on the night of November 8th, 2002,
13 Chad Evans inflicted a final and fatal beating. The
14 photographs of Cassidy's injuries depict the horror of this
15 assault, and it is no exaggeration to describe Cassidy as
16 being bruised from head to toe. But as disturbing as the
17 photographs are, equally reprehensible is the fact that
18 after the defendant inflicted these obvious injuries, he
19 did absolutely nothing to help Cassidy. There was no call
20 to 911, there was no trip to the emergency room. The
21 defendant rendered no assistance at all to Cassidy.
22 Instead, his first priority was himself. The defendant did
23 what he was accustomed to doing, he covered up. He knew
24 Cassidy was hurt, because he commented on the phone to
25 Amanda that night that once the bruising went away, she

1 should take Kassidy to a doctor. But he made up ridiculous
2 stories about baseballs and whiffle balls, he attempted to
3 shift blame to another person, and he allowed Kassidy to
4 suffer without medical assistance until she finally
5 succumbed the following day. What we learned at trial is
6 that through the defendant's conduct Kassidy's existence in
7 the last months of her life was a living hell, and she
8 spent her last hours on earth silently suffering, unable to
9 help herself or to verbalize her pain. I'd like to talk
10 about the defendant. Your Honor, we all know that life is
11 not black and white. People cannot be characterized as
12 totally good or totally bad. We anticipate that this
13 afternoon you will hear from several of the defendant's
14 friends and family. People who have known him, who like
15 him, and have good things to say about Chad Evans. The
16 PSI, which was incredibly thorough, is full of praise for
17 the defendant from those who knew him well and know him
18 well. But it's the defendant's positive traits and his
19 good background which make these crimes all the more
20 inexplicable and senseless. What do we know about the
21 defendant? We know he had a good upbringing. He has a
22 close, normal family, and good friends. He's smart, he's
23 ambitious, he's a hard worker, he's done well at work and
24 he's made good money. We know these crimes were not fueled
25 by alcohol or drug abuse. We know the defendant doesn't

1 labor under mental health problems, and we know he is not a
2 new parent unaccustomed to coping with young children. He
3 had a young son of his own. In short, Chad Evans had none
4 of the disadvantages often seen in defendants who come
5 before the criminal justice system. Given this background,
6 your Honor, there are simply no excuses for what he did.
7 There is no reasonable explanation why a grown man with the
8 defendant's upbringing would abuse and beat to death an
9 innocent little girl. There are absolutely no mitigating
10 circumstances at all. The PSI details an interview with an
11 ex-girlfriend who describes the defendant as a Jekyll-and-
12 Hyde figure, a person who can suddenly become angry and
13 violent. This description parallels his conduct in this
14 case. Lurking behind the defendant's positive facade was a
15 much different person. The person convicted of assaulting
16 his ex-wife, Tristen, the one who was on probation at the
17 time he began abusing Kassidy, and the one who underwent 26
18 sessions of batterer's counseling. And despite the
19 negative experience of having been charged and convicted of
20 simple assault before these crimes, the defendant did
21 absolutely nothing to curb his volatile tendencies.
22 Instead, Kassidy became a target. Kassidy Bortner, who at
23 the time of her death stood at 2 feet, 9 inches tall, and
24 weighed 22.2 pounds. Not only did the defendant abuse and
25 eventually beat Kassidy to death, but he assaulted her

1 mother as well, throttling Amanda Bortner on a couch the
2 very night he beat Kassidy black and blue. This was the
3 side of the defendant friends and family did not see. The
4 defense no doubt will characterize our recommendation as
5 too high. However, given the gravity of the defendant's
6 crimes and the vulnerability of the victim, this sentence
7 is warranted. Foremost, these sentences punish the
8 defendant for his outrageous and cruel conduct towards the
9 most vulnerable of victims. As for deterrence, this
10 sentence will certainly deter or prevent this defendant
11 from harming another child. Prior Court-imposed conditions
12 upon the defendant certainly had no effect. An assault
13 conviction, probation and batterer's counseling didn't
14 deter him from committing these crimes against a child, and
15 this Court's bail conditions prohibiting him from having
16 contact with Amanda Bortner did not deter him from having
17 unlawful, unfettered contact with her for about eight
18 months before trial. A lengthy sentence will specifically
19 deter this defendant where prior sentences have not.
20 Frankly, as far as rehabilitation goes, it is the least
21 important factor under the circumstances of this case.
22 Obviously, the defendant did not apply anything he was
23 taught in batterer's counseling. Instead, he never reined
24 in his volatile temper and chose the most vulnerable
25 victim, a young child who could not protect herself or

1 speak out against his abuse. And the defendant has no one
2 to blame for being in this position other than himself.
3 The defendant had an abundance of resources to turn to. He
4 had a tremendous support system in his life. Family,
5 friends, the counseling that he had previously received, he
6 turned to none of those things. The Court has before it a
7 stack of letters in support of Chad Evans. And yet the
8 defendant, not once did he assess what he was doing, not
9 once did he say to himself "This is crazy, I have got to
10 get control of what I'm doing." He never did that. He
11 never did until Kassidy died. Anyone associated with this
12 case, who saw the postmortem pictures of Kassidy Bortner,
13 will never forget them. They speak for themselves and they
14 illustrate how horrendous the abuse was in this case, and
15 they illustrate the suffering Kassidy endured before she
16 died. Yet those who knew Kassidy before she met the
17 defendant will have an equally powerful memory of a very
18 different girl, a very different child, a happy, playful,
19 mischievous little girl with a lifetime of experiences
20 ahead of her. But because Kassidy had the misfortune of
21 meeting the defendant, she never lived to see her second
22 birthday. The defendant reduced Kassidy to a shell of her
23 former self and killed her spirit well before he caused her
24 death. In a brutal and thuggish manner the defendant made
25 the last months of Kassidy's life a living hell, a reign of

1 terror, and he robbed Cassidy and her family of her very
2 life. The cruelty and magnitude of these crimes are
3 immeasurable, but by imposing the State's recommended
4 sentences, the Court will be applying some measure of
5 justice to the senseless death of Cassidy Bortner, and we
6 urge the Court to impose our recommended sentences. At
7 this point, your Honor, we have as many as four people who
8 would address the Court.

9 THE COURT: Okay. Why don't you have them come
10 on up?

11 (PAUSE)

12 THE COURT: Good afternoon.

13 MS. KATHERINE JACKSON: Hi.

14 THE COURT: Before you begin, if you could please
15 tell me your name and spell your last name for me.

16 MS. JACKSON: My name is Katherine Jackson. The
17 last name is J-a-c-k-s-o-n.

18 THE COURT: Okay. And if you're more comfortable
19 sitting, feel free to do so. Just keep your voice up so I
20 can hear you.

21 MS. JACKSON: Thank you. Good afternoon, Mr.
22 Evans. I'm Amanda's Aunt Kathy. You and I have never met,
23 but I wanted you to know that you have had a permanent
24 impact on my life and on the lives of my parents, my
25 brothers, my sisters-in-law, my nieces, my nephews, my

1 husband, and my son. You didn't even know most of us, but
2 you came into our lives and caused us pain beyond anything
3 we could ever imagine. I will never forget the afternoon
4 of Thursday, November 9th, 2000. It was about four o'clock
5 and I was standing outside my office, talking and laughing
6 with some of my coworkers, and I decided I should go in my
7 office and finish up a few things before I left. And when
8 I sat down at my terminal, I spotted the icon that
9 indicated I had mail. The message was from my parents, and
10 I will never forget the words that appeared on my screen
11 when I opened it. Two short sentences that are burned in
12 my memory forever. "Bobby just called. Baby Kassidy died
13 today." I sat and stared at my screen, trying to make
14 sense of what it said, because it couldn't possibly be
15 true. Kassie couldn't be dead, she's just a baby. I tried
16 to call Bobby and then Jackie, but I got no answer. I
17 finally reached my mom, but the information she had was
18 cryptic at best. Something happened at the babysitter's,
19 everyone's at the police station, and Kassie's gone. And
20 for me, that's how this nightmare began. Two days later I
21 was in Maine, sitting with my sister-in-law Jackie, talking
22 and crying until the wee hours of the morning, trying to
23 comprehend the incomprehensible. We have a big, close-
24 knit, middle-class family. Violence isn't supposed to
25 happen in families like ours. Children aren't supposed to

