

31A01-1703-PC-547



IN THE
INDIANA COURT OF APPEALS

Case No.: 31A01-0901-CR-35

Lawrence E. NUNLEY

Appellant (Defendant Below)

vs.

STATE of Indiana

Appellee (Plaintiff Below)

Appeal from the Harrison
Superior Court

Case No.: 31D01-0805-FA-389

The Honorable Roger D. Davis,
Judge

APPELLANT'S APPENDIX
VOLUME I OF II
Pages 1 through 112

Matthew Jon McGovern
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P.O. Box 5583
Evansville, Indiana 47716
(812) 842-0286
Attorney for Appellant

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Party Name: NUNLEY, LAWRENCE E. Defendant
Date Filed: 05/19/08 : CHILD MOLESTING
Status : DECD Judge : RD Offense Dt: 04/13/07 MUNICIPALITY : STA
Status Dt.: 11/21/08 Last Active: 05/28/09
CONTIN/DEF : 2
INCARCERATED: 05/29/08 PAUPER ATTY : Y
Y/N 18 : Y
#DAYS DELAY : 28
Case Bal. : 414.00 Finding: JTG Fnd Date: 12/21/08
Pty 0001 BENCH WARRANT Status: Served Issued: 05/19/08
Bail: 100000.00 Served: 05/29/08
CASH OR SURETY, 24 HOUR HOLD

Judge DAVIS, ROGER D JUDGE
HARRISON SUPERIOR COURT 812-738-8141 BUS
1445 GARDNER LANE NW 812-738-6337 FAX
CORYDON IN 47112
Plaintiff STATE OF INDIANA Prosecuting Atto
BYRD, DENNIS DB
1445 GARDNER LANE
CORYDON IN 47112
Defendant PUBLIC DEFENDER 812-738-1900 BUS
812-738-1986 FAX
Pty 1 NUNLEY, LAWRENCE E. SCHULTZ, SUSAN E 15667-14
13225 RENNER WAY 127 E CHESTNUT ST STE 1
3W Served NE CORYDON IN 47112
PALMYRA IN 47164

Physical: DOB: 10/23/1966 Sex: M Race: WHITE
Eye: GRE Hair: BLO Hgt: 61 Wgt: 220
Driver License: State: IN DL#: 8935771217
Officer: WIBBLES, BILL Agency: INDIANA STATE POLICE

| Offense/s | Statute | Time | CHARGES | Off | Off | Ty | Plea | Dispo |
|-----------|---------|-------------|------------------------------|----------|--------|------|------|---------------|
| Numb | Date | Description | Arrest/Citation | Date/s | Number | Date | Date | Date |
| 01 | 0 | 04/13/07 | 35-42-4-3 CHILD MOLESTING | 04/13/07 | | A | FA | G 01/15/09 |
| | | | Info Filed Dt: 05/19/08 | | | | | |
| 02 | 0 | 04/13/07 | 35-42-4-3 CHILD MOLESTING | 04/13/07 | | A | FA | G 01/15/09 |
| | | | Info Filed Dt: 05/19/08 | | | | | |
| 03 | 0 | 04/13/07 | 35-42-4-3 CHILD MOLESTING | 04/13/07 | | A | FA | G 01/15/09 |
| | | | Info Filed Dt: 05/19/08 | | | | | |

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| Offense/s Numb | Date | Statute Description | Time | Arrest/Citation Date/s | Number | Off | Off | TyPlea | Dispo Date |
|----------------|----------|--|------|------------------------|--------|-----|-----|--------|---------------|
| 04 0 | 04/13/07 | 35-42-4-3 CHILD MOLESTING | | 04/13/07 | | | | C FC | G 01/15/09 |
| 05 0 | 04/13/07 | 35-49-3-3 DISSEMINATE. MATTER HARMFUL TO MINORS | | 04/13/07 | | | | D FD | G 01/15/09 |

| Action Seq | Date | Description | Party 0001 | Specific Actions | Note 1 | Note 2 | Action Note 3 |
|------------|----------|-------------|------------|---------------------|--------|--------|---------------|
| 0001 | 01/15/09 | G | GUILTY | OFFENSE DISPOSITION | Charge | 001 | 00 |
| 0002 | 01/15/09 | G | GUILTY | OFFENSE DISPOSITION | Charge | 002 | 00 |
| 0003 | 01/15/09 | G | GUILTY | OFFENSE DISPOSITION | Charge | 003 | 00 |
| 0004 | 01/15/09 | G | GUILTY | OFFENSE DISPOSITION | Charge | 004 | 00 |
| 0005 | 01/15/09 | G | GUILTY | OFFENSE DISPOSITION | Charge | 005 | 00 |

| Action Seq | Date | Description | Case Actions | Note 1 | Note 2 | Action Note 3 |
|------------|----------|--|--------------|--------|--------|---------------|
| 0001 | 05/19/08 | PROBABLE CAUSE-WARRANT ISSUED | SW0519 | | | |
| | | State files Appearance, Information, Affidavit of Probable Cause and Finding of Probable Cause for Issuance of Warrant for Arrest. Probable cause found on MAY 19 2008 | | | | |
| | | Warrant issued to Harrison County Dispatch for processing. Bond is set at \$100000 CASH OR SURETY. 24 HOUR HOLD. | | | | |
| 0002 | 05/30/08 | WARRANT RETURNED SERVED | SW0530 | | | |
| 0003 | 05/30/08 | INITIAL HEARING HELD-P.D. APPOINTED | se0530 | | | |
| | | Comes now the State and the defendant in person. Defendant signs Advice of Rights. Initial hearing had. Public Defender appointed. Not guilty plea entered. Pretrial date set for 6-19-08 at 9 a.m. Omnibus date 7-15-08. Jury trial set for 8-19-08 at 9 a.m. 108/3020-3103 & 4292-4852 | | | | |
| 0004 | 06/19/08 | Minute Entry | kh0619 | | | |
| | | Order entered Granting Withdrawal by Amie Newlon. Clerk to notify parties. Court appoints Anne Walsh to rep. def. in this cause. PTC reset for 07-03-08 at 9:00 AM. 120/3616-3785, 4278-4330 | | | | |
| 0005 | 06/20/08 | MOTION FOR WITHDRAWAL OF APPEARANCE | SW0620 | | | |
| | | Motion to Withdraw Appearance filed by AMIE NEWLON by fax 6-16-08 | | | | |
| 0006 | 06/20/08 | ORDER OF WITHDRAWAL PLACED IN RJO #138 | sw0620 | | | |
| 0007 | 07/03/08 | Minute Entry | se0703 | | | |
| | | Parties appear. Ms. Walsh moves to withdraw. Granted. Susan Schultz appointed P.D. Pretrial set for 7-9-08 at 9 a.m. 132/1474-1813 | | | | |

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| Action | Case Actions | | Action |
|--------|--------------|--|----------------------|
| Seq | Date | Description | Note 1 Note 2 Note 3 |
| 0008 | 07/09/08 | Defendant's Continuance Granted Parties appear and Defendant requests continuance. Granted. Jury trial continued to 9-16-08 at 9 p.m. Pretrial continued to 8-25-08 at 1 p.m. 137/2526-2745 | se0709 |
| 0009 | 07/10/08 | APPEARANCE ON BEHALF OF DEFENDANT Appearance filed by SUSAN SCHULTZ; NOTICE OF ACCEPTANCE OF APPOINTMENT; MOTION FOR DISCOVERY. | SW0714 |
| 0010 | 07/14/08 | Minute Entry Order granting defendant's motion for discovery entered. State to furnish requested information within 30 days. Clerk to notify parties. | se0714 |
| 0011 | 07/14/08 | RJO FILED IN #139 ORDER FOR DISCOVERY. COPIES DIST. | SW0714 |
| 0012 | 08/07/08 | STATE FILES MOTION FOR DISCOVERY; STATE'S COMPLIANCE WITH REQUEST FOR DISCOVERY. | SW0807 |
| 0013 | 08/08/08 | Minute Entry Order entered on State's Mot. for Discovery; def. to furnish req. info. w/i 30 days. Clerk to notify parties. | kh0808 |
| 0014 | 08/08/08 | RJO FILED IN #140 ORDER ON STATE'S MOTION FOR DISCOVERY. COPIES DIST. | sw0808 |
| 0015 | 08/12/08 | DEFENDANT BY COUNSEL FILES REQUEST TO DEPOSE WITNESSES AT COUNTY EXPENSE. | SW0812 |
| 0016 | 08/13/08 | Minute Entry Order for deposition at public expense entered. Clerk to notify parties. | se0813 |
| 0017 | 08/13/08 | RJO FILED IN #140 ORDER FOR DEPOSITION AT PUBLIC EXPENSE. COPIES DIST. | SW0813 |
| 0018 | 08/25/08 | Defendant's Continuance Granted Parties appear; counsel for Defendant requests continuance. Granted. Cause continued to 09-22-08 at 1:00 PM. Jury Trial cont. to 10-14-08 at 9:00 AM. 178/1210-1314 | kh0825 |
| 0019 | 09/22/08 | Minute Entry Parties appear & PTC held; trial dates are confirmed. 220/6128-6450 | kh0922 |
| 0020 | 09/30/08 | Minute Entry Order entered for Clerk to Call Jury. Clerk to forward copy to the parties. | kh0930 |
| 0021 | 09/30/08 | RJO FILED IN #141 ORDER FOR CLERK TO CALL JURY. COPIES DIST. | SW1002 |
| 0022 | 10/07/08 | STATE FILES SUPPLEMENTAL COMPLIANCE WITH DISCOVERY. | SW1007 |
| 0023 | 10/08/08 | STATE FILES NOTICE OF INTENT TO INTRODUCE EXTRINSIC ACT EVIDENCE AT TRIAL. | SW1008 |
| 0024 | 10/14/08 | STATE FILES SUPPLEMENTAL COMPLIANCE WITH DISCOVERY. | SW1014 |
| 0025 | 10/14/08 | Minute Entry Order continuing jury trial due to court congestion entered. Jury trial continued to 11-18-08 at 9 a.m. Clerk to notify parties. | se1016 |
| 0026 | 10/14/08 | RJO FILED IN #142 COURT CONGESTION ORDER. COPIES DIST. | SW1016 |