1 be beaten to death by successful businessmen. Mothers are
2 supposed to protect their children at all costs. Jackie
3 and I tried hard to rationalize what happened to Cassidy,
4 Mr. Evans, but there is no rational explanation for what
5 you did. In the end, it was our faith in God and the
6 knowledge that he would somehow bring good out of adversity
7 that got us through those dark days. But that's right, you
8 don't know anything about those dark days. You weren't
9 there. You were in Rochester, hanging with your friends
10 and working on your alibi. When I drove Jackie to the
11 funeral parlor where a kind older gentleman helped her plan
12 a memorial service for her 21-month-old granddaughter, and
13 where we ordered a little white casket with a pink satin
14 lining. It was only 36 inches long, barely the size of one
15 of those styrofoam beer coolers that you see all over the
16 place in the summertime, but it would be Kassie's bed from
17 there on. And we had to find something for her to wear.
18 We discussed it and decided that she deserved to be
19 comfortable for her long nap, her final rest, so we went to
20 Wal-Mart and we bought an ankle-length lavender nightgown
21 in a soft satiny material, similar to one of Jackie's that
22 the baby loved to touch. The long sleeves were gathered at
23 the wrist and trimmed with white lace. There was a little
24 ruffle at the ankle and a small white satin bow at the
25 neck. And the funeral director told us that we had to get

1 something to cover her feet, so we got her little white
2 ankle socks with lace trim, and he told us we had to find a
3 hat to cover the scars from her autopsy. That was hard.
4 Baby bonnets were too small and winter hats didn't seem
5 appropriate. We cried our way through a lot of stores that
6 day, but Jackie finally spotted the perfect little white
7 hat with a white flower on the brim. It's been over a year
8 now, Mr. Evans, but I still can't walk by the toddler
9 department in a store without fighting back tears. You had
10 no right to cause me such pain, Mr. Evans. You didn't even
11 know me. Did you really think that only Amanda's immediate
12 family would feel Cassidy's loss? She was loved by more
13 than just her mom, her grandparents, Paul and Jackie, and
14 her aunts and uncles, Jen and Jack, Chuck, Josh, Scott, and
15 Lindsay. She had three great-grandmothers, two great-
16 grandfathers, seven great-uncles, four great-aunts, and
17 numerous cousins. Unlike your entourage, they couldn't all
18 be here in person during the trial because they live in
19 Florida, Pennsylvania, New York, and Maine, but you can be
20 assured they were all here in spirit. My long distance
21 phone bill is testament to how I tried to keep them
22 apprised of what was going on, especially as we waited for
23 the verdict. The heartache in my parents' voices each time
24 I had to call and say there was no word yet was almost more
25 than I could handle. And I thank God that on December 21st

1 you were finally convicted. That's a date my family will
2 have no trouble remembering, because you were found guilty
3 on my birthday. There is no doubt in my heart or my mind
4 of your guilt, but I am a Christian woman and forgiving in
5 nature, so I had to think long and hard about what sentence
6 I would ask the Court to give you. I know that you have a
7 young son and that there are people who feel you shouldn't
8 be locked up so that your son can only see you on
9 occasional trips to Concord, but we only get to visit
10 Kassidy when we travel to a quiet hillside in Maine. I
11 have heard that prison life can be difficult, and my heart
12 goes out to your parents, because I know they love you and
13 they will worry about you. But the fact is, it's your
14 decisions and your actions that brought us here today. I
15 am sure, Mr. Evans, that when you decided to pursue a
16 relationship with a beautiful 19-year-old blonde girl, you
17 didn't count on her toddler moving in with you. But if you
18 really didn't want Kassidy there, you had options. You
19 could have told Amanda to give Kassidy back to Paul and
20 Jackie and tell them that she couldn't care for her, or you
21 could have suggested that she put Kassidy up for adoption.
22 My cousin Mary and her husband David had wanted to adopt
23 the baby when Mandy was expecting, and they would have
24 given her a wonderful home, but you didn't make that an
25 option. Instead, you hurt her, and you hurt her not once

1 or twice, but repeatedly over the course of at least three
2 months. And when people asked you about the bruises, you
3 didn't stop, you just made up excuses and then tried to
4 place blame on Jeff, on Amanda, and even on your
5 three-year-old son. As a Christian, I have to forgive you
6 so that I can get on with my own life, but that does not
7 mean that you are exempt from the consequences of your
8 crimes. Justice must be done, and on behalf of my family
9 and of my niece Kassidy, I respectfully ask the Court to
10 sentence you such that you will spend the rest of your
11 natural days in prison so that you can never hurt another
12 child or another family the way you hurt ours.

13 (PAUSE)

14 THE COURT: Good afternoon, sir.

15 MR. PAUL CONLEY: Good afternoon. My name is
16 Paul Conley. I'm going to be reading a small thing, the
17 purpose, for her great-granddad and--

18 THE COURT: Try to speak up so I can hear you.

19 MR. CONLEY: I might be perceived as and probably
20 am a dinosaur in that I believe in the sanctity of human
21 life. Life belongs to God and is not to be trifled with by
22 man. Ultimately, true justice will be meted out by a much
23 higher court, one that is far above the manipulation of the
24 system and codes made by man. This justice is pure and
25 inescapable. The lowest form of human depravity in my

1 opinion is the infliction of torture and death of an
2 innocent child whose only mistake is to look to his
3 tormenters for nurture and protection. May God have mercy
4 on your eternal soul as such a person who would victimize a
5 helpless child in a facilitation of this violent, evil act.
6 Mercy is in God's domain. But the presence and burden of
7 justice on earth has been appointed to the deciding of
8 civilized man to which we all bear responsibility. You
9 can't return Kassidy to the people who love her, grieve
10 over her, but you can grant her in her name the justice
11 that was denied her as well she among us. We all grieve
12 every day, as a Christian, a--and as a great-granddad. On
13 a personal note, I can understand some things. I've had
14 some time in the military, I can understand the different
15 points of death and the killings. What I have a hard time
16 with is the way in which you did things, the meanness that
17 was involved. I have a big problem with that. I tried to
18 raise my family in a world that is not cluttered by
19 materialism or other problems that children do face now.
20 It's hard enough to go to school and deal with who has the
21 best clothes. We brought them up to Maine, they had a good
22 life. Kassidy had a good chance when she was living with
23 myself and Jackie and my sons. We enjoyed her. She was a
24 strong-willed girl, but she was a good girl. If I was
25 asked what should be done to you, the safest place for you

1 is in the hands of the Court. My personal feeling is very
2 bad. Thank you.

3 (PAUSE)

4 THE COURT: Good afternoon.

5 MS. JACQUELINE CONLEY: Hi. Hi, I'm Cassidy
6 grandmother.

7 THE COURT: Would you just state your name for
8 the Court, please?

9 MS. CONLEY: Jackie Conley.

10 THE COURT: Thank you.

11 MS. CONLEY: Chad, there is one thing I have to
12 say to you and ask. Why? Why? How could you hurt someone
13 so innocent and sweet? How did you look in her blue eyes
14 and just beat her? I feel sorry for you. How you ruined
15 your life and how you hurt so many others by this senseless
16 action. I pray someday you will be sorry for what you did,
17 but first you will have to make amends by accepting your
18 fate like a man and admitting your guilt. You will also
19 have to tell your family how sorry you are for all of the
20 lies and pain you put them through. You know, it really
21 hurts when someone you love lies to you constantly. As a
22 parent, I know. You must trust your children to do the
23 right things. Even though you raise them with all the love
24 in the world, they have their own minds and you pray that
25 they do the right thing. You also need to apologize to

1 Jeff. You were friends with him for many years, what I
2 understand, best friends. What kind of friend are you?
3 Also, you need to apologize for Amanda. You took two of my
4 children in my home--into your home and you actually took
5 two lives away from me. I think love blinded Mandy from
6 the real you. She saw a lot of it, but she was raised in a
7 loving family. I know from experience, coming from a good
8 home myself and never seeing people hurt by someone, you
9 don't know how to deal with it. But I do feel she should
10 have done something about it and brought Kassidy home where
11 she belonged. Also, you need to apologize to my family,
12 all of us, Paul, Joshua, Scott, and the great-grandparents,
13 aunts and uncles. We all loved her so much. You took one
14 of God's most precious creations he had ever made and took
15 her life before her time. Who knows what great future she
16 could have had? We'll never know. But she is safe now,
17 out of your reach in God's arms. Chad, may God have mercy
18 on your soul.

19 (PAUSE)

20 MS. JENNIFER BORTNER: Hi.

21 THE COURT: Hi.

22 MS. BORTNER: My name is Jennifer Bortner. I'm
23 Kassidy's aunt. I would like to thank the Court for
24 allowing me to address Chad. Chad, I'm not here to judge
25 you, that has already been done by your peers due to the

1 eyes and tell her why and tell her you're sorry, ask her to
2 forgive you. I know she'll forgive you because she is a
3 bigger and better person than you are.