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| Action | Case Actions | | | Action |
|--------|--------------|---|--------|---------------|
| Seq | Date | Description | Note 1 | Note 2 Note 3 |
| 0027 | 10/22/08 | STATE FILES | SW1022 | |
| | | MOTION TO SET HEARING ON STATE'S 404(b) MOTION. | | |
| 0031 | 10/22/08 | Minute Entry | kh1105 | |
| | | Order entered setting hrg. on State's 404(b) Motion for 11-14-08 at 2:00 PM. Clerk to notify parties. | | |
| 0033 | 10/22/08 | RJO FILED IN #142 | SW1106 | |
| | | ORDER SETTING HEARING ON STATE'S 404(b) MOTION. COPIES DIST. | | |
| 0028 | 10/29/08 | Minute Entry | kh1029 | |
| | | order entered for Clerk to Call Jury. Clerk to notify parties. | | |
| 0029 | 10/29/08 | RJO FILED IN #142 | SW1029 | |
| | | ORDER FOR CLERK TO CALL JURY. COPIES DIST. | | |
| 0030 | 11/05/08 | STATE FILES NOTICE OF INTENT TO INTRODUCE A.Y.'S VIDEOTAPED INTERVIEW INTO EVIDENCE PURSUANT TO INDIANA CODE 35-37-4-6 AND MOTION FOR HEARING. | SW1105 | |
| 0035 | 11/05/08 | Minute Entry | kh1106 | |
| | | Order entered setting hrg. on State's Intent to Introduce Evidence Pursuant to IC 35-37-4-6(d) for 11-14-08a t 2:00 PM. (Interview at Comfort House) Clerk to forward copies to the parties. | | |
| 0032 | 11/06/08 | STATE FILES NOTICE OF INTENT TO INTRODUCE A.Y.'S STATEMENTS INTO EVIDENCE PURSUANT TO INDIANA CODE 35-37-4-6 AND MOTION FOR HEARING. | SW1106 | |
| 0034 | 11/06/08 | STATE FILES SUPPLEMENT TO DISCOVERY | SW1106 | |
| 0036 | 11/06/08 | Minute Entry | kh1106 | |
| | | Order entered setting hrg. on State's Intent to Introduce Evidence Pursuant to IC 35-37-4-6(d) for 11-14-08 at 2:00 PM. (A.Y.'s statement) Clerk to forward copies to the parties. | | |
| 0037 | 11/06/08 | RJO FILED IN #143 | SW1106 | |
| | | ORDER SETTING HEARING ON STATE'S INTENT TO INTRODUCE EVIDENCE PURSUANT TO INDIANA CODE 35-37-4-6(d). COPIES DIST. | | |
| 0038 | 11/13/08 | STATE FILES AMENDED NOTICE OF INTENT TO INTRODUCE EXTRINSIC ACT EVIDENCE AT TRIAL. | SW1113 | |
| 0039 | 11/14/08 | STATE FILES SUPPLEMENT TO DISCOVERY | SW1114 | |
| 0040 | 11/14/08 | Minute Entry | kh1117 | |
| | | Parties appear & hrg. is held on 404(B) and hearsay issues. Court takes its ruling under advisement. 298/748-6604, 299/0-end; 300/0-6361 | | |
| 0041 | 11/17/08 | STATE FILES SUPPLEMENT WITH DEFENDANT'S MOTION FOR DISCOVERY AND PRODUCTION OF EVIDENCE. | SW1117 | |
| 0042 | 11/17/08 | STATE FILES MOTION IN LIMINE | SW1117 | |
| 0044 | 11/18/08 | Minute Entry | kh1120 | |
| | | Jury Trial Order entered. State appears by its Dep. Pros. Attys; def. appears w/counsel. Venire of jurors appear and are sworn. parties examine jurors and inform the Court that they accept the jury. Court admonishes and releases jury; court adjourned until 11-19-08 at 9:00 AM. 302/0-6591, 303/0-3293, 304/0-7000, 305/0-924 | | |
| 0045 | 11/18/08 | RJO FILED IN #143 | sw1121 | |
| | | JURY TRIAL ORDER FOR NOVEMBER 18 2008. | | |

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| Action | Case Actions | Action |
|---------------|--|----------------------|
| Seq Date | Description | Note 1 Note 2 Note 3 |
| 0046 11/19/08 | Minute Entry Parties appear and trial resumes. Court gives to the parties its Preliminary Instructions; parties tender no preliminary instructions and have no objections to the Court's Prel. Instructions. Outside the presence of the jury, the Court gives to the parties its ruling on State's 404(b) Motion and Mot. in Limine. Court grants State's Mot. in Limine and denies the request to admit 404(b) evidence. Court grants State's request to admit certain hearsay evidence over the defendant's objections pursuant to IC 35-37-4-6. State moves for separation of witnesses; granted. Parties appear; jury appears; Court reads said Preliminary Instructions, which are filed and said instructions are ordered made a part of the record. State makes opening statement; def. makes opening statement. State introduces evidence in chief. The hour of adjournment having arrived, Court orders trial recessed until 11-20-08 at 9:00 A.M. 305/924-6985; 306/0-7000; 307/0-6975; 308/0-3555; 309/0-426 | kh1126 |
| 0050 11/19/08 | RJO FILED IN #143 JURY TRIAL ORDER FOR NOVEMBER 19 2008 | SW1126 |
| 0043 11/20/08 | STATE FILES TENDER OF FINAL INSTRUCTIONS | SW1120 |
| 0047 11/20/08 | Minute Entry parties appear; jury appears; trial resumes State continues its case in chief. The hour of adjournment having arrived, Court orders trial recessed until 11-21-08 at 9:00 AM. 309/607-6955; 310/0-6925; 311/0-5561 | kh1126 |
| 0051 11/20/08 | RJO FILED IN #143 JURY TRIAL ORDER FOR NOVEMBER 20 2008. | SW1126 |
| 0048 11/21/08 | Minute Entry Parties appear; jury appears; trial resumes. State continues its case in chief and rests. During the State's case, def. moves for mistrial; denied. Def., by his attorney, presents his case in chief and rests. State presents rebuttal evidence and rests. Def. informs the Court that he has no surrebuttal evidence and rests. Court gives to the parties its Final Instructions. State tenders 1 Final Instruction. Court refuses State's requested instruction. Def. requests no final instructions. Neither the State nor the def. have any objections to the Court's proposed Final Instructions. State makes Closing Argument; Def. makes closing argument. Court reads its Final Instructions and said instructions are filed and ordered made a part of the record. | kh1126 |

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| Action Seq | Date | Description | Case Actions | Note 1 | Note 2 | Action Note 3 |
|------------|----------|--|-----------------------------|--------|--------|---------------|
| | | Bailiff is sworn and the jury retires to the jury room to deliberate. | | | | |
| | | Parties appear; jury appears and returns in open Court the following verdicts: | | | | |
| | | Ct. 1, Child Molesting, Class A Felony -- Guilty | | | | |
| | | Ct. 2, Child Molesting, Class A Felony -- Guilty | | | | |
| | | Ct. 3, Child Molesting, Class A Felony -- Guilty | | | | |
| | | Ct. 4, Child Molesting, Class C Felony-- Guilty; and | | | | |
| | | Ct. 5, Dissemination of Matter Harmful to Minors, Class D Felony -- Guilty. | | | | |
| | | Def., by his attorney, requests the Court to poll the jury. Court polls each juror who indicate that the verdicts are his or her own verdicts. Court accepts the verdicts, are filed and made a part of the record. JOC is entered against the def. on each count. | | | | |
| | | Court orders PSI and sets sent. hrg. for 01-15-09 at 9:00 AM. Def. waives 30-day requirement. Jury is discharged. 312/1168-6900; 313/0-6950; 314/0-6970; 315/0-4780 | | | | |
| 0049 | 11/21/08 | JTG | GUILTY-JURY TRIAL | kh1126 | | RJO |
| | | See minute entry for 11-21-08. | | | | |
| 0052 | 11/21/08 | RJO | FILED IN #143 | SW1126 | | |
| | | JURY TRIAL ORDER FOR NOVEMBER 21 2008. | | | | |
| 0053 | 12/17/08 | | Probation files PRESENTENCE | LS1217 | | |
| | | Probation files Presentence -- Probation to distribute. | | | | |
| 0054 | 01/15/09 | | Minute Entry | kh0116 | | |
| | | Parties appear & sent. hrg. held. Def. is sent. as follows: Ct. 1 for 35 years; Ct. 2 for 35 yrs.; Ct. 3 for 35 yrs.; Ct. 4 for 4 yrs. & 8 mos.; and Ct. 5 for 21 mos. Cts. 1, 2, 4 & 5 are consecutive; Ct. 3 is concurrent with Cts. 1&2. All time to be served; -0- suspended. Credit t/s 232 act. days. Court appts. Melissa Albertson as victim representative. Court costs & \$250 Sexual Assault Victim's Assistance Fee assessed. No bond, payment stayed 90 days after release. Def. is found to be a sexually violent predator pursuant to 35-38-1-7.5(b)(1)(c). Def. to have no contact w/victim (Protective Order entered). Def. to undergo HIV testing. Def. is ordered to register as sex offender for life. Def. is ordered not to reside w/i 1,000 feet of school property. Def. is ordered not to reside within one (1) mile of the victim's residence. Def. is advised of his right to appeal. Court appoints Matthew McGovern to rep. the def. for appeal purposes. 12/1730-6970, 13/0-3042 | | | | |
| 0060 | 01/15/09 | RJO | FILED IN #145 | SW0305 | | |
| | | SENTENCING ORDER; COMMITMENT TO INDIANA DEPT. OF CORRECTIONS; ORDER TO TRANSPORT. | | | | |

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| Seq | Date | Description | Note 1 | Note 2 Note 3 |
| 0055 | 01/16/09 | Minute Entry Request for Info. for Protective Order sent to Pros. Office. | kh0116 | |
| 0056 | 01/16/09 | 414.00 Assessed CC0 CRIM COST ONLY 07-08 | Chg001 | DEF 0001 |
| 0057 | 01/21/09 | RJO FILED IN #145 NO CONTACT ORDER WHILE ON PROBATION. | SW0121 | |
| 0058 | 02/16/09 | DEFENDANT BY COUNSEL FILES NOTICE OF APPEAL. | sw0217 | |
| 0059 | 03/04/09 | Minute Entry IDOC contacts the Court regarding whether the def. is credit restricted felon. The court notifies the State & Counsel for def. The State, counsel for def. and the Court agree that credit restricted felon law effective 07-01-08 does not apply to the def. | kh0305 | |
| 0061 | 03/06/09 | Minute Entry NOTICE OF COMPLETION OF CLERK'S RECORD TO CLERK, COURT OF APPEALS. COPIES DIST. | sw0306 | |
| 0062 | 05/15/09 | Minute Entry Notice of Completion of Transcript filed by Karen Hamilton, Court Reporter. | kh0518 | |
| 0063 | 05/26/09 | Minute Entry NOTICE OF COMPLETION OF TRANSCRIPT TO CLERK, COURT OF APPEALS. COPIES TO COUNSEL. | SW0526 | |
| 0064 | 05/28/09 | Minute Entry TRANSCRIPT - 4 VOLUMES, TABLE OF CONTENTS AND TABLE OF EXHIBITS MAILED TO MATTHEW MCGOVERN. | SW0528 | |

APPEARANCE (Criminal)
State of Indiana

11/17/19
3:38 PM
[Handwritten initials]

Cause Number: 31D01-0805-FA - 389

- 1. Name of Defendant: LAWRENCE E. NUNLEY
- 2. Type of Proceeding: CRIMINAL PROCEEDING

PROSECUTING ATTORNEY INFORMATION:

| | |
|--|-----------------------|
| DENNIS L. BYRD Prosecuting Attorney 1445 Gardner Lane, NW. , Suite 3101 Corydon, Indiana 47112 (812) 738-4241 | Attorney No. 14721-31 |
|--|-----------------------|

| | | |
|---|--------|-----------------------|
| John E. Colin Chief Deputy Prosecuting Attorney | and/or | Attorney No. 21581-22 |
|---|--------|-----------------------|

| | | |
|---|--------|-----------------------|
| Lauren Wheatley Deputy Prosecuting Attorney | and/or | Attorney No. 22866-49 |
|---|--------|-----------------------|

| | | |
|--|--|-----------------------|
| Jennifer E. Woolen Deputy Prosecuting Attorney | | Attorney No. 25882-49 |
|--|--|-----------------------|

| | | |
|---|--------|-----------------------|
| Julie Fessel-Flanigan Deputy Prosecuting Attorney | and/or | Attorney No. 25898-22 |
|---|--------|-----------------------|

3. THE STATE **WILL NOT** ACCEPT SERVICE BY FAX.

4. ARREST REPORT NUMBER (Originating Agency Case Number)
ISP/WIBBELS

5. Additional information required by state or local rule: NONE

Authority: Pursuant to Criminal Rule 2.1 (A), this form shall be filed at the time a criminal proceedings commenced. In emergencies, the requested information shall be supplied when it becomes available. Parties shall advise the court of a change in information previously provided to the court. This format is approved by the Division of State Court Administration.