4 MR. BROWN: We have no one else speaking, your
5 Honor.

6 THE COURT: Thank you.

7 MR. BROWN: If need be, we'd ask for rebuttal
8 once the defense has done with their presentation.

9 THE COURT: Okay. We'll see what happens.

10 MR. BROWN: Thank you.

11 THE COURT: Mr. Sisti?

12 MR. SISTI: Thank you, your Honor. Good
13 afternoon.

14 THE COURT: Good afternoon.

15 MR. SISTI: Your Honor, we actually do have a
16 presentation to make as well, but I'd like to begin it by
17 stating, of course, that these are situations that always
18 will bring out high emotion, and I'm asking the Court to
19 realize that. It's not the first time we've seen it, and
20 I'm sure it's not the first time the Court has. But the
21 very nature of cases like this does bring it out, and it's
22 understandable. But we are going to be asking this Court
23 to judge Chad and to sentence him for the individual that
24 he is as well. And we're going to ask the Court not to
25 paint him with the broad brush that he's been painted with

1 by the prosecution. We have in the past, and the Court
2 knows, represented people that have faced life without
3 parole sentences and have been sentenced to life without
4 parole sentences. If you took the recommendation of the
5 State, or for that matter, the Probation Department, in
6 essence what you're doing is you would be sentencing Chad
7 to life without parole. We know that this is a second-
8 degree murder, your Honor. This is not a first-degree
9 murder that calls for that sentence. And with that in
10 mind, we are asking the Court to temper--temper the
11 sentence in relationship to what the offense was. Your
12 Honor, we have heard eloquent speeches and very heart-felt
13 statements read to the Court, and I know that because we
14 are advocates, we do advocate one position to an extreme
15 sometimes in an effort maybe to overstate a case. What was
16 ignored in this particular presentation that was put on by
17 the State are things that we don't think we have to retreat
18 from when we're talking about Chad, and we don't want to be
19 placed in the spot where we're in a no-win situation. Many
20 a time I have sat and stood before sentences judges with
21 the uneducated. Many times I've stood before judges with
22 the people that are mentally disturbed. Many times, many,
23 many times I have stood before judges with people that have
24 long, long, violent criminal histories. Many, many times I
25 stand before judges that don't have family or friends that

1 support them. And many times prosecutors bring that out
2 before the Court and say that's a good reason to keep my
3 clients in jail, because they don't have family and
4 friends, because they are mentally disturbed, because they
5 have long histories of violence and criminal activity,
6 because they're unintelligent, because they have no record
7 of doing anything productive in society. That's not Chad.
8 And, you know, I don't want to be placed in the position
9 where we have to spin one way or the other. The reality is
10 that Mr. Brown knows that two years ago Chad would be
11 looked upon a fine, productive American citizen. Not just
12 a fine, productive American citizen, but he would have
13 values in each and every one of the categories that a
14 sentencing judge generally looks to people in determining
15 whether or not to give extended sentences or harsh
16 sentences. Is the person retrievable? Can he get back
17 into society? The answer is yes. And not only on--and
18 we're going to speak to this as we go along, and folks are
19 prepared to address the Court today on some of these
20 issues. But Chad knows about the sanctity of life.
21 There's no question about that. There is a brief--a brief
22 aside during the course of the probation report that
23 indicated that, and I can assure the Court that three boys
24 that he saved from a burning car know that he has some
25 respect for human life. You'll have a speaker today that

1 will discuss with the Court whether or not Chad believes in
2 and loves the sanctity of human life. I don't want to
3 overstate that, either. What I do want the Court to
4 understand, though, is that you have before you today, even
5 though he is in a yellow jumpsuit, even though he's been
6 convicted of second-degree murder, you have an individual
7 that can reintegrate into society. You have somebody that
8 you shouldn't throw away. He is not the irretrievable. I
9 guess the best way I can express that is through his
10 friends and through his family. We have scheduled at least
11 three speakers today, and I would ask that they come up
12 after a brief introduction. There are folks back here that
13 wanted to make sure that the Court knew that they were
14 here. And we've asked them to stand up one at a time and
15 introduce themselves and tell the Court why they're here
16 and how they know Chad. Mr. Harvey?

17 MR. BRANDON HARVEY: My name is Brandon Harvey.
18 I live in Norwalk, New Hampshire, and I'm Chad's brother-
19 in-law.

20 MS. TRISTEN EVANS: My name is Tristen Evans. I
21 live in Exeter, New Hampshire, I'm Chad's ex-wife and best
22 friend.

23 MR. CHAD EVANS: My name is Chad Evans. I'm Chad
24 Evans' father.

25 MR. JASON EVANS: Jason Evans, Chad Evans'

1 brother, Keene, New Hampshire.

2 MS. PAM EVANS: Pam Evans, Chad's mother, and
3 proud of my son.

4 MS. STEPHANIE BULLOCK [phonetic]: Stephanie
5 Bullock, Chad's friend.

6 MS. NICOLE HARVEY: Nicole Harvey, Chad's little
7 sister.

8 MR. JEREMY HINTON: My name's Jeremy Hinton from
9 Dover, and I'm just lucky to know Chad Evans.

10 MR. SISTI: That's just a few folks, Judge. Your
11 Honor, I'd ask the Court's permission to have Jason Evans
12 approach and read a statement at this time.

13 THE COURT: Please.

14 MR. JASON EVANS: Hello.

15 THE COURT: Good afternoon.

16 MR. JASON EVANS: My name is Jason, obviously.
17 We've put together some thoughts on Chad and our
18 experiences, and we'd like to share them with you today.
19 I'll try to not take too long. I do have quite a few
20 pages. Basically, Chad and I grew up in Keene, New
21 Hampshire. We had the opportunity to spend much of our
22 lives together. We went through school together and we
23 played sports together, we shared bedrooms and bathrooms,
24 you know, we were together every day. We went through
25 life's ups and down of growing up and becoming adults, and,

1 you know, I can tell you, he is my brother and we're very,
2 very proud of each other. I'd just ask you for a couple of
3 minutes of your time today to share some of those
4 experiences. Growing up, my father owned and operated a
5 rubbish removal business in Keene. My brother and I loved
6 to go on the route with our father, and I can see now that
7 it taught us at a young age to work hard and be dependable,
8 to be there. Chad was even more dedicated than myself. He
9 would never miss a day on the route. When Chad and I were
10 together, we would talk about getting older and maybe
11 someday running the business so our father could retire.
12 However, our dad sold the business. He did it for a good
13 reason. He told us the exhaust fumes were extremely toxic
14 and that the average life expectancy of a New York City
15 trash man was 45, so he was looking out for the good for
16 us, and we understood that, as much as it hurt. I can tell
17 you, though, even today people stop me and they ask me
18 about Chad and the old trash route, the guy that just
19 collected trash every morning. We started school at
20 Roosevelt School on Washington Street. It was a small
21 school with a close community with grades kindergarten
22 through grade five. When I was in the third grade, the
23 city decided to close the school down. At the time Chad
24 was in the fourth grade. Well, me and Chad were pretty
25 upset over it and we wanted to do something about it, so we

1 put a petition together and we went out with our father on
2 the rubbish routes on Saturdays and would spend the day
3 going door to door. After school, we would go in the local
4 neighborhoods. We ended up collecting over 5,000
5 signatures for this petition, okay. They closed the school
6 down, but that didn't matter to us, because we had done
7 something that was special to us and it was shown to the
8 people at the meetings. They showed us that if you didn't
9 agree with something, that you could do something about it,
10 and you've got to work hard and be persistent. After
11 Roosevelt School we were transferred to Forest School and
12 then on to Keene Junior High. While attending school at
13 junior high, we were both involved in sports, football,
14 baseball, basketball, floor hockey, just about anything we
15 could join. We also joined after school clubs, public
16 speaking, graphic arts, anything we could get into. We
17 also joined--excuse me. We would do screen printing
18 [phonetic] and compete in state-wide mind-solving
19 competitions. Chad was always an honor student throughout
20 junior high. And then we went on to Keene High School.
21 Chad continued to play sports, eventually picked up a part-
22 time job, as my dad had sold the business. He worked very
23 hard and did not blow his money. When everybody else was
24 going out partying on the weekends and doing everything,
25 Chad was home, he was doing something with the family or