STATE OF INDIANA)
)
:SS:
)
COUNTY OF HARRISON)

BEFORE THE HARRISON COUNTY
SUPERIOR COURT
ANNUAL TERM 2 0 0 8

STATE OF INDIANA

COUNT 1:

CHILD MOLESTING
I.C. 35-42-4-3
CLASS A FELONY

VS

LAWRENCE E. NUNLEY

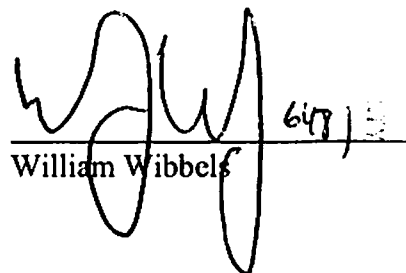
CAUSE NO. 31D01-0805-FA-389

INFORMATION

William Wibbels, a Police Officer affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one LAWRENCE E. NUNLEY, person at least twenty-one (21) years of age, who with a child under fourteen (14) years of age, identified as A.Y., did perform or submit to deviate sexual conduct, to-wit: LAWRENCE E. NUNLEY, who was born October 23, 1966, touched the vagina of A.Y., who was born June 24, 2000, with his mouth,

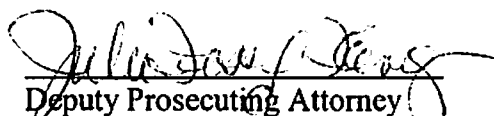
which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

Dated this 16th day of May, 2008


William Wibbels

2008 MAY 19 11:28

APPROVED BY:


Deputy Prosecuting Attorney

Witnesses: William Wibbels and A.Y. Any additional witnesses will be listed in Discovery materials at a later date.

STATE OF INDIANA)
)
:SS:
)
COUNTY OF HARRISON)

BEFORE THE HARRISON COUNTY
SUPERIOR COURT
ANNUAL TERM 2 0 0 8

STATE OF INDIANA

COUNT 2:

CHILD MOLESTING
I.C. 35-42-4-3
CLASS A FELONY

VS

LAWRENCE E. NUNLEY

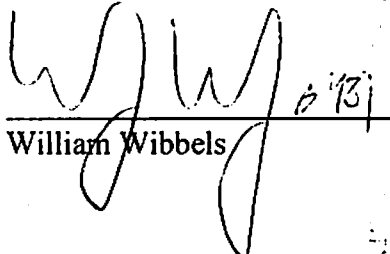
CAUSE NO. 31D01-0805-FA- 389

INFORMATION

William Wibbels, a Police Officer affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one LAWRENCE E. NUNLEY, person at least twenty-one (21) years of age, who with a child under fourteen (14) years of age, identified as A.Y., did perform or submit to deviate sexual conduct, to-wit: LAWRENCE E. NUNLEY, who was born October 23, 1966, had A.Y., who was born June 24, 2000, put her mouth on his penis,

which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

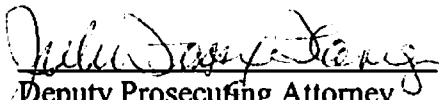
Dated this 16th day of May, 2008



William Wibbels

2008 MAY 16 11:28
HARRISON COUNTY INDIANA

APPROVED BY:



Deputy Prosecuting Attorney

Witnesses: William Wibbels and A.Y. Any additional witnesses will be listed in Discovery materials at a later date.

STATE OF INDIANA)
):SS:
COUNTY OF HARRISON)

BEFORE THE HARRISON COUNTY
SUPERIOR COURT
ANNUAL TERM 2 0 0 8

STATE OF INDIANA COUNT 3: CHILD MOLESTING
 I.C. 35-42-4-3
 CLASS A FELONY

VS

LAWRENCE E. NUNLEY

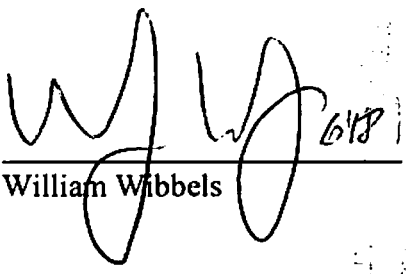
CAUSE NO. 31D01-0805-FA- 389

INFORMATION

William Wibbels, a Police Officer affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one LAWRENCE E. NUNLEY, person at least twenty-one (21) years of age, who with a child under fourteen (14) years of age, identified as A.Y., did perform or submit to deviate sexual conduct, to-wit: LAWRENCE E. NUNLEY, who was born October 23, 1966, put his hand in the vagina of A.Y., who was born June 24, 2000,

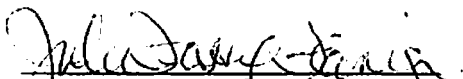
which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

Dated this 16th day of May, 2008



William Wibbels
648
62-1110-2008-15

APPROVED BY:



Deputy Prosecuting Attorney

Witnesses: William Wibbels and A.Y. Any additional witnesses will be listed in Discovery materials at a later date.

STATE OF INDIANA)
:SS:
COUNTY OF HARRISON)

BEFORE THE HARRISON COUNTY
SUPERIOR COURT
ANNUAL TERM 2 0 0 8

STATE OF INDIANA

COUNT 4:

CHILD MOLESTING

VS

I.C. 35-42-4-3

CLASS C FELONY

LAWRENCE E. NUNLEY

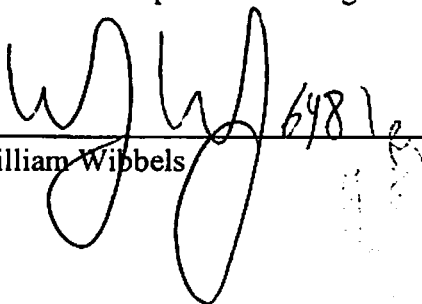
CAUSE NO. 31D01-0805-FA -389

INFORMATION

William Wibbels, a Police Officer affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one LAWRENCE E. NUNLEY, did then and there with a child less than fourteen (14) years of age, identified as A.Y., did perform or submit to any fondling or touching, of either the child or himself, with intent to arouse or to satisfy the sexual desires of either the child or himself, to-wit: LAWRENCE E. NUNLEY touched the vagina of A.Y., who was born June 24, 2000 with his penis,

which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

Dated: 5-16-08



William Wibbels

20080519 11:28

APPROVED BY:



Deputy Prosecuting Attorney

Witnesses: William Wibbels and A.Y. Any and all witnesses will be listed in discovery materials provided to the Defendant and/or Counsel thereof.

STATE OF INDIANA)
)
) :SS:
)
COUNTY OF HARRISON)

BEFORE THE HARRISON COUNTY
SUPERIOR COURT
ANNUAL TERM 2008

STATE OF INDIANA

COUNT 5:

DISSEMINATION OF MATTER
HARMFUL TO MINORS
I.C. 35-49-3-3
CLASS D FELONY

VS

LAWRENCE E. NUNLEY

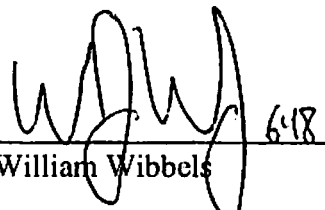
CAUSE NO. 31D01-0805-FA- 389

INFORMATION

William Wibbels, a Police Officer affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one LAWRENCE E. NUNLEY, did then and there display matter that was harmful to a minor in an area to which the minor had visual, auditory, or physical access, and that the minor was not accompanied by a parent or guardian, to-wit: LAWRENCE E. NUNLEY showed a pornographic movie to A.Y. who was born June 24, 2000, and who was not accompanied by her parent or guardian,

which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.


Dated this 16th day of May, 2008



William Wibbels

2008 MAY 19 11:20

APPROVED BY:



Deputy Prosecuting Attorney
Witnesses: William Wibbels and A.Y. Any additional witnesses will be listed in Discovery materials at a later date.

STATE OF INDIANA }
 }
COUNTY OF HARRISON }

HARRISON SUPERIOR COURT

CAUSE NO: 31D01-0804-FA-389

STATE OF INDIANA
VS

LAWRENCE E. NUNLEY

13225 Renner Way NE

Palmyra, In 47164 (last known address)

DOB: 10-23-1966

SSN: XXX-XX-7067

W/M

6'01" 220 lbs.

Blond hair/ green eyes

STATE OF INDIANA
HARRISON COUNTY
CLERK OF SUPERIOR COURT

AFFIDAVIT FOR PROBABLE CAUSE

My name is Senior Trooper/ Detective William J. Wibbels, Jr.; I have been employed by the Indiana State Police Department since August 24th, 1997 and have been investigating crimes in and around the Harrison County, Indiana area since April 1st, 1999.

On April 18th, 2008 "A.Y", a seven year old female, was interviewed by Donna Black at the Comfort House Child Advocacy Center in Corydon, Indiana. "A.Y." told Black that she had been the victim of sexual abuse.

"A.Y." told Black that approximately one year prior, LAWRENCE E. "ED" NUNLEY, a male who is 41 years of age, had touched, and penetrated her "pee pee" with his hand(s). "A.Y." also told Black that LAWRENCE E. "ED" NUNLEY had licked her "pee pee" with his tongue.

"A.Y." told Black that LAWRENCE "ED" NUNLEY had also forced her to perform oral sex on him and had touched the outside of her "pee pee" with his "weenie bob".

"A.Y." told Black that NUNLEY had made her watch a pornographic film(s) that depicted naked men licking each other's "weenie bobs".

"A.Y." refers to her vagina as her "pee pee", and "weenie bob" is what "A.Y." calls a penis.

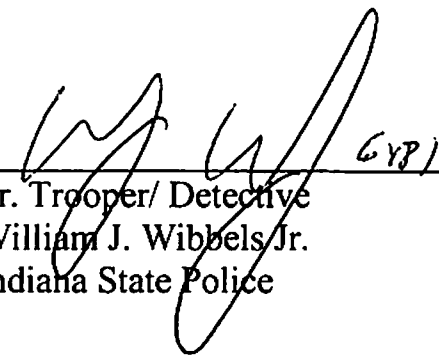
Efforts to locate Nunley since April 18th, 2008 have been unsuccessful and Nunley no longer lives at the listed address.

The above-mentioned events happened in the 13000 block of Renner Way in Palmyra, Harrison County, Indiana.

This is not a complete recital of all the information pertaining to this case, But the information listed is to establish that Probable Cause for the arrest of Lawrence E. "Ed" Nunley exists for the offense of three counts of Child Molesting, Class A felony, and one count of Child Molesting, a Class B felony.

I affirm under penalty of perjury as specified by I.C. 35-44-2-1, that the Foregoing representations are true to the best of my knowledge.

Dated this 16th day of May, 2008


Sr. Trooper/ Detective
William J. Wibbels Jr.
Indiana State Police

STATE OF INDIANA)
:SS:
COUNTY OF HARRISON)

IN THE HARRISON COUNTY
SUPERIOR COURT
ANNUAL TERM 2 0 0 8

STATE OF INDIANA

VS

LAWRENCE E. NUNLEY

CAUSE NO. 31D01-0805-FA-389

2008 MAY 19 AM 11:29
HARRISON COUNTY
CLERK OF COURT

FINDING OF PROBABLE CAUSE FOR
ISSUANCE OF WARRANT FOR ARREST

The Court having received sworn evidence this 19 day of May, 2008, now finds there is probable cause to believe that the Indiana Criminal Codes have been violated in that the offenses of COUNT 1:CHILD MOLESTING, a CLASS A FELONY; COUNT 2: CHILD MOLESTING, a CLASS A FELONY; COUNT 3: CHILD MOLESTING, a CLASS A FELONY; COUNT 4: CHILD MOLESTING, a CLASS B FELONY and COUNT 5: DISSEMINATION HARMFUL TO MINORS, a CLASS D FELONY have been committed and that the above-named person has violated said Criminal Codes.

IT IS THEREFORE ORDERED, that upon the filing of a criminal charge Information alleging said offenses, a warrant for such arrest issue by the Clerk of this Court wherein same is filed.

BAIL is set in the amount of CASH: \$ 100,000.00 or SURETY

~~or % DEPOSIT~~
24 Hour Hold Applies

Dated this 19 day of May, 2008.

Judge [Signature]
Harrison County Superior Court

DOB 10-23-1966
SS# 308-88-7067
OLN: 8935-77-1217
W/M- /601-220-blr/grn
lka: 13225 Renner Way, Palmyra, Indiana 47164

| Class | Minimum | Maximum | Minimum | Maximum | Class | Minimum | Maximum |
|---------------|----------|----------|---------|----------|----------------|---------|---------|
| Murder | 45 years | 65 years | \$0 | \$10,000 | A Infraction | None | \$0 |
| A Felony | 20 years | 50 years | \$0 | \$10,000 | B Infraction | None | \$0 |
| B Felony | 6 years | 20 years | \$0 | \$10,000 | C Infraction | None | \$0 |
| C Felony | 2 years | 8 years | \$0 | \$10,000 | D Infraction | None | \$25 |
| D Felony | 6 months | 3 years | \$0 | \$10,000 | City Ordinance | None | \$2,500 |
| A Misdemeanor | 0 | 365 days | \$0 | \$5,000 | | | |
| B Misdemeanor | 0 | 180 days | \$0 | \$1,000 | | | |
| C Misdemeanor | 0 | 60 days | \$0 | \$500 | | | |

FILED
MAY 30 2008
Nunley

Sentences in certain cases may be enhanced as follows:

- Murder -- Death Penalty or Life Without Parole
- Habitual Criminal under certain circumstances -- Life Without Parole
- Habitual Felony Offender -- an additional 18 months to 30 years
- Repeat Sex Offender -- an additional 1 1/2 to 10 years/Life without Parole in certain cases

If you have prior criminal convictions, the law requires you to serve a mandatory minimum jail or prison sentence in certain instances. Prison or jail sentences are required to be served consecutively (one after the other) if you commit a crime while out on bond or before your probation, parole or suspended sentence is served. Consecutive sentences are required in other situations as well. If you are convicted of any felony offense, it is a crime under state and federal law to own or possess any kind of firearm.

13. If you are convicted of a moving traffic offense (at trial or by guilty plea), the conviction will be sent to the motor vehicle commissioner of the state where you received your driver's license, to become a part of your driving record. A conviction may increase your insurance costs.

14. If you are convicted for some traffic charges, your license will be suspended. A conviction for less serious charges may also cause you to lose your license if you have points against it. If you have a number of prior convictions for certain traffic offenses, you may be classed as a Habitual Traffic Offender and may lose your license for either five or ten years, depending upon your driving record. If convicted of driving after being suspended as a habitual traffic violator, you lose your license for life.

15. If you are charged with drunken or drugged driving and have been convicted within the last five years for operating a vehicle while intoxicated, there is a mandatory 5-day jail sentence, or 80 hours of community service.

16. If convicted of violating certain hunting or fishing laws you could lose your hunting and fishing license up to a year, your property used in committing the offense could be forfeited, and you may be required to pay a mandatory reimbursement fee to the State.

17. In all cases, if you have prior convictions, the Judge may increase your punishment. In some cases, a conviction may have other serious consequences: If you are on parole, probation, under a withheld sentence, on bail, or are not a U.S. citizen, you should tell the Judge and talk to a lawyer.

I KNOW AND UNDERSTAND MY RIGHTS

I read and understand English, and have carefully read this paper, or have had the information in this paper explained to me. I am not under the influence of drugs or alcohol, or any other disability which keeps me from understanding my rights. I know and understand my rights. I know and understand my rights in court.

[Signature]

 Signature

 Date

I DO NOT WANT A LAWYER

I do not want a lawyer in this case. I understand that I have a right to one, and the right to have time to talk to one. I know that if I cannot afford one, a Public Defender could be appointed for me without charge. I freely and voluntarily give up my right to a lawyer.

 Signature

 Date

I WANT TO PLEAD GUILTY

I am pleading guilty. I understand that the Judge will not accept a guilty plea from anyone who claims to be innocent. I understand the charge or charges against me and the possible punishment. The essential facts in the charge against me are true. I freely and voluntarily admit my guilt.

17 _____
 Signature

 Date

YOUR RIGHTS IN COURT

INSTRUCTIONS

READ THIS PAPER. If you do not understand your rights after reading this paper, or if you have trouble reading, tell the Judge.

SIGN YOUR NAME. On the back of this paper there are three (3) signature lines. If you understand your legal rights, sign your name on the first line. If you do not want a lawyer, sign the second line. If you want to plead guilty, sign the third line.

GIVE THIS PAPER BACK TO THE COURT REPORTER WHEN YOUR NAME IS CALLED.

1. You have the right to have a lawyer with you at all times in Court, and the right to a short delay so that you may hire a lawyer. This must be done within twenty(20) days; ten (10) for misdemeanors, because there are deadlines for filing motions and raising issues and defenses, which will be lost if the deadline is missed. If you want a lawyer and cannot afford one, tell the Judge and a Public Defender will be appointed to you without cost.

2. You have the right to your own lawyer. The State will have a lawyer, however, and you may be at a disadvantage if you do not have one. If you do represent yourself, you will be held to the same rules of evidence and procedure as a lawyer.

3. You have the right to know the nature of the charge(s) against you and to have a copy of any charge(s). (In most traffic cases the ticket is the written charge.) You have the right to be released on reasonable bail before trial. If you do not appear in Court when you are supposed to, you will lose your bail deposit and a warrant will be issued for your arrest.

4. You have the right to a speedy and public trial before a judge or a jury. If you want a jury trial, you should tell the Judge when he sets your trial date. You will lose your right to a jury trial unless you demand it, in writing, not later than ten (10) days before your scheduled trial date, if your charge is a misdemeanor.

5. You have the right to appeal a conviction to the Indiana Court of Appeals, and/or to the Supreme Court of Indiana.

6. The Court will enter a preliminary plea of "not guilty" for you at your initial hearing. After ten (10) days for misdemeanors or twenty (20) days for felonies, that plea becomes a formal "not guilty" plea, unless you enter a different plea.

A PLEA OF NOT GUILTY

7. When you plead "not guilty", the State must prove the charge against you at a trial. In a criminal case you are presumed innocent, and the State must prove your guilt beyond a reasonable doubt. You cannot be forced to testify against yourself. In an infraction or ordinance violation case, however, you can be called as a witness, and the State can prove the charge against you simply by showing more convincing evidence.

8. The Judge will set your trial on as convenient a date as possible. If you have a lawyer, the trial date will be set when the lawyer is present.

9. You have the right to require witnesses to come to the trial (or to any hearing) and testify. You have the right to see hear and question all of the witnesses against you.

10. At trial, you have the right to speak in your own defense and what you say will be heard and considered in the same way as the testimony of any other witness. If you speak in your own defense, you may be questioned about your testimony.

A PLEA OF GUILTY

11. When you plead "guilty", you are admitting that the charges against you are true, and you give up many of your rights. You give up your right to a public and speedy trial before a judge or jury. You give up your right to confront and question the witnesses against you. You give up your right to use the Court's power, without expense, to obtain witnesses in your own defense. In criminal cases, you give up your right to force the State to prove your guilt beyond a reasonable doubt and your right to be silent. You give up your right to appeal your conviction. You may be giving up your right to a lawyer, or your right to a short delay to talk to a lawyer, or other rights.

PUNISHMENT

12. You will receive a copy of the charges against you (if you do not already have one) when you come before the Judge. If the charge does not say, ask the Judge to tell you the class of your offense. The type and amount of the punishment you may get will depend on the class of the offense. The punishments for various classes of offenses are listed on the next page.

**IN THE HARRISON SUPERIOR COURT
STATE OF INDIANA**

STATE OF INDIANA

CAUSE NO. 31D01-0801-CM-024

VS.

CAUSE NO. 31D01-0712-CM-886

CAUSE NO. 31D01-0805-FA-389

LAWRENCE NUNLEY

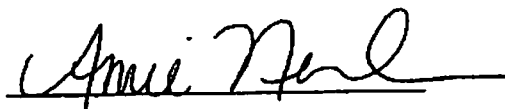
MOTION TO WITHDRAW AS COUNSEL

The undersigned counsel respectfully requests this Court to grant this Motion to Withdraw as Counsel. In support of the Motion, undersigned counsel states the following:

1. A conflict has arisen between the attorney and the defendant and the attorney can no longer represent the defendant.

WHEREFORE, the undersigned attorney for the Defendant respectfully requests that this Court grant her Motion to Withdraw as Counsel, and for all other relief just and proper in the premises.

Respectfully Submitted,



Amie Newlon, #23968-31, PD

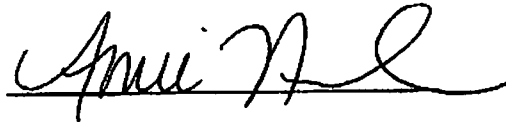
109 N. Elm St.

Corydon, IN 47112

(812) 738-5000

Certificate of Service

The undersigned certifies that a copy of the foregoing was served this same day as filing upon the Prosecutor, via courthouse mailtray.



Amie Newlon

**IN THE HARRISON SUPERIOR COURT
STATE OF INDIANA**

STATE OF INDIANA

CAUSE NO. 31D01-0801-CM-024

VS.

CAUSE NO. 31D01-0712-CM-886

CAUSE NO. 31D01-0805-FA-389

LAWRENCE NUNLEY

ORDER GRANTING WITHDRAWAL

It is hereby ordered that Amie Newlon is allowed to withdraw as counsel for the Defendant.

So ORDERED this 19th day of June, 2008.


Judge, Harrison Superior Court

Copies to:

Amie Newlon

Prosecutor

Initials of person making distribution: _____

IN THE SUPERIOR COURT OF HARRISON COUNTY
STATE OF INDIANA

STATE OF INDIANA

VS


CAUSE NO. 31D01-0805-FA-389

LAWRENCE E. NUNLEY

APPEARANCE FORM
(Responding Party)

1. Name of Responding Party: LAWRENCE E. NUNLEY
2. Address of Pro Se parties: none
3. Attorney Information (applicable for service of process):

SUSAN SCHULTZ, SUPREME COURT #15667-14
127 E. Chestnut Street, Suite 1
Corydon, IN 47112
TEL: (812) 738-1900
4. Will responding party accept FAX service: NO
5. Additional information required by state or local rules: none



SUSAN SCHULTZ

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appearance was served upon Prosecutor's Office this 10 day of July, 2008, by depositing copy in the tray in the Clerk's Office.



SUSAN SCHULTZ

IN THE SUPERIOR COURT OF HARRISON COUNTY
STATE OF INDIANA

STATE OF INDIANA


vs

CAUSE NO. 31D01-0805-FA-389

LAWRENCE E. NUNLEY

NOTICE OF ACCEPTANCE OF APPOINTMENT

Now comes Susan Schultz and notifies the Court that she accepts the appointment as counsel for LAWRENCE NUNLEY in the above entitled cause.



SUSAN SCHULTZ
SUPREME COURT NO. 15667-14
127 E. CHESTNUT ST., SUITE 1
CORYDON, IN 47112
(812) 738-1900

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Notice of Acceptance of Appointment upon Harrison County Prosecutor this 10 day of July, 2008, by placing copy in the tray in the Clerk's Office.



SUSAN SCHULTZ

IN THE SUPERIOR COURT OF HARRISON COUNTY

STATE OF INDIANA

STATE OF INDIANA

vs

CAUSE NO. 31D01-0805-FA-389

LAWRENCE E. NUNLEY

MOTION FOR DISCOVERY

Comes now the Defendant, by counsel, and moves the Court for an Order directing the State of Indiana to make available to Defendant's attorney for examination, copying, or hearing, any and all of the following things, facts or information presently in possession of either you, or any of your deputies, employees, or agents, or that will come into your possession and/or your deputies, employees, or agents, until the final disposition of the case.

1. All oral and written statements and/or admissions allegedly made by Defendant whether signed or unsigned.

2. All tape recordings of statements or conversations of Defendant.

3. All written statements made by witnesses, whether signed or unsigned.

4. All tape recordings made of statements or conversations of witnesses.

5. All the results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, including, but not limited to:

A. All comparisons of fingerprints, clothing, hair, fiber and/or other material made in connection with this case.

B. All tangible objects obtained during the investigation of this case, including:

- (1) Tangible objects obtained from Defendant's home, if any;
- (2) Tangible objects obtained from the scene of the purported crime;
- (3) Tangible objects obtained from any other location in the investigation of this case.

6. To list and furnish any books, papers, documents, photographs or tangible objects seized and/or taken into custody during the investigation and prosecution of this case.

7. To list and furnish any books, papers, documents, photographs or tangible objects the State intends to use as evidence or for impeachment at the trial of this case.