1 wasn't interested in so much the Keene community as I was
2 my own future, as I could tell you probably most students
3 were. Chad eventually left Keene and moved to Rochester,
4 New Hampshire. While there he got married and had two
5 sons, Brent and Kyle. He helped to put his wife through
6 college so she could have a better life, also to allow her
7 to have more time to spend with their children. Those boys
8 love their dad as much as Chad and I love our dad to this
9 day. That is another bond that I can never put into words
10 or explain, but I know you can relate. They both have so
11 much love and admiration for their father, every time I see
12 them, they're only asking me questions about their father.
13 I remember going to Brent's T-ball game and Kyle telling
14 me, "Next year, I'm going to play T-ball. You know why?
15 Because my Daddy's teaching me how to hit the ball," of
16 course, gleaming with pride. And I remember many
17 activities Chad did with the boys, from going sliding,
18 hitting balls, coloring, reading, playing, watching movies,
19 going to my grandparents' farm, or jumping on a trampoline.
20 Just like when we were little and our dad spent time with
21 us. And Chad has always treated Brent as his own son even
22 after Tristen and Chad's breakup. Chad was a huge part of
23 Brent's life. He was always there for him, bonding with
24 him, loving him as his son and helping to guide him, or
25 just spend time together. To me that is so unnatural

1 because he had no responsibility to this child, but he
2 continued to love him as his own, or as Chad would say, "He
3 was my own." I don't know anyone else who would have
4 reacted this way. But that is Chad, always thinking of
5 other people around him. Chad is a giver that no matter
6 what, will always keep on giving. Even today as he sits in
7 jail, he gives to fellow inmates, he gives to the jail, he
8 gives to your system. He has talked to troubled teens, he
9 tutors uneducated inmates, he helps inmates write letters
10 to loved ones because they cannot read or write, and I'm
11 telling you from my experience, that he does it with an
12 open heart. He never expects anything from other people.
13 He does it with blind faith, always putting people's needs
14 before his. I can give you a thousand examples from
15 sitting with older people that have no company, to help get
16 unfortunate children Christmas gifts. Anyone that has
17 known Chad for more than three months can tell you some
18 truth about him, and would love to. My daughter is now a
19 three-year-old--excuse me, is now three years old and asks
20 me about her Uncle Chad every day. She adores him and his
21 sons. She sleeps with their pictures right next to her
22 bed. She told me the other day that she kisses Uncle Chad,
23 Brent and Kyle goodnight every night. She draws him
24 pictures and kisses them all over so that we can mail them
25 to him. She goes and gets an envelope and her own sticker

1 and puts it on. She really loved to sit with Chad and read
2 for hours or play games or just goof around. When the
3 phone rings, she runs to it so she can talk to him now.
4 Her little eyes get so big and she starts a little dance,
5 and you can see the huge bond that they have created in
6 such a short time. My daughter's name is Milana
7 [phonetic], and she would love to tell you about Chad.
8 There are so many things I would like to share with you
9 about Chad, I could go on for pages, so I'm just going to
10 share a few quick experiences with you and hope you get the
11 feel. After grade school one time there was a huge
12 thunderstorm outside. When we went out in front of the
13 school, there were two sisters standing there. They were
14 crying, and Chad approached them, and they had told us that
15 the younger of the two sisters was afraid of the lightening
16 and the thunder. So Chad put the sister on his back and
17 carried her home and after that did her paper route for her
18 because she was in fear of coming outside. Excuse me.
19 Another time we were walking home from junior high with a
20 group of students. We stopped at a gas station to use the
21 bathroom. About half a mile down the road one of the
22 students pulled a jar of Vaseline out of their pocket.
23 Apparently he had stolen it from the gas station. My
24 brother asked him why he did it, and he responded "For the
25 fun." Well, my brother was some mad because we were

1 brought up not to steal or take anything that is not yours,
2 so we marched all the way back to this station and told the
3 attendant what had happened. Also while I attended junior
4 high Chad was involved in a fund-raiser for a class trip to
5 Washington, DC. Chad was not only the top salesman of the
6 class, he continued to sell merchandise after his goal was
7 reached. Why? To help the other students' trip so they
8 could get the opportunity that he was getting to go to
9 Washington. Another time there was a student who was
10 mentally challenged and it was his birthday. Chad was
11 feeling sorry for him, as no one even acknowledged it as
12 his birthday. Chad got thinking, and he went out--he
13 wanted to do something for this fellow. And he went out
14 and he bought him a cake and presents, and he brought it
15 over and he sang "Happy Birthday" to him and opened the
16 presents. I just can't imagine anyone that would do
17 something like that. Once I arrived--once I arrived at his
18 home and Chad was extremely sad and crying. I asked him
19 what had happened, and he told me he came home and his
20 rabbit has passed on. I also started to cry, as I could
21 feel his pain. One night in front of his home in Rochester
22 there was a very bad car accident. Chad ran outside and
23 without hesitation jumped into a burning car and pulled
24 three people out of the car. They had been speeding around
25 the corner and lost control of the vehicle and hit an

1 oncoming car head-on. Luckily, no one was seriously
2 injured, however, the car just exploded as Chad was running
3 from it with the last passenger. The fire department,
4 police department had arrived and told everyone that Chad's
5 actions saved these boys' lives as the car was totalled and
6 they were pinned in it. He was then asked to attend a
7 dinner in Manchester where he was given a hero's award from
8 the State of New Hampshire and the Union Leader. He also
9 met with the Governor at the dinner. And after everything
10 was over, I asked Chad how he could jump into a burning
11 car, as I probably would freeze in shock. He responded
12 "What else was there to do?" While we were growing up Chad
13 also assisted charitable organizations. Sometimes we would
14 go to nursing homes, as I mentioned, and visit residents or
15 help raise funds for Christmas gifts for underprivileged
16 kids. I know he continued to help doing this even through
17 his position with McDonald's. He was involved with Special
18 Olympics at UNH, the orphanage right in Rochester he helped
19 bring food and toys to, and he helped with the JayCee's in
20 Rochester to feed them at Christmas time. I have hundreds
21 of these examples because Chad is such a caring person.
22 Not to mention the numerous friends and family members he
23 has helped, be it some advice, a place to sleep, some extra
24 cash, someone to listen to your problems. He also has
25 helped set up college funds for Milana, Brent, Kyle, IRA

1 funds for myself, my sister, her husband, and at least one
2 friend I know of. He does this out of the goodness of his
3 heart. We, of course, never thought of such an important
4 element of life, but that is Chad, thinking of us. This
5 tragedy has been extremely saddening and heartbreaking for
6 all of us. There is a hole in Chad's soul that no matter
7 what will never be filled, but he will never stop to think
8 of himself as he lives with the heaviest heart for Cassidy
9 and Amanda. Chad is a person you could always count on to
10 help there--to be there for whatever purpose. He leads by
11 example and carries himself with a zest of life that
12 inspires the people around him. He inspires all of us to
13 dig deeper, try harder, and believe it always can be done.
14 There are so many things we would like to share with you,
15 but unfortunately there just isn't the time. I ask you,
16 Judge Nadeau, if the opportunity presents itself to spend
17 some time with Chad, you will see. Better yet, spend some
18 time with Brent, Kyle and Milana. Ask them about their dad
19 or uncle. Go ahead and ask them questions, they're not
20 timid and they control of their own minds. I know us
21 family members are considered biased. However, who
22 controls the children? Please help our family we each have
23 with us so badly. I cannot even begin to describe the hurt
24 in this family. His sons need him so much, his niece talks
25 about him constantly, always telling me how much she loves

1 and misses her uncle. We pray for your mercy, and thank
2 you for your time to listen.