8. Photographs of latent fingerprints found at the scene of the crime; latent fingerprints discovered and lifted at the scene; and any written reports of comparisons made.

9. Any and all photographs taken of the Defendant, or any portion of his body, connected with the alleged offense.

10. Any and all photographs taken of the scene of the crime and/or of the victims of the crime, or otherwise relating to this case.

11. Photographs that have been exhibited to the witnesses for the purpose of establishing the identity of any perpetrator of the crime.

12. All notes or memoranda, handwritten or typed, by Police/Sheriff's Officers, probation officers, or other investigating officers of their conversations with persons pertaining to the investigation of this matter.

13. All notes or memoranda, handwritten or typed, by Police/Sheriff's Officers, probation officers, or other investigating officers of their conversations with persons

pertaining to the investigation of this defendant or this crime.

14. All transcripts made of tape recordings of statements made by the accused and by the State's witnesses.

15. Names and addresses of all witnesses to, or who have knowledge of, the subject matter of the crime or the events leading thereto.

16. Copies of all arrest and investigative reports written by Police/Sheriff's Officers, probation officers or other investigating officers investigating the crime involved in this cause.

17. The criminal record, if any, of the defendant, and record of arrests and/or convictions of co-defendants charged herein and witnesses furnished to the Prosecuting Attorney of this county by the Federal Bureau of Investigations, Indiana State Police or other law enforcement agency.

18. Service records of all agents of the State of Indiana or any law enforcement officer who is expected to testify in the trial of this matter as same relate to any prior arrests and/or associations, of whatever type, with either the defendant or any co-defendant.

19. Names and addresses of all persons the State expects to call as witnesses at the trial.

20. Names and addresses of all persons interviewed by the Prosecuting Attorney's Office, its investigators or agents, the Probation Department, its investigators or agents, or any other law enforcement agency known to the Prosecuting Attorney or Probation Department, or their representatives in relation to this case.

21. Any and all "Sign-In Cards" obtained by the Defendant.

22. "Waiver Forms" purportedly utilized by agents of the State

of Indiana which Defendant read and/or signed.

23. "Waiver Forms" purportedly utilized by agents of the State of Indiana which the Defendant refused to sign.

24. Forms utilized by agents of the State of Indiana which purportedly informed Defendant, LAWRENCE NUNLEY, of his constitutional rights.


25. All evidence possessed by or under the control of the Prosecuting Attorney's Office which would tend to establish the innocence of Defendant or which is exculpatory, and including detailed information concerning defective or illegal ascertainment of evidence either to be used against Defendant or employed to secure additional evidence against the Defendant.

26. Any defenses, factual or legal, of which the Prosecution is aware of which the Defendant may avail himself.

27. Itemization of any extrinsic acts evidence the State intends to use, or could use, under Evidence Rule 404(b) for purpose permitted under that rule.

28. Whether the State intends to argue that Defendant is culpable under a theory of aiding and abetting a criminal as well as being a principle in the commission of a crime.

It is expressly understood that as to the items requested herein, the State is under a continuing duty to seasonably supplement the responses hereto in the event that it obtains information that relates directly to the above and foregoing enumerated items.



SUSAN E. SCHULTZ
ATTORNEY FOR DEFENDANT
127 E. CHESTNUT ST., STE.1
CORYDON, INDIANA 47112
TEL: (812) 738-1900

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion for Discovery upon Prosecutor this 10 day of July, 2008, by depositing copy in the tray in the Clerk's Office.



SUSAN SCHULTZ

IN THE SUPERIOR COURT OF HARRISON COUNTY
STATE OF INDIANA

STATE OF INDIANA

vs

CAUSE NO. 31D01-0805-FA-389

LAWRENCE E. NUNLEY

ORDER

This matter having come before the Court on Defendant's Motion for Discovery which motion is in the following words and figures, to-wit:

(H.I.)

and the Court having reviewed the motion and being duly advised in the premises now finds the motion should be and is hereby granted.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED by the Court that the State of Indiana furnish the Counsel for Defense the requested information within 30 days from the date of this order.

SO ORDERED this 14 day of July, 2008.



ROGER D. DAVIS, JUDGE

DISTRIBUTION:

SUSAN SCHULTZ

PROSECUTOR

IN THE SUPERIOR COURT FOR THE COUNTY OF HARRISON

STATE OF INDIANA

STATE OF INDIANA

VS

CAUSE NO: 31D01-0805-FA-389

LAWRENCE E. NUNLEY

STATE'S MOTION FOR DISCOVERY

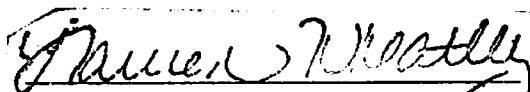
FILED
2008 AUG 7 AM 11:17
Clerk of Harrison County

The State of Indiana, by its (Deputy) Prosecuting Attorney, hereby requests counsel for Defendant in the above-entitled cause disclose the following:

1. Any and all defenses which counsel intends to make at any hearing or trial;
2. The names and last known addresses of persons he intends to call as witnesses, together with their relevant written or recorded statements,(this includes Video) including a summary of what each may testify to. and any record of prior criminal convictions known to defense counsel;
3. The names and last known addresses of persons not intended to be called by defense counsel in preparation of this case together with their relevant written recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions known to defense counsel;
4. All written reports, notes, memoranda, maps, drawings, or diagrams written, drawn, or otherwise prepared by defense counsel or his agents in connection with or pertaining to the preparation of Defendant's case.
5. True copies of all photographs, recordings (including Video) which the defense intends or may offer into evidence at the trial of this cause of action, and all other photographs relevant to the subject matter of this cause of action;

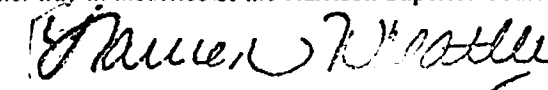
- 6. All tangible or demonstrative objects, books, papers, documents or things which defense counsel will or may use in the hearing or trial;
- 7. Any reports, or results, or testimony relevant thereto, of physical or mental examinations or scientific tests, experiments, or comparisons, or any other reports or statements or experts which defense counsel has in his possession or control or obtains possessions or control over before hearing or trial, excepting those portions of reports containing statements of the defendant if defense counsel does not intend to use of any of the material contained in such reports at a hearing or trial;
- 8. Any poll, survey, sampling, study, inquiry, analysis, canvass, questionnaires, research, evaluation, inventory, treatise or measurement relating to or purporting to indicate community standards, acceptance or tolerance of materials pertinent to this cause.

This disclosure and production is to be made without regard as to whether the evidence to be disclosed and produced is deemed admissible at the trial herein, and if the defense, after complying with the order to produce, finds either before or during trial additional information or facts which are subject to or covered by such order, defense counsel shall promptly notify the Court and the Prosecutor of the existence thereof.


 (Deputy) Prosecuting Attorney

CERTIFICATE OF SERVICE

This is to certify that a copy of the State's Motion For Discovery has been served upon the Susan Schultz by way of personal service by placing this document in her tray in the office of the Harrison Superior Court Clerk, on this 7 day of August, 2003.


 (Deputy) Prosecuting Attorney

Distribution by OPA:
 Superior Court Clerk
 Harrison County Prosecuting Attorney
 Susan Schultz, Attorney for Defendant

STATE OF INDIANA) IN THE HARRISON SUPERIOR COURT
:SS: 2008 ANNUAL TERM
COUNTY OF HARRISON)

STATE OF INDIANA

CAUSE NO. 31D01-0805-FA-389

VS

LAWRENCE E. NUNLEY

FILED
2008 AUG -7 AM 11:16
Sherry E. ...
CLERK HARRISON COUNTY

STATE'S COMPLIANCE WITH REQUEST FOR DISCOVERY

Comes now the State of Indiana, by its Deputy Prosecuting Attorney, with its compliance with discovery and response to Defendant's Motion to Produce Evidence with the following:

1. a. Copy of Case Report. (5 pages)
- b. Copy of Charging Information. (1 page)
- c. Copy of Finding of Probable Cause. (1 page)
- d. Copy of Appearance by State of Indiana. (1 page)
- e. Copy of thirteen (13) digital images. (4 pages)
- f. Copy of Investigative Report Cover Sheet. (1 page)
- g. Copy of CAPS Page. (1 page)
- h. Copy of Affidavit for Search Warrant, Cause No. 31D01-0805-MC-46. (3 pages)
- i. Copy of Search Warrant, Cause No. 31D01-0805-MC-46. (1 page)
- j. Copy of Affidavit for Search Warrant, Cause No. 31D01-0805-MC-45. (4 pages)
- k. Copy of Search Warrant, Cause No. 31D01-0805-MC-45. (1 page)
- l. Copy of Supplemental Case Report. (2 pages)
- m. Copy of Supplemental Case Report. (1 page)
- n. Copy of PR&R #710166. (1 page)
- o. Copy of Supplemental Case Report. (1 page)

- p. Copy of Press Release. (1 page)
- q. Copy of Indiana Department of Child Services Preliminary Report. (10 pages)
- r. The State of Indiana is in possession of a CD with photographs on it. These photos are provided in paragraph 1, section e of this document. The CD may be viewed during normal business hours at the Office of the Prosecuting Attorney

2. None known to the State of Indiana at this time.

3. Provided in paragraph #1.

4. None known to the State of Indiana at this time.

5. Provided in paragraph #1.

6. Provided in paragraph #1.

7. Provided in paragraph #1.

8. None known to the State of Indiana at this time.

9. Provided in paragraph #1.

10. Provided in paragraph #1.

11. Provided in paragraph #1.

12. Information provided in paragraph #1

13. Provided in paragraph #1.

14. None known to the State of Indiana at this time.

15. Witnesses:

a. Detective Inspector William J. Wibbels, Jr.
Indiana State Police
8014 Hwy 311 North
Sellersburg, Indiana 47172
(812) 246-5424

b. A.Y.

c. Tonya Caves
9791 Garrison Hollow Road
Salem, Indiana 47167
(812) 620-8370

d. Kearsten Sanders

e. Theresa Kerberg
Department of Child Services- CPS
2026 Highway 337 NW
Corydon, Indiana 47112
(812) 738-8166

f. Donna Lloyd Black
The Comfort House

g. Michelle Cayton
11365 Highway 135
Palmyra, Indiana 47164
(812) 736-1752

h. Marty Cecil
Department of Child Services- CPS
2026 Highway 337 NW
Corydon, Indiana 47112
(812) 738-8166

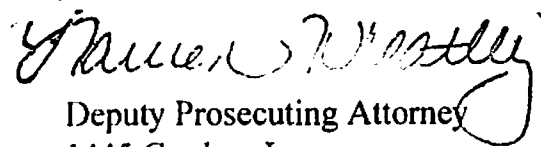
16. Copy of Case Report listed in paragraph #1.

17. a. Copy of NCIC. (9 pages)

18. Objection. This request is overly broad and not in possession of the State of Indiana.
19. Provided in Paragraph #15.
20. Provided in paragraph #15.
21. None known to the State of Indiana at this time.
22. Provided in paragraph #1, if any.
23. Provided in paragraph #1, if any.
24. Provided in paragraph #1, if any.
25. Provided in paragraph #1, if any.
26. Provided in paragraph #1, if any.
27. Provided in paragraph #1.
28. No.

This disclosure and production are made without regards to whether the evidence disclosed and produced is deemed admissible at trial herein, and if the State, after continuing to comply with this order to produce, finds either before or during trial additional information or facts which are subject to or covered by such order, the State will promptly notify the court and Defense Attorney of its existence thereof. Any person or thing mentioned in this compliance August be called as witness and/or used as evidence. The State August use any and/or all witnesses or documents necessary to prove prior convictions.

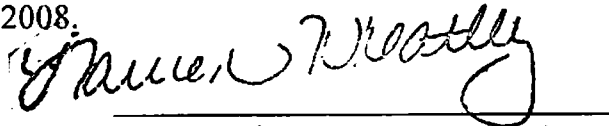
Dated this 7 day of August, 2008



Deputy Prosecuting Attorney
1445 Gardner Lane
Corydon, Indiana 47112
(812) 738-4241

CERTIFICATE OF SERVICE

This is to certify that this Compliance with Discovery was served upon Susan Schultz, attorney for the defendant by way of personal service by placing said document(s) in the box of Susan Schultz, located in the Harrison County Superior Court Clerk's Office on this 7 day of August, 2008.