3 THE COURT: Thank you.

4 MR. SISTI: Vanessa?

5 THE COURT: Good afternoon.

6 MS. VANESSA MANSON: Good afternoon. My name
7 Vanessa Manson. Thank you, your Honor, for allowing me
8 this opportunity to speak to you today. Throughout the
9 past 17 months Chad Evans has been portrayed by the State
10 as well as by the press to be a manipulative, horrible
11 person. He is known only by a docket number and a case
12 name. Off and on during the past six years of my
13 professional life I have been involved with the criminal
14 justice system, first as a corrections officer, and more
15 recently as a legal assistant both in private practice as
16 well as with the County Attorney's Office. This, however,
17 is the first time the criminal justice system has affected
18 me on such a personal level. And as I wait here today for
19 this Court to decide how many years Chad will spend in
20 prison before justice is served, I ponder the question what
21 is justice. Up until recently, I thought I knew that
22 answer. I don't believe justice is one-sided, nor do I
23 believe justice is served without being exposed to the
24 entire picture. That is my reason for speaking here today,
25 to offer exposure to the rest of Chad's picture. I have

1 known Chad for 26 years. Better yet, I have had the
2 privilege of Chad's friendship for 26 years. Chad is a
3 person who genuinely cares about others. He is the person
4 who gives 100 percent of himself in every situation.
5 Shortly after Cassidy's death, Amanda reached out to Chad
6 for help and in true Chad fashion, Chad put his own freedom
7 at risk to help her. He had no hidden agenda, nor was he
8 being manipulative. Simply, he helped her because he
9 cared. I do not believe that Amanda would have made it
10 through that traumatic time without Chad's support. I have
11 been asked many times why I offered my home to Chad and
12 eventually Chad and Amanda. And I suppose my response is
13 Chad has held my hand, offered a shoulder to cry on and an
14 ear to listen so many times, and now after all these years,
15 it was my time to be there for him. To say I owe Chad my
16 life is an understatement. He believed in me when I could
17 not believe in myself. He kept me talking on the phone for
18 hours about absolutely nothing so he would be sure I was
19 safe. He put his life on hold countless times because I or
20 the geeky kid without any friends or the complete stranger
21 needed someone to pay attention. Many of the people Chad
22 has helped have not been lifelong friends. Many he had
23 never met before. He helped because it was the right thing
24 to do. Chad has never expected or asked for anything in
25 return. Chad has more love to offer than anyone I have

1 ever known. Over the years Chad has been the only person
2 besides my family that I have trusted to care for my
3 children. He never belittles their opinions or ideas, he
4 always has encouraged them to be the best they can and has
5 been there for them when they couldn't quite reach the top,
6 just as he has been for me. When my husband and I
7 separated, my ex-husband's priorities went askew. Months
8 would go by where my children did not see their dad. I
9 remember saying to Chad, "I only wish my kids' dad was as
10 involved in their life as you are with your children." My
11 children love Chad. My son has been diagnosed with
12 attention-deficit disorder as well as oppositional defiance
13 disorder. He can try even the most patient person--he can
14 try the most patient person, but Chad has always been
15 patient with him, he has sat with him, read to him, was
16 able to calm him down when I felt like I was pulling my
17 hair out. When Chad and I were in high school, we went
18 through an extremely difficult time when one of our friends
19 committed suicide, and it was a very close friend to both
20 Chad and I. And I remember Chad saying to me, "Don't
21 worry, Vanessa, together we'll get through this." A few
22 months after our friend's death, I attempted to kill
23 myself. And I don't believe that Chad knows, but he saved
24 my life that night. After ingesting a lethal dose of
25 medication, what could have been a lethal dose, I sat and I

1 thought about him and what he would say to me at that
2 point. And his words kept ringing through my head,
3 "together we'll get through this," and if I left him, who
4 the "together" be? Who was going to be there for Chad? I
5 couldn't abandon him just as he had never and will never
6 abandon me. I'm not here to say that Chad's perfect or
7 that everything he has done in the past I've agreed with,
8 but he is a good person. His friends and his family mean
9 the world to him, and he means the world to us. I don't
10 believe that Chad's spending the rest of his functional
11 life in prison is going to serve justice. We love Chad and
12 we need him in our lives. Thank you.

13 THE COURT: Thank you.

14 MR. SISTI: Jeremy?

15 THE COURT: Good afternoon.

16 MR. JEREMY HINTON: Good afternoon. My name is
17 Jeremy Hinton, H-i-n-t-o-n. Your Honor, I want to thank
18 you for letting me address you on behalf of my friend, Chad
19 Evans. I was raised in a terrific house with two great
20 parents and two great brothers, and I've been very blessed
21 throughout my whole life. I come before you today with
22 great sadness and yet a lot of hope. I believe in our very
23 system that convicted my friend of killing Cassidy. I
24 think the system is tremendous, I think it's fair, and I
25 think it works. In my opinion, I think Chad received a

1 fair trial of his peers and they made a decision. I would
2 not want their job then and I would not want your job
3 today. My opinion of the verdict is of no importance.
4 What is important is that you see all sides of Chad Evans
5 and that he has a chance to express them to the system and
6 the you before you judge him today. I cooperated fully
7 with all the police and people from the Attorney General's
8 office throughout this process. I testified truthfully in
9 both the grand jury and the trial as the State's witness.
10 I have come before you today with great faith that the
11 system considers my friend Chad for who he is when he gets
12 sentenced. Who is Chad Evans? To me he has been a mentor,
13 a role model, a best friend and really a brother. Chad
14 taught me many things about excelling in the business world
15 and in life. He showed me the drive and dedication it
16 takes to be a successful person not only in the business
17 world but in the world of people, the most important world
18 of all. Most importantly, he just taught me how important
19 people are. I still remember him saying, "Every person has
20 a value, Jeremy. They're not just workers. No matter what
21 you do for a living, Jeremy, you need to put people first.
22 Reach out to them and make their lives better. It's the
23 most important thing you do every day." I still hear him
24 tell me that every day. He calls me collect from a place I
25 couldn't dream about being, and he still says the same

1 thing. Many people walk around preaching about helping
2 other people, preaching about being a good father, talking
3 about doing the right things and owning up to your faults.
4 Chad has been a role model for me. I remember one night
5 last summer, Chad had a key to my apartment, it was about
6 2:30 in the morning. I had gotten off the phone with him
7 at about 12, I knew he was out delivering pizza. The only
8 job he could get was delivering pizza. I hear my door. I
9 look at the clock, it's about 2:30 in the morning, and I
10 wonder who could it be. So I go out in the living room,
11 and there's Chad, and, you know, the first thing he says
12 is, "I'm sorry for waking you up. I know you work and, you
13 know, I'm really sorry." I said, "Chad, what are you doing
14 here? It's 2:30 in the morning. You were just delivering
15 pizza. You've got to deliver pizza tomorrow at 11. What
16 are you--why are you driving here?" He says, "Ah, don't
17 worry about it. Just go back to bed, Jeremy." I said,
18 "No, Chad, it's not like you just to--you know, my couch
19 isn't that comfortable, you know, what is it?" And he
20 finally told me as he's counting out his one's that he
21 wanted to give this money to Tristen, his former wife. I
22 said, "Tristen doesn't need your money now, Chad. You're
23 financially strapped defending yourself. She's a bright
24 woman with a great career and is more than capable of
25 taking on the role and the financial commitment of being a

1 single parent." But he said, "Jeremy, I agreed to do this.
2 I'm going to live up to it even if it kills me." Chad
3 didn't want to be a failure at anything in this world,
4 especially being a father. Something we both hold very
5 dear to our heart because we had two of the best fathers in
6 the world. I have been blessed with many friends and two
7 of the best brothers a guy could ask for. Long before I
8 met Chad, I knew a friend when I saw one. A friend gives
9 you the shirt off his back. A friend says, "Come in, don't
10 bother knocking." A friend says, "Okay," and never asks
11 why. A friend doesn't expect anything in return, and a
12 friend is always a friend no matter what. Chad was a
13 friend before I ever knew him. Chad was a friend after I
14 met him. Chad was a friend during this tragedy, and Chad
15 will always be a friend of mine no matter what happens to
16 him today. When I'm complaining and have had a bad day,
17 when I'm too high and I'm fooling myself, Chad's always
18 there to bring me even. He'll raise me up or bring me down
19 no matter what it takes, and he does this again from a
20 place that I don't think anyone in this room could ever
21 dream of being a functional human being. He doesn't do
22 this because he gets anything from me except friendship.
23 He does this because he cares about me. He cares about
24 people. He cares about making this world a better place.
25 Chad Evans, you've made this world a better place. He

1 deserves a chance to be a father to his two sons, a son to
2 his parents, a sibling to his brother and sister, and
3 whatever he has been to all the people he's had an
4 influence on. Look out in the courtroom, your Honor,
5 there's over 30 people there standing behind him. There's
6 more people trying to get in. There's no room for them
7 because the media wanted to make Chad out to be a monster.
8 We're not here because he's persuasive or he's charming.
9 We're not here as part of an entourage or a posse. We're
10 here because Chad has earned our consideration, our respect
11 and our friendship. These people are here to say to you
12 don't give up on Chad, and Chad, no matter what, don't give
13 up on the system. Your Honor, this was a terrible tragedy.
14 My prayers go out, especially to Amanda and her daughter
15 Kassidy. And my prayers also go out to Kassidy's family
16 from Maine and her friends from Maine. I love Chad's
17 family to death and they've treated me like family, and my
18 prayers go out to them, and to Tristen and the un--the task
19 that no one would want, raising two beautiful kids by
20 herself. I pray that you see Chad for who he is. The very
21 system that I hold dear to my heart and looks out for my
22 friend Chad. Don't take his life away, please. He is
23 really not that charming and persuasive, he is just a great
24 guy. Thank you, your Honor, and God bless you. God bless
25 you, Chad.