Deputy Prosecuting Attorney

Distribution:
Harrison County Superior Court Clerk
Office of the Prosecuting Attorney
Attorney for the Defendant, Susan Schultz

IN THE SUPERIOR COURT FOR THE COUNTY OF HARRISON

STATE OF INDIANA

STATE OF INDIANA

VS

CAUSE NO:31D01-0805-FA-389

LAWRENCE E. NUNLEY

ORDER ON STATE'S MOTION FOR DISCOVERY

This matter having come before the Court on State's Motion For Discovery which motion is in the following words and figures, to-wit:

(H.I.)

And the Court having reviewed the motion and being duly advised in the premises now finds the motion should be and is hereby granted.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED by the Court that the Defendant furnish the State of Indiana the requested information within 30 days from the date of this order.

The Court further finds that should Defendant object to providing any information ordered furnished, that he/she must do so in writing stating the reasons therefore.

SO ORDERED this 8th day of August, 2008.



ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

Distribution by Superior Court Clerk:
Harrison County Prosecuting Attorney
Susan Schultz, Attorney for Defendant

IN THE SUPERIOR COURT OF HARRISON COUNTY

FILED

STATE OF INDIANA

2008 AUG 12 PM 2:24

STATE OF INDIANA

Sheryl Brown

vs

CLERK HARRISON COUNTY

CAUSE NO. 31D01-0805-FA-389

LAWRENCE NUNLEY

REQUEST TO DEPOSE WITNESSES AT COUNTY EXPENSE

Now comes Lawrence Nunley, by counsel Susan Schultz, and requests this Court for the entry of its order authorizing the depositions of witnesses at County expense. This request is based on the following facts:

1. The Defendant has been arrested and charged with multiple counts of child molesting as an A Felony and other less serious offenses.

2. In order to prepare for trial, it is essential that counsel depose witnesses in this case, including the alleged victim, victim's mother, investigating officers, CPS workers, and other witnesses named by the State.

3. Counsel has been appointed to represent Defendant who is indigent and unable to pay the costs of these depositions.

WHEREFORE, Lawrence Nunley requests this Court for the entry of its order authorizing counsel to depose the witnesses at County expense.

Susan Schultz

SUSAN SCHULTZ, #15667-14
COUNSEL FOR LAWRENCE NUNLEY
127 E. CHESTNUT ST., STE. 1
CORYDON, IN 47112
(812) 738-1900

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Request to Depose Witnesses at County Expense was served upon the Prosecutor this 12 day of August, 2008 by depositing copy in the tray in the Clerk's Office.



SUSAN SCHULTZ

STATE OF INDIANA)
)
 VS.)
)
 LAWRENCE NUNLEY)

IN THE HARRISON SUPERIOR COURT

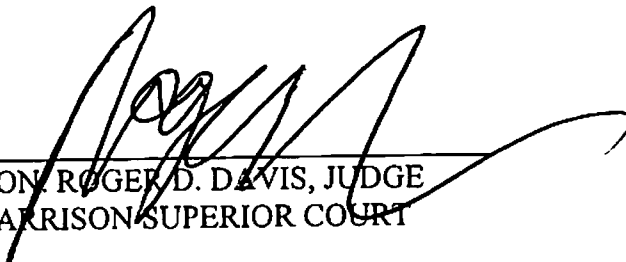
CAUSE NO.: 31D01-0805-FA-389

ORDER FOR DEPOSITION AT PUBLIC EXPENSE

Comes now the Court and upon Motion by the Defendant, through counsel, Susan Schultz, for an order regarding the taking of depositions in the above cause of action and the Court being otherwise duly advised in the premises does now grant the Defendant's Motion.

IT IS THEREFORE ORDERED AND ADJUDGED that the State of Indiana be present at a location and date certain and the depositions shall be at the expense of the public.

SO ORDERED this 13th day of August, 2008.



HON. ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

cc: Prosecutor's Office
Counsel for Defendant — Schultz

STATE OF INDIANA
IN THE HARRISON SUPERIOR COURT

STATE OF INDIANA

VS.

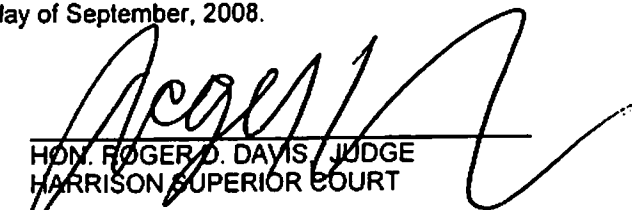
AARON CHERRY, JR.
AARON CHERRY, JR.
STEVEN DELUCA
WILLIAM DICKERSON
JAMES HAGGARD
JAMES HAGGARD
BEN HARRISON
BEN HARRISON
LAWRENCE NUNLEY
TIMOTHY PATTON
CHRISTOPHER ROSEBROCK

CAUSE NO. 31D01-0709-FA-673
31D01-0709-FD-614
31D01-0701-FC-023
31D01-0804-FB-231
31D01-0712-FD-835
31D01-0802-FB-109
31D01-0804-FB-272
31D01-0804-FA-273
31D01-0805-FA-389
31D01-0806-FB-491
31D01-0807-FB-539

ORDER FOR CLERK TO CALL JURY

The Court finds that several cases are still scheduled for Jury Trial, and it appears the prospects of all cases being resolved are dim. The Court now orders the Clerk of this Court to call prospective jurors for the Jury Trial setting to begin on October 14, 2008 at 9:00 a.m. The Court Reporter shall advise the Clerk of the numbers and names of jurors to be called. The Court further orders the Clerk to call the jurors for this Jury Trial setting as soon as possible without any delay.

So ORDERED this 30 day of September, 2008.



HON. ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

cc:
Prosecuting Attorney
Susan Schultz
Amie Newlon
Anne Walsh

FILED
2008 OCT 17 PM 1:54

IN THE SUPERIOR COURT FOR THE COUNTY OF HARRISON

STATE OF INDIANA

STATE OF INDIANA

VS

CAUSE NO. 31D01-0805-FA-389

LAWRENCE E. NUNLEY


STATE'S SUPPLEMENTAL COMPLIANCE WITH DISCOVERY

Comes now the State of Indiana by (Deputy) Prosecuting Attorney, and supplies the following supplemental discovery:

1. Copy of PR&R #813850. (1 page)
2. Copy of PR&R #813851. (1 page)
3. Copy of PR&R #813852. (1 page)
4. Copy of PR&R #813853. (1 page)
5. Copy of PR&R #813855. (1 page)

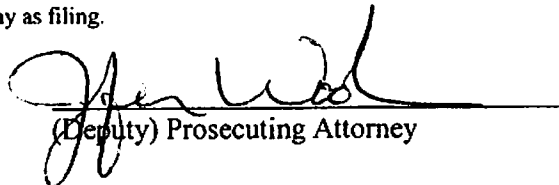
The State of Indiana reserves the right to supplement this response with additional information as reserved.

Dated this 7th day of October, 2008.


 (Deputy) Prosecuting Attorney
 1445 Gardner Lane, Suite 3101
 Corydon, IN 47112
 812-738-4241

CERTIFICATE OF SERVICE

This is to certify that a copy of the State's Supplemental Compliance with Discovery has been served upon the attorney for the defendant by way of personal service, by placing said in the tray of Susan Schultz, located in the Harrison County Superior Court Clerk's Office, the same day as filing.


 (Deputy) Prosecuting Attorney

Distribution to:
 Harrison Superior Court Clerk
 Office of the Prosecuting Attorney
 Attorney for Defendant, Susan Schultz

STATE OF INDIANA)
)S:
COUNTY OF MARION)

IN THE SUPERIOR COURT FOR HARRISON COUNTY
ANNUAL TERM 2008

CAUSE NUMBER 31D01-0805-FA-389

STATE OF INDIANA)
)
V)
)
LAWRENCE E NUNLEY)

2008 OCT -8 PM 2:54
FILED

STATE'S NOTICE OF INTENT TO INTRODUCE EXTRINSIC ACT EVIDENCE AT TRIAL

The State of Indiana, through it's Deputy Prosecuting Attorney Jennifer Woolen, hereby provides the following as Rule 404 (b) and Rule 609 notice.

1. The defendant is charged with Count 1: Child Molesting, a Class A Felony; Count 2: Child Molesting, a Class A Felony; Count 3: Child Molesting, a Class A Felony; Count 4: Child Molesting, a Class C Felony; and Count 5: Dissemination of Matter Harmful to Minors, a Class D Felony. The case is set for a jury trial on October 14, 2008.

2. Indiana Evidence Rule 404 provides that evidence of other crimes, wrongs, or acts may be admissible for purposes other than proving a defendant's character and propensity to act in conformity therewith. These purposes include, but are not limited to proof of motive, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that the prosecution provide reasonable notice in advance of trial of the general nature of any such evidence it intends to introduce at trial. Ind.Evid.R, 404(b).

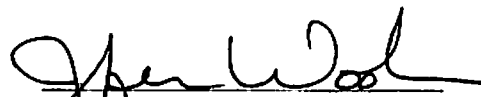
3. The State would seek to introduce evidence of the molestation of K.S. reportedly committed by Lawrence "Ed" Nunley. The alleged offenses were committed by Lawrence "Ed" Nunley, when K.S. was 8 years old, and were disclosed during a Child Protective Service interview occurring on May 29, 2007. After being interviewed by Randall Weilbaker, K.S. disclosed that "Ed" showed her a Disney movie entitled "The Fox and the Hound" and also showed her movies of naked people. During "The Fox and the Hound" K.S. stated that "Ed" made her touch him. She also disclosed instances in which "Ed" licked her "coochie."

4. There are a number of similarities between the facts surrounding the above-captioned cause and the facts disclosed by K.S. Namely, the Defendant is alleged to have shown A.Y. a Disney movie, then a pornographic movie and then engaged in the molestation of A.Y, which consisted of touching A.Y.'s vagina with his mouth. K.S. also reported watching a Disney movie with "Ed", watched a pornographic movie with "Ed" and "Ed" also engaged in molesting K.S. by touching her vagina with his mouth. Both victims were around the age of 7 or 8. This evidence would be used to demonstrate intent, plan, knowledge, and/or identity under Indiana Rule of Evidence 404.

5. The State would seek to introduce evidence of the molestation of K.B. reportedly committed by Lawrence "Ed" Nunley.. The alleged offenses were committed by Lawrence "Ed" Nunley on or about the years of 2004-2005, which were disclosed during a Child Protective Service interview occurring June 22, 2005. K.B. was 7 years old at the time of the interview. After being interviewed by Rebecca Snook, K.B. disclosed that "Ed," a friend of her parents, had touched her inappropriately. That "Ed" had touched her vagina both on the outside and underneath her clothes. CPS substantiated the allegations made by K.B.

6. The evidence and facts surrounding the molestation of K.B. would be used to demonstrate intent, plan,

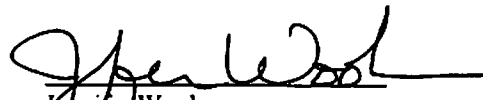
knowledge, identity, and/or mistake. Both K.B. and A.Y. were around the age of 7 when "Ed" molested them. Both victims allege "Ed" touched their vaginas.



Jennifer Woolen
Deputy Prosecuting Attorney
Harrison County Prosecutors Office
1445 Gardner Lane
Corydon, Indiana 47112
(812) 738-4241

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon the attorney for the defendant by way of personal service, by placing said copy in a the tray designated for Susan Schultz and by facsimile on the same date of filing.



Jennifer Woolen
Deputy Prosecuting Attorney

2008 OCT 10 AM 9:05

FILED

IN THE SUPERIOR COURT FOR THE COUNTY OF HARRISON

STATE OF INDIANA

STATE OF INDIANA

VS

CAUSE NO. 31D01-0805-FA-389

LAWRENCE E. NUNLEY

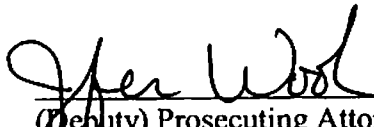
STATE'S SUPPLEMENTAL COMPLIANCE WITH DISCOVERY

Comes now the State of Indiana by (Deputy) Prosecuting Attorney, and supplies the following supplemental discovery:

1. Copy of Indiana State Police Supplemental Case Report completed June 5, 2008. (4 pages)

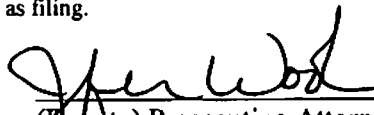
The State of Indiana reserves the right to supplement this response with additional information as reserved.

Dated this 10th day of October, 2008.


 (Deputy) Prosecuting Attorney
 1445 Gardner Lane, Suite 3101
 Corydon, IN 47112
 812-738-4241

CERTIFICATE OF SERVICE

This is to certify that a copy of the State's Supplemental Compliance with Discovery has been served upon the attorney for the defendant by way of personal service, by placing said in the tray of Susan Schultz, located in the Harrison County Superior Court Clerk's Office, the same day as filing.


 (Deputy) Prosecuting Attorney

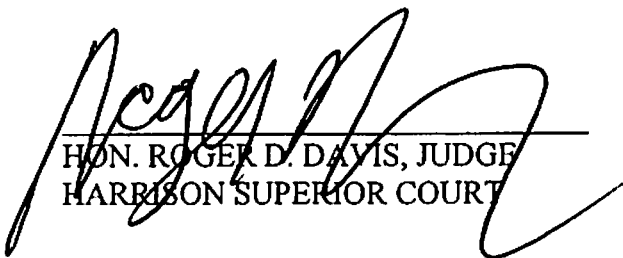
Distribution to:
 Harrison Superior Court Clerk
 Office of the Prosecuting Attorney
 Attorney for Defendant, Susan Schultz

| | | |
|------------------|---|--------------------------------|
| STATE OF INDIANA |) | IN THE HARRISON SUPERIOR COURT |
| |) | |
| VS. |) | CAUSE NO.: 31D01-0805-FA-389 |
| |) | |
| LAWRENCE NUNLEY |) | |

COURT CONGESTION ORDER

Court schedules a jury trial to begin November 18, 2008, at 9:00 a.m. The Court specifically finds that due to the number of cases scheduled and the number of jury trials scheduled in this Court that the trial cannot be held sooner than the above noted date. The Court specifically finds that there are 35 jury trials scheduled in this Court between October 14, 2008 and November 18, 2008. The trial in this case could not take place because a jury trial was held in State of Indiana vs. Christopher Rosebrock, 31D01-0807-FB-539 that began October 14, 2008.

SO ORDERED this 14th day of October, 2008.



HON. ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

cc: Prosecutor's Office
Counsel for Defendant -Schultz

IN THE SUPERIOR COURT FOR THE COUNTY OF HARRISON

STATE OF INDIANA

STATE OF INDIANA

v.

CAUSE NO. 31D01-0805-FA-389

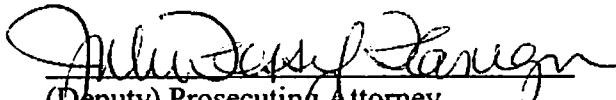
LAWRENCE E. NUNLEY

FILED
APR 17 2019
CLERK OF SUPERIOR COURT
HARRISON, INDIANA

**MOTION TO SET HEARING
ON STATE'S 404 (b) MOTION**

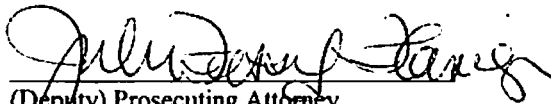
Comes now the State of Indiana by its (Deputy) Prosecuting Attorney and moves the Court to set this matter for a hearing on State's 404 (b) Motion at least one week prior to the jury trial scheduled for November 18, 2008, due to the anticipated number of witnesses to be called.

WHEREFORE, the State of Indiana by its Prosecuting Attorney moves that this cause be set for a hearing on State's 404 (b) Motion.


(Deputy) Prosecuting Attorney
1445 Gardner Lane, Suite 3101
Corydon, IN 47112
(812) 738-4241

CERTIFICATE OF SERVICE

This is to certify that a copy of the State's Motion to Set Hearing on State's 404 (b) Motion has been served upon the Defendant by way of personal service by placing said in the box of Susan E. Schultz, Attorney for the Defendant, in the Harrison Superior Court Clerk's Office, the same day as filing.


(Deputy) Prosecuting Attorney

IN THE SUPERIOR COURT FOR THE COUNTY OF HARRISON
STATE OF INDIANA

STATE OF INDIANA

v.

CAUSE NO. 31D01-0805-FA-389

LAWRENCE E. NUNLEY

ORDER SETTING HEARING
ON STATE'S 404 (b) MOTION

This matter having come before the Court on the State's Motion to Set Hearing on State's 404 (b) Motion, which motion is in the following words and figures, to-wit:

(H.I.)

And the Court having reviewed the motion and being duly advised in the premises now **GRANTS** the State's Motion.

IT IS, THEREFORE, CONSIDERED AND ORDERED that this cause is now set for hearing on State's 404 (b) Motion on the 14th day of Nov., 2008, at 2:00 p.m.

SO ORDERED this 22nd day of Oct., 2008.



HON. ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

c: Prosecutor
Susan E. Schultz

STATE OF INDIANA
IN THE HARRISON SUPERIOR COURT

STATE OF INDIANA

VS.

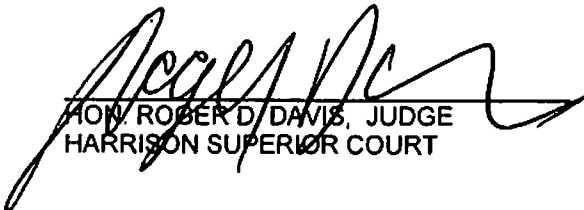
MELISSA BELVIY
TRAVIS GREEN
TRAVIS GREEN
~~ROBERT MOWRY~~
LAWRENCE NUNLEY
HOWARD SENN
CY SHERRILL

CAUSE NO. 31D01-0803-FB-206
31D01-0808-FC-620
31D01-0808-FB-624
~~31D01-0804-FC-302~~
31D01-0805-FA-389
31D01-0809-FB-736
31D01-0808-FB-664

ORDER FOR CLERK TO CALL JURY

The Court finds that several cases are still scheduled for Jury Trial, and it appears the prospects of all cases being resolved are dim. The Court now orders the Clerk of this Court to call prospective jurors for the Jury Trial setting to begin on November 18, 2008 at 9:00 a.m. The Court Reporter shall advise the Clerk of the numbers and names of jurors to be called. The Court further orders the Clerk to call the jurors for this Jury Trial setting as soon as possible without any delay.

So ORDERED this 29 day of October, 2008.


HON. ROBERT D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

cc:
Prosecuting Attorney
Susan Schultz
Amie Newlon
Anne Walsh

IN THE SUPERIOR COURT OF HARRISON COUNTY
STATE OF INDIANA

FILED
2008 NOV -5 AM 11:17
Sherry A. Brown
CLERK HARRISON COUNTY
SUPERIOR COURT

STATE OF INDIANA)
)
V)
)
LAWRENCE E. NUNLEY)

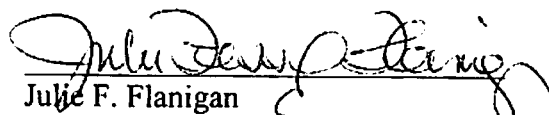
CAUSE NUMBER 31D01-0805-FA-389

**STATE'S NOTICE OF INTENT TO INTRODUCE A.Y.'s VIDEOTAPED INTERVIEW
INTO EVIDENCE PURSUANT TO INDIANA CODE 35-37-4-6 AND
MOTION FOR HEARING**

The State of Indiana, through Deputy Prosecuting Attorney Julie F. Flanigan, hereby provides notice of intent to introduce A.Y.'s April 18, 2008 videotaped interview conducted at the Comfort House in Corydon, Indiana, into evidence pursuant to Indiana Code 35-37-4-6(d)(2)(A). As required by Indiana Code 35-37-4-6(f)(1), this notice of intent is given to the defendant through his attorney and to his attorney at least ten (10) days prior to trial which is set for November 18, 2008. As required by Indiana Code 35-37-4-6(f)(2), the State has informed both the defendant through his attorney and his attorney of the content of A.Y.'s April 18, 2008 videotaped interview conducted at the Comfort House in Corydon, Indiana, by providing to defendant's attorney a complete copy of the videotaped interview prior to the filing of this notice of intent. In addition, the State notifies the defendant through his attorney and his attorney that the content of the videotape is A.Y.'s allegations of actions by defendant which support the five Informations filed against defendant.

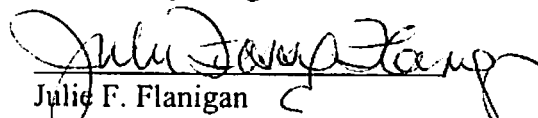
Indiana Code 35-37-4-6 applies in this criminal action because (1) the defendant is charged with sex crimes and (2) A.Y. is a protected person because she is under fourteen (14) years of age.

Indiana Code 35-37-4-6(d) states that A.Y.'s videotaped interview is admissible in this sex crime criminal action if, after notice to the defendant of a hearing and of his right to be present, the following conditions are met: (1) the Court finds in a hearing conducted outside the presence of the jury and attended by A.Y. that the time, content and circumstances of the videotape provide sufficient indications of reliability and (2) A.Y. testifies at trial. Thus, the prosecution respectfully requests that the Court set this matter for a reliability hearing on **November 14, 2008, at 2p.m.** and notify the defendant of his right to be present. The prosecution intends to make A.Y. available for the reliability hearing and expects her to testify at trial.


Julie F. Flanigan
Deputy Prosecuting Attorney
Harrison County Prosecutors Office
1445 Gardner Lane
Corydon, Indiana 47112
(812) 738-4241

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon the attorney for the defendant by way of personal service, by placing said copy in a the tray designated for Susan Schultz and by facsimile on the same date of filing.


Julie F. Flanigan

The State of Indiana, through Deputy Prosecuting Attorney Julie F. Flanigan, hereby provides notice of intent to introduce the following statements by A.Y. into evidence pursuant to Indiana Code 35-37-4-6(d)(2)(A): (1) A.Y.'s April 14, 2007 statement to Indiana State Trooper Kevin Bowling regarding the defendant's molestation of A.Y. the previous day, the complete content of which is set forth in the 5 page police report authored by Trooper Bowling and (2) A.Y.'s April 14, 2007 oral and written statements to Tonya and Richard Caves regarding the defendant's molestation of A.Y. the previous day, the content of which is set forth in the September 30, 2008 deposition of Tonya Caves. As required by Indiana Code 35-37-4-6(f)(1), this notice of intent is given to the defendant through his attorney and to his attorney at least ten (10) days prior to trial which is set for November 18, 2008. As required by Indiana Code 35-37-4-6(f)(2), the State has informed both the defendant through his attorney and his attorney of the content of A.Y.'s April 14, 2007 statements to Trooper Bowling by previously providing Trooper Bowling's 5 page report to defendant's counsel in discovery. In addition, the defendant through his counsel and defendant's counsel are aware of the content of A.Y.'s April 14, 2007 oral and written statements to Tonya and

STATE'S NOTICE OF INTENT TO INTRODUCE A.Y.'S STATEMENTS INTO EVIDENCE PURSUANT TO INDIANA CODE 35-37-4-6 AND MOTION FOR HEARING

IN THE SUPERIOR COURT OF HARRISON COUNTY
STATE OF INDIANA

STATE OF INDIANA)
) V)
LAWRENCE E. NUNLEY)

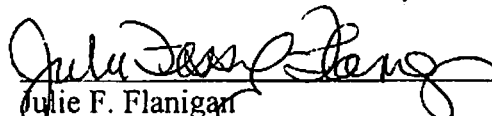
CAUSE NUMBER 31D01-0805-FA-389

2008 NOV -6 AM 8:05
FILED
 Clerk Harrison County Superior Court
Sherry S. Brown

Richard Caves because she conducted the deposition of Tonya Caves on September 30, 2008.