1 THE COURT: Thank you, Mr. Hinton.

2 MR. SISTI: Your Honor, at this time with the
3 Court's permission, Chad would like to address the Court.

4 THE COURT: Yes, please.

5 CHAD EVANS, DEFENDANT: Your Honor, I stand here
6 well recognizing the significance of today. It pains me
7 more than anything I can express in words to know I've let
8 so many people down, most particularly Kassidy. So many
9 lives have been affected by this, both people I know and
10 many of whom I don't know. I've had so many things in my
11 life to be proud of, beautiful sons, prominent job with
12 lots of responsibility, strong, loving family, and so many
13 friends. Most people never have the opportunity to attain
14 the things that I've had and I have. I'm overwhelmed--I'm
15 overwhelmed by the things that have been said, by the
16 letters that have been written on my behalf, and by the
17 continued support and compassion from my friends and
18 family. Having said that, there has not been a minute
19 since the fall of 2000 that I've not felt anything but
20 shame and regret for the things that I've done. I've hurt
21 my devoted family, all my friends, my beautiful sons, and
22 Amanda beyond comprehension. And my heart feels most heavy
23 for the way that I failed Kassidy. Amanda, I am so sorry
24 for the emptiness and the hurt you have to deal with for
25 the rest of your life. You and Kassidy both deserved a lot

1 more. I'm really sorry. And--I'm sorry. That's all.

2 ALAN CRONHEIM, ESQ.: Your Honor, as the Court
3 may know, our office has been involved in a number of
4 homicide cases. I think that to our memory there isn't a
5 case that we can compare where the events are so horrific,
6 yet the strengths and even the character of our client is
7 so strong. As Mark said, we recognize and we know you
8 recognize this is a second-degree murder case, and as a
9 consequence of the statutory scheme where it is life or a
10 term of years to life for a sentencing, we understand the
11 legislature has left to the Court the difficult duty of
12 creating a balance. It isn't life without parole, so it is
13 a balance of considering the crime, the individual
14 convicted, and the strengths and the weaknesses of the past
15 of the defendant who appears before you today. There isn't
16 anything that Mr. Brown said that came as a surprise to us.
17 We've gotten to know Chad over the course of this year and
18 a half. But the State comes before you suggesting a term
19 of 60 years to life, and though that is a number, we know
20 that it is functionally life without parole. We've read
21 the detailed report of Steve Carlisle, and I think you know
22 that he is a person whom we respect. We have dealt with
23 him for a long time, and the Court has been able to see the
24 quality of the reports that he provides to the Court on a
25 regular basis in sentencing circumstances. And so when

1 Mr. Carlisle recommended 45 years to life, we take that as
2 a serious recommendations. And rather than challenge at
3 the edges because there are things in the report with which
4 we do not agree, instead I think it's important to take a
5 look at how Mr. Carlisle came to his conclusion. And from
6 the evaluation and analysis section of it, he basically
7 says that this crime is so serious that it is the crime
8 that speaks for the sentence. And for the good works and
9 the qualities of Chad Evans, for this kind of case, those
10 qualities aren't important. It is there with which we
11 disagree. And so we come to you for sure disagreeing with
12 the State's life without parole recommendation of 60 years.
13 We also, with respect, disagree with Mr. Carlisle's
14 recommendation of 45 years to life, which is a functional
15 life without parole. Chad is 31 years old. So
16 functionally it is a sentence of incarceration to 76. It
17 is our view that the history of sentencing for second-
18 degree murder cases in New Hampshire and the circumstances
19 of this case should lead the Court to impose something that
20 is less than Mr. Carlisle's recommendation. I had the
21 opportunity to sit with Chad when he spoke to Mr. Carlisle.
22 I had the opportunity to sit with Mr. Carlisle as he spoke
23 with five of Chad's friends and five of Chad's family
24 members. And I was struck by the strength of character of
25 his family and friends. But it is not because of their

1 quality that we ask you for a lesser sentence. It is
2 because they spoke in emotional ways of Chad's strengths,
3 of Chad's past, whether it be -- and these are examples in
4 the probation report -- of his helping others who were
5 financially destitute, of his offering his home, of his
6 acting as mentor or coach. These are qualities that we
7 believe the Court should consider. There are more than 30
8 letters from people who have come to know Chad in ways that
9 we as lawyers and you as the Court will never have that
10 opportunity. And those letters were all written with the
11 recognition that Chad stood convicted of the second-degree
12 murder offense. It's not a situation where we hid
13 information. It is known and it is public. I know the
14 Court has been in circumstances where once somebody is
15 charged, the people who claim to be friends disappear
16 because of the notoriety of the charge, because of
17 publicity, because they have more important things to do in
18 their life, so they move on and they move away. What is
19 extraordinary to me is that Chad has people who have not
20 moved on, who have not moved away, who have been willing to
21 put their names to the bottom of a piece of paper on behalf
22 of someone convicted of so horrific a crime, to say we want
23 you to know other parts of Chad, and we do not want you,
24 please, to throw away the key. The probation report speaks
25 to the car accident. Mark referenced it, Jason mentioned

1 it. What I found so striking about it was that the person
2 who didn't reference it was Chad. I've been through many
3 interviews with Mr. Carlisle, and I certainly have had
4 interviews where my client reaches to the bottom to say
5 every positive thing that they have done in their entire
6 life. And I didn't talk with Chad, and I sort of did it on
7 purpose. I didn't tell him to say or not to say it. It
8 was something that he apparently chose. And faced with a
9 sentencing where functionally he may face life without
10 parole, he still didn't go to that event to brag or to beg,
11 because it was something that came from him in terms of his
12 doing the right thing those years ago. The probation
13 report narrates so many other works, whether it is works
14 with children's organizations, his work on the Keene School
15 Board, or work that he has done in the community with
16 family and friends. I, in truth, don't know of other
17 people who have accomplished those kinds of things. The
18 probation report speaks to the time that Mr. Carlisle spent
19 with Chad and found unpersuasive his comments about
20 Kassidy, and found even perhaps -- and I don't know if he
21 used this word -- "contrived," his comments as he's
22 bringing the photograph of Kassidy--of Kassidy to one of
23 the meetings between the two of them. I can tell you
24 before this trial that Chad showed to me emotions that very
25 clearly demonstrate a recognition of the circumstances.

1 And it is the case that he chose to go to trial, but that
2 one chooses to seek a trial is not a statement of lack of
3 concern or consideration or perhaps even remorse. Chad's
4 accused of being manipulative, and it took me a little
5 while to see this. It isn't manipulative that people are
6 here in Court this afternoon. It is that he has earned
7 their consideration by what he has done. And that's the
8 reason why they've come forward. I don't know in truth
9 what the right sentence would be, but I would tell you that
10 even taking the 20 years that are in Mr. Carlisle's
11 recommendation for the second-degree assaults, in 20 years
12 Chad Evans will be punished by not having time to raise his
13 son Kyle. There is one thing that I think everybody in
14 this case has recognized, it is that he has been a devoted,
15 loving and concerned father. I was involved in a District
16 Court case after his arrest that related to DCYF issues,
17 and I'd heard of the connection between Chad and Kyle. I'd
18 heard of it from Kristen, Kyle's mother, and I have heard
19 of it from the people who spent time with Chad and with
20 Kyle in their visits. So he will be punished by losing
21 that which is probably most precious to him because he will
22 not be the parent to Kyle he wants. Using Mr. Carlisle's
23 number of 20, he will be taken away from his family for the
24 time that his brothers and sisters perhaps raise their
25 families. He will be taken from his parents and even to

1 the point of perhaps being in custody at the time they pass
2 away themselves. So there doesn't need to be 60 years for
3 there to be punishment. There doesn't need to be 45 years
4 for there to be punishment, and we would not leave--want
5 the record left so that if you give something less than the
6 State's recommendation or something less than
7 Mr. Carlisle's recommendation, in some way it will be
8 deemed lenient, because it will not be, and no one here at
9 our table expects the Court or is asking the Court for
10 leniency. As Mark said, in every homicide that we've been
11 involved with, we understand with legitimacy that those
12 affected think that the only sentence that is fair or
13 appropriate or just is life without parole. We don't
14 reject that response on the part of any family member. But
15 the charge here is second-degree murder, and so it suggests
16 that the Court needs to balance these issues, the crime and
17 who Chad Evans is. When we were preparing for today, one
18 of the things that we came across was one other case--we've
19 reviewed many cases, but one with Danny Locke. Danny Locke
20 was involved in a horrific beating that was functionally a
21 gay bashing in Portsmouth. Judge McHugh was the sentencing
22 Judge there, and what he said in reference to Danny Locke
23 was, "I'm not ready to throw away the key on this
24 defendant." Danny Locke was someone who at the time of his
25 second-degree murder was on parole for negligent homicide.

1 He was facing sentencing not only on the second-degree
2 murder charge, but on a first-degree assault, a robbery and
3 a conspiracy to commit robbery. And what Judge McHugh did
4 in that case was impose a 7 and a half to 15-year sentence
5 on the first-degree assault, and he imposed a 30 to 60-year
6 sentence on the second-degree murder. He then said because
7 the sentence calculated to be 37 and a half years, that
8 Mr. Locke could seek to have 10 years of the minimum
9 deferred once he was paroled from the first sentence to the
10 homicide sentence. So functionally Mr. Locke had an
11 opportunity for a 27-and-a-half-year sentence. This is
12 someone who had a prior record, a record of causing death.
13 This is someone who was involved in a horrific and
14 senseless second-degree murder. Judge McHugh in that case
15 created a balance, rejecting the defense hope for less,
16 rejecting the State's hope for more. But he in that case,
17 as so many judges have in other cases, have looked at the
18 defendant, have looked at the accused, have recognized the
19 possibilities to follow incarceration, and created a
20 balance as the legislature suggests. Our request, Judge,
21 and we appreciate the time, not only today but the time
22 that you took with us during the trial, our request is that
23 you be involved in that difficult balance, and we suggest
24 something less than the 45 years to life sentence would be
25 appropriate under these circumstances.

1 THE COURT: Thank you, Mr. Cronheim. Anything
2 further from the defense at this point?

3 MR. CRONHEIM: There isn't, Judge.

4 THE COURT: All right.

5 MR. CRONHEIM: I am aware that it is not--well,
6 if you can give me a moment to speak with the State?

7 THE COURT: Sure.

8 (ATTORNEYS CONFER)

9 MR. CRONHEIM: Your Honor, the State is asking if
10 we could approach.

11 THE COURT: Sure.

12 (BEGIN BENCH CONFERENCE)

13 MR. BROWN: Do you want to address this?

14 MR. CRONHEIM: Sure. We understand, all four of
15 us understand that Amanda Bortner has the right to speak.
16 She's in the courtroom, and we were not calling her as a
17 witness. The State wasn't calling her, but--so we didn't
18 know how to handle that issue.

19 MR. BROWN: I think the Court should probably
20 deal with that issue.

21 THE COURT: You haven't talked to her recently?

22 MR. BROWN: No, no.

23 THE COURT: You can't?

24 MR. BROWN: We can't.

25 THE COURT: Okay. Is she here by herself or is

1 she here with her family?

2 MR. CRONHEIM: She is--her lawyer, Trish, was to
3 be here, but--and Trish called me, she's in the hospital,
4 so--

5 THE COURT: Is--is Amanda Bortner here with a
6 friend or here with--

7 MR. CRONHEIM: I asked--I asked somebody to sit
8 with her, a person I don't know, so I think she's with
9 somebody, but I'm not certain.

10 THE COURT: Okay.

11 MR. CRONHEIM: So maybe if you just want to ask--

12 THE COURT: I--I don't want to embarrass her by
13 putting her on the spot, so maybe what I--I guess what I'd
14 rather do is--did you hear any of this?

15 CLERK: No.

16 THE COURT: The problem is that Amanda has the
17 right to speak, but the State can't talk to her.

18 CLERK: Do you want me to go find her--

19 THE COURT: Yes. She's here in the back, right?

20 MR. CRONHEIM: Yeah, and I think she wants to
21 speak.

22 THE COURT: Oh, she does?

23 MR. CRONHEIM: Yeah, I think so.

24 THE COURT: Why don't you just go get her and
25 have her come up?

1 horrible, senseless tragedy that we all have to live with
2 forever. No one will get to see the life she could have
3 had. Instead of pointing fingers and casting blame,
4 everyone needs to look internally. No one is innocent. We
5 all failed Cassidy. I am going to be living with regret
6 for the rest of my life, those that acknowledge what
7 they've done and those who won't. God knows the truth,
8 though, of that I'm sure. As a true Christian, I believe
9 in redemption and forgiveness, yet forgiveness is very hard
10 sometimes. I know I would not be here today without Chad's
11 loving support. I know I need to pick up the pieces and
12 move on with my life as best as I can. As Cassidy's
13 mother, your Honor, I ask that you do the same for Chad
14 some day. He has done too much good to lock him up
15 forever. He is a wonderful, caring father and good-
16 hearted man. Please take that into consideration.

17 THE COURT: Does the State have any rebuttal?

18 MR. BROWN: I have one point to make, your Honor,
19 based on the defense presentation. Attorney Cronheim spoke
20 about one case, State v. Locke, and obviously to prepare
21 for today we looked at some prior cases as well, and the
22 State's recommendation of a total sentence of 60 years is
23 not unprecedented in a second-degree murder prosecution. A
24 case that we looked at was State v. Dale, a case out of
25 Merrimack County, which was another horrible case, a case

1 where a little girl was murdered during the course of a
2 sexual assault. James Dale was convicted after trial of
3 second-degree murder and sentenced by Judge McGuire to
4 40 years to life on the murder charge, and he received
5 consecutive sentences of 10 to 30 or 10 to 40, I believe.
6 But again, every case is different, and you have more than
7 enough information to make your very difficult decision,
8 but as I said at the beginning of our presentation, we
9 are attempting to present a sentence that will address
10 the totality of this course of conduct. What comes to
11 mind is some of the testimony that you heard in this
12 case where witnesses testified that Cassidy was literally
13 covered -- her face looked like it had dirt all over it --
14 with bruises, Melissa Chick's testimony about giving her a
15 bath and seeing her covered in bruises. So we are
16 attempting to address the totality with our recommendation.
17 That's all.

18 THE COURT: Thank you.

19 MR. CRONHEIM: Your Honor, I understand that we
20 could find cases to compare, but I don't think that a rape-
21 murder is an appropriate comparison. I have had experience
22 with working with Chris Jennings who was convicted of
23 second-degree murder for the death of a child. He got a
24 reduction of his 20-year sentence and served in the teens.
25 So we're trying not--and I didn't mean to raise that as a

1 statement that necessarily a different number that I
2 specified or that Judge McHugh specified was correct. It
3 was instead the sentencing theory that Judge McHugh used,
4 the recognition that there was value to considering
5 different sentences if the defendant, if the accused was a
6 person of value, and he created a structure which I think
7 is unusual which included a particular and more serious
8 sentence with the opportunity to seek a lessening of the
9 sentence down the road based on circumstances as they
10 unfold during incarceration. Thank you.

11 THE COURT: Okay. Thank you. I've already given
12 this case quite a bit of thought, but I want to take some
13 time to incorporate what I heard this afternoon from
14 everybody who spoke on behalf of Cassidy and Mr. Evans and
15 from the lawyers' presentations. So I'm going to take some
16 time and devise sentences that I hope will be appropriate
17 and fair, and I'll be back as soon as I do that.

18 BAILIFF: All rise.

19 HEARING RECESSED (2:54 P.M.)

20 HEARING RESUMED (3:15 P.M.)

21 THE COURT: Before I begin, let me say that I
22 have read every single letter and statement that's been
23 submitted in connection with this case at least once and
24 sometimes more than that, and I appreciate the input that
25 everybody has offered. I know this has been more than a

1 difficult case for everybody involved, and I've spent the
2 past several weeks trying to find the right words to
3 appropriately describe and recognize the tragedy of
4 Kassidy's death so that she may rest peacefully, and I've
5 discovered that such a task is impossible because words can
6 only diminish the depth of emotion and sadness that has
7 reached everyone who heard the evidence in this case. So
8 instead of trying to make sense of an entirely senseless
9 and incomprehensible murder, I need to focus on what I can
10 accomplish in the aftermath. My obligation today is to
11 impose a balanced and proportionate sentence, one that
12 takes into consideration the appropriate punishment and
13 provides an opportunity for rehabilitation. I've seen from
14 the many letters his family and friends submitted and from
15 the comments that were so eloquently provided today that
16 the defendant has been an active and contributing member of
17 society. He is clearly committed to his family and has
18 supported each of them unconditionally throughout his life.
19 So it comes as no surprise to me that they are shocked and
20 dismayed by the jury's verdict. I've also seen another
21 side of the defendant through the pre-sentence
22 investigation report and through the evidence that was
23 presented at trial, and I've seen a man who was convicted
24 of domestic violence against his ex-wife and who has
25 committed similar assaults against Amanda Bortner. I've

1 seen a man who had admitted to some abuse against Kassidy
2 when he knows there have been witnesses to confirm it, and
3 who has minimized other assaults against Kassidy when he
4 believes his ability to persuade is strong. Most
5 importantly, I've seen a man who until today has shown a
6 disturbing lack of remorse for the death of a child he
7 caused, and I've seen a man who has refused to accept any
8 measure of responsibility for causing the death and
9 murdering Kassidy Bortner. Mr. Evans, I hope that someday
10 you will find the courage to tell your family and your
11 friends and Amanda Bortner what you did to Kassidy, and
12 perhaps if you had from the beginning, you wouldn't be
13 facing the sentence that I feel is appropriate and just
14 today. Not only is Kassidy a victim, but so are the
15 defendant's sons, Brent and Kyle. Because of the
16 defendant's disregard for Kassidy's life, his two sons will
17 grow up while their father spends some time in jail. And
18 for their loss, I am sincerely sorry. But I know the
19 family around them will provide the boys with the love and
20 attention they need to grow into healthy men. I have read
21 the pre-sentence investigation more than once, and I am
22 impressed with the thoroughness of its content and the
23 depth of emotion it contains, and it is with complete
24 respect for the writer who has provided years of sound
25 advice to this Court that I must depart from the 45 years

1 to life sentence he believes is appropriate, and
2 necessarily depart from the recommendation the State has
3 made. Let me tell you why. First, I disagree with the
4 State at least on one point, that rehabilitation should be
5 the least of my concerns. The New Hampshire Constitution
6 says that the true design of all punishments being not to--
7 being to reform, not to exterminate mankind. So while I do
8 not view Mr. Evans' contributions to society as mitigating
9 factors in this crime, I do see them as a sign and an
10 opportunity and a hope for rehabilitation. After reviewing
11 the probation report, I too researched all of the second-
12 degree murder sentences issued in this State over the past
13 ten years, whether the sentence resulted from a plea or was
14 imposed after a jury verdict. There were 43 cases.
15 Twenty-nine of those defendants received a minimum sentence
16 of over fifteen years but less than 30 years. Six
17 defendants received a minimum sentence of 30 years. Three
18 defendants received a minimum sentence of over 30 years but
19 less than 40 years. Three defendants received a minimum
20 sentence of 40 years, including Mr. Locke, and also
21 including Jason Carol [phonetic], who repeatedly stabbed a
22 woman who was seven months pregnant after he and his co-
23 defendant kidnapped her and brought her to a sand pit. And
24 two defendants received a minimum sentence of 45 years to
25 life, the highest sentence imposed in ten years. In each

1 of those two cases, the defendants were originally charged
2 with first-degree premeditated murder and pled guilty to
3 second-degree murder. And in each case the defendant
4 stabbed their victims repeatedly. There was one case that
5 I recall that was not part of the statistics--

6 (PAUSE)

7 THE COURT: --because it occurred more than ten
8 years ago, but the case was State v. Steven Kamaritis
9 [phonetic], and remarkably that case is as close to
10 identical to the facts of this particular case.
11 Mr. Kamaritis was charged and found guilty of second-
12 degree murder of a two-year-old boy whom he had submitted
13 to a period of abuse before the ultimate death and who had
14 ultimately smashed the boy's head into a wall repeatedly to
15 cause his death. Mr. Kamaritis had no community service,
16 no remarkable character, and fled the country before the
17 jury delivered the verdict. Mr. Kamaritis received a
18 sentence of 30 years to life. While I depart from
19 the Probation Department's recommendation in this case,
20 I recognize the incredible emotional impact Cassidy's
21 death has had on everyone who knew her and even those who
22 have never met her. As a result, the defendant must be
23 punished appropriately and his sentence must reflect the
24 seriousness of this crime. Therefore, I will impose a
25 balanced and proportional sentence that takes into

1 consideration the appropriate punishment and his potential
2 for rehabilitation. Based on those factors and the
3 consideration of the proportionate sentences that were
4 issued, I believe that a 28-to-life-year sentence is
5 significant and an appropriate sentence which reflects the
6 seriousness of the defendant's second-degree murder crime
7 and recognizes the hope that I believe exists for the
8 defendant's rehabilitation. In addition, I will impose
9 significant suspended time for the assault which will run
10 consecutive to the second-degree murder sentence. That
11 means when the defendant is eligible for parole at the age
12 of 59, he will still face 15 more years of incarceration if
13 he violates any condition of parole, and once released, he
14 will be on parole for the rest of his life. In reality, we
15 all know that no sentence can bring back Cassidy Bortner's
16 life, and if there is anything to be gained from the death
17 of Cassidy, let it be that every friend, every parent,
18 every child-care provider, every neighbor takes seriously
19 their observations of the signs of physical abuse and take
20 appropriate steps to stop the abuse from escalating. No
21 child deserves to live the silent life of pain that Cassidy
22 suffered if we, the adults, are doing our best to protect
23 them. So for the following reasons, Mr. Evans, the
24 following sentences are imposed. Regarding Docket
25 Number 00-S-888, charging the crime of second-degree

1 murder, the defendant is sentenced to the New Hampshire
2 State Prison for not more than life nor less than 28 years.
3 There is added to the minimum sentence a disciplinary
4 period equal to 150 days for each year of the minimum term
5 of the defendant's sentence to be prorated for any part of
6 the year. The sentence is to be served stand committed
7 commencing forthwith, pre-trial confinement credit of 247
8 days. Regarding Docket Number 00-S-891-F, charging the
9 defendant with the crime of second-degree assault, the
10 defendant is sentenced to the New Hampshire State Prison
11 for not more than ten years nor less than five years.
12 All of the minimum and maximum are suspended. Any
13 suspension may be brought by the State within 60 years of
14 today's date. This sentence is to be served consecutive to
15 00-S-888. Regarding Docket Number 00-S-893, charging with
16 the crime of second-degree assault, the following sentence
17 is imposed: The defendant is sentenced to the New
18 Hampshire State Prison for not more than 30 years nor less
19 than 10 years. All of the minimum and maximum are
20 suspended. Any suspended sentence may be imposed after a
21 hearing brought by the State within 60 years of
22 today's date. This sentence is to be served consecutive to
23 00-S-888 and consecutive to 00-S-891. Regarding Docket
24 Numbers 00-S-894 and 00-S-895 and 00-S-896, the identical
25 sentences are imposed as follows: The defendant is

1 sentenced to the New Hampshire State Prison for not more
2 than 30 years nor less than 10 years. All of the
3 minimum and maximum are suspended. Any suspended
4 sentence may be imposed after a hearing brought by the
5 State within 60 years of today's date. This--these
6 sentences are to be served concurrent with each other and
7 consecutive to 00-S-888 and 00-S-891, but concurrent with
8 00-S-893. Regarding Docket Number 00-S-934, charging the
9 defendant with the crime of endangering the welfare of a
10 child, the defendant is sentenced to the House of
11 Corrections for a period of twelve months to be served
12 concurrent with 00-S-888. And with regard to the final
13 charge, Docket Number 00-S-935, charging the defendant with
14 the crime of simple assault, the defendant is sentenced to
15 the House of Corrections for a period of twelve months to
16 be served concurrent with 00-S-888. And before the Clerk
17 informs you of your right to sentence review, Mr. Evans, I
18 am going to request that everyone in the courtroom remain
19 seated and remain in the courtroom until the sheriff has
20 escorted the defendant out of the courtroom.

21 CLERK: Mr. Evans, you are hereby notified that
22 you have the right to apply for a review of the sentence
23 imposed on you today. The application may be filed within
24 30 days after the date of sentence but not thereafter
25 except for good cause shown. If you file such an

1 application, your sentence will be reviewed by a board of
2 three members who will be other Superior Court justices.
3 Review of the sentence may result in a decrease or increase
4 in the minimum or maximum term within the limit fixed by
5 law, or there may be no change in the sentence. A form for
6 making application if you wish to do so is set forth now.

7 (PAUSE)

8 THE COURT: Mr. Evans, you are remanded to the
9 custody of the sheriff. Everyone else will remain seated,
10 please.

11
12 HEARING CONCLUDED (APRIL 26, 2002, 3:26 P.M.)
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