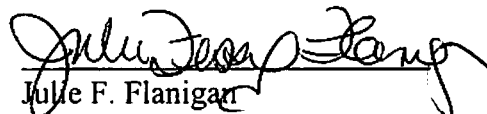
Indiana Code 35-37-4-6 applies in this criminal action because (1) the defendant is charged with sex crimes and (2) A.Y. is a protected person because she is under fourteen (14) years of age.

Indiana Code 35-37-4-6(d) states that A.Y.'s statements are admissible in this sex crime criminal action if, after notice to the defendant of a hearing and of his right to be present, the following conditions are met: (1) the Court finds in a hearing conducted outside the presence of the jury and attended by A.Y. that the time, content and circumstances of the statements provide sufficient indications of reliability and (2) A.Y. testifies at trial. Thus, the prosecution respectfully requests that the Court set this matter for a reliability hearing on **November 14, 2008, at 2p.m.** and notify the defendant of his right to be present. The prosecution intends to make A.Y. available for the reliability hearing and expects her to testify at trial.


Julie F. Flanigan
Deputy Prosecuting Attorney
Harrison County Prosecutors Office
1445 Gardner Lane
Corydon, Indiana 47112
(812) 738-4241

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon the attorney for the defendant by way of personal service, by placing said copy in a the tray designated for Susan Schultz and by facsimile on the same date of filing.


Julie F. Flanigan

STATE OF INDIANA)
 :SS:
COUNTY OF HARRISON)

IN THE HARRISON SUPERIOR COURT
2008 ANNUAL TERM

STATE OF INDIANA
VS
LAWRENCE E. NUNLEY

CAUSE NO. 31D01-0805-FA-

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2008 NOV -6 AM 9:12
Sherry J. Brown
CLERK HARRISON COUNTY
SUPERIOR COURT

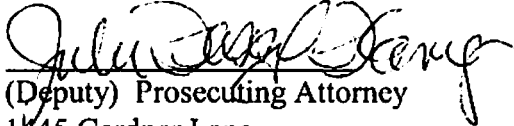
SUPPLEMENT TO DISCOVERY

Comes now the State of Indiana, by its (Deputy) Prosecuting Attorney and supplements its compliance with Discovery and Response to Defendant’s Motion to Produce Evidence with the following potential list of witnesses and/or demonstratives:

1. A copy of a handwritten letter to “Nicole” and signed “Kim”. This document consists of four (4) pages.
2. A copy of a Contact Log Report generated by Rebecca Snook. This document consists of four (4) pages.
3. A copy of a preliminary report of alleged child abuse or neglect. This document was generated by the Indiana Department of Child Services’s case manager Judith Ann Nelson. This document consists of two (2) pages.
4. A copy of the investigation of alleged child abuse or neglect. This document was generated by the Indiana Department of Child Services case investigator Rebecca Snook. This document consists of two (2) pages.
5. A copy of Indiana Supplemental Case Report. This document consists of one (1) page and was submitted by Detective Wibbels.

This supplemental disclosure and production are made without regards to whether the evidence disclosed and produced is deemed admissible at trial herein, and if the State, after continuing to comply with this order to produce, finds either before or during trial additional information or facts which are subject to or covered by such order, the State will promptly notify the court and Defense Attorney or its existence thereof. Any person named in this supplement may be called as witness. Anything mentioned in this supplement may be used at trial. The State may use any and/or all witnesses or documents necessary to prove prior conviction.

Dated this 6th day of November, 2008



(Deputy) Prosecuting Attorney
1445 Gardner Lane
Corydon, Indiana 47112
(812) 738-4241

CERTIFICATE OF SERVICE

This is to certify that the above-described documents were hand delivered to Susan Schultz the same day as filing.



Deputy Prosecuting Attorney

IN THE SUPERIOR COURT OF HARRISON COUNTY

STATE OF INDIANA

STATE OF INDIANA)

v)

LAWRENCE E. NUNLEY)

CAUSE NUMBER 31D01-0805-FA-389

ORDER SETTING HEARING ON STATE'S INTENT TO
INTRODUCE EVIDENCE PURSUANT
TO INDIANA CODE 35-37-4-6(d)

Comes now the Court and sets a hearing on the State's intent to introduce 1) A.Y.'s April 14, 2007 statement to Indiana State Trooper Kevin Bowling regarding the defendant's molestation of A.Y. the previous day and (2) A.Y.'s April 14, 2007 oral and written statements to Tonya and Richard Caves regarding the defendant's molestation of A.Y. the previous day, into evidence pursuant to Indiana Code 35-37-4-6(d)(2)(A) on November 14, 2008, at 2p.m.

The defendant is notified of his right to be present at the hearing.



HON. ROGER D. DAVIS, JUDGE

11-6-08

FILED
2008 NOV 13 AM 8:17
سید محمد علی حسینی
CLERK HARRISON COUNTY
SUPERIOR COURT

IN THE SUPERIOR COURT OF HARRISON COUNTY

STATE OF INDIANA

STATE OF INDIANA)
)
V.)
)
LAWRENCE E. NUNLEY)

CAUSE No. 31D01-0805-FA-389

STATE'S AMENDED NOTICE OF INTENT TO INTRODUCE EXTRINSIC ACT
EVIDENCE AT TRIAL

The State of Indiana, through Deputy Prosecuting Attorney Julie F. Flanigan, hereby provides the following as Rule 404 (b) and Rule 609 notice.

1. The defendant Lawrence "Ed" Nunley is charged with Count 1: Child Molesting, a Class A Felony; Count 2: Child Molesting, a Class A Felony; Count 3: Child Molesting, a Class A Felony; Count 4: Child Molesting, a Class C Felony; and Count 5: Dissemination of Matter Harmful to Minors, a Class D Felony. The case is set for a jury trial on November 18, 2008.


2. Indiana Evidence Rule 404 provides that evidence of other crimes, wrongs, or acts may be admissible for purposes other than proving a defendant's character and propensity to act in conformity therewith. These purposes include, but are not limited to, proof of motive, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that the prosecution provide reasonable notice in advance of trial of the general nature of any such evidence it intends to introduce at trial. Ind.Evid.R. 404(b).

3. The State would seek to introduce evidence of the molestation of K.S. reportedly committed by Lawrence "Ed" Nunley. K.S. is currently 10 years of age. K.S. was interviewed by Randall Weilbaker of Floyd County Child Protective Service on May 29, 2007, and she disclosed several incidents of sexual abuse by Lawrence "Ed" Nunley that took place when she was eight years old. On May 3, 2007, she wrote a letter to her counselor. She stated that she was watching the *Fox and the Hound*, and Ed Nunley made her touch his penis and touched her "couchie" (K.S.'s word for her vagina). She also stated that, after that incident, he continued, on more occasions, to rub her "couchie" and make her rub his penis. She described that he showed her sex movies. In addition, she stated that he showed her a sex movie and licked her "couchie" and made her lick his penis. K.S. gave a deposition to Nunley's counsel on November 6, 2008, during which she described all of the sex acts that Nunley performed on her, including: licking her vagina, making her lick his penis, touching and penetrating her vagina with his finger, and making her touch his penis. She testified that most of the abuse took place in Nunley's bedroom or in a small room in her mom's basement. She also testified that more than half the time he showed her sex movies while sexually abusing her.

4. The State seeks to introduce evidence of Nunley's molestation of his daughter Kristin Nunley. On May 30, 2008, Detective William Wibbles of the Indiana State Police interviewed Kristin Nunley (d/o/b 11/21/1988). Kristin Nunley told Detective Wibbles that, when she was approximately between four and six years old, her father Ed Nunley fondled her vagina and performed oral sex on her approximately ten times and that the oral sex included penetration of her vagina by her father's tongue.

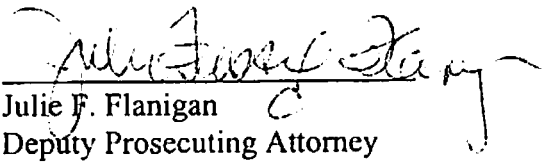
5. The State would seek to introduce evidence of the molestation of K.B. reportedly committed by Lawrence "Ed" Nunley. The alleged offenses were committed by Lawrence "Ed" Nunley on or about the years of 2004-2005, which were disclosed during a Child Protective Service interview occurring on June 22, 2005. K.B. was 7 years old at the time of the interview. After being interviewed by Rebecca Snook, K.B. disclosed that "Ed," a friend of her parents, had touched her inappropriately. That "Ed" had touched her vagina both on the outside and underneath her clothes. CPS substantiated the allegations made by K.B.

6. All of the victims are young females between the ages of 4 and 8. Also, in K.S.'s and Kristin Nunley's case Ed Nunley performed oral sex on the victims as he did the instant case. Also, in the instant case, Nunley is alleged to have shown A.Y. a Disney movie, a pornographic movie and then engaged in the molestation of A.Y, which consisted of touching A.Y.'s vagina with his mouth, making A.Y. touch his penis with her mouth, penetrating her vagina with his hand, and touching A.Y.'s vagina with his penis. This took place in Ed Nunley's bedroom. K.S. also reported watching a Disney movie with Nunley during which he molested her, and watching pornographic movies with "Ed" while Nunley molested her, including touching her vagina with his mouth. This evidence would be used to demonstrate intent, plan, knowledge, and/or identity under Indiana Rule of Evidence 404, more specifically to show Nunley's *modus operandi* with respect to how he molests young girls.


Julie F. Flanigan
Deputy Prosecuting Attorney
Harrison County Prosecutors Office
1445 Gardner Lane
Corydon, Indiana 47112
(812) 738-4241

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon the attorney for the defendant by way of personal service, by placing said copy in a the tray designated for Susan Schultz and by facsimile on the same date of filing.


Julie F. Flanigan
Deputy Prosecuting Attorney

STATE OF INDIANA)
) :SS: IN THE HARRISON SUPERIOR COURT
) 2008 ANNUAL TERM
COUNTY OF HARRISON)

STATE OF INDIANA

CAUSE NO. 31D01-0805-FA-389

VS

LAWRENCE E. NUNLEY

FILED
2008 NOV 14 AM 11:30
Clerk of Superior Court
Sharon E. [Signature]

SUPPLEMENT TO DISCOVERY

Comes now the State of Indiana, by its Deputy Prosecuting Attorney, and supplements its compliance with Discovery and Response to Defendant's Motion to Produce Evidence with the following potential list of witnesses and/or demonstratives:

- 1. A copy of an Indiana State Police Supplemental Case Report. This document was submitted by Detective William Wibbels and is an interview with Kyle Nunley. This document was completed by the Officer November 12, 2008 and consists of three pages. The State may call Kyle Nunley as witness.
- 2. A copy of a case report submitted by Chris Walden, Officer with the Harrison County Sheriff's Department. This report consists of eight (8) pages. The report includes thirteen (13) digital images.
- 3. A copy of an Indiana State Police Supplemental Case Report submitted by Detective Wibbels. This document consists of one (1) page.
- 4. A copy of an Indiana State Police Supplemental Case Report. This document was submitted by Detective Wibbels and consists of three (3) pages.

This supplemental disclosure and production are made without regards to whether the evidence disclosed and produced is deemed admissible at trial herein, and if the State, after continuing to comply with this order to produce, finds either before or during trial additional information or facts which are subject to or covered by such order, the State will promptly notify the court and Defense Attorney of its existence thereof. Any person named in this supplement may be called as witness. Any thing mentioned in this supplement may be used at trial. The State may use any and/or all witnesses or documents necessary to prove prior convictions.

Dated this 14 day of NOV 2008

Julia [Signature]
Deputy Prosecuting Attorney
1445 Gardner Lane
Corydon, Indiana 47112
(812) 738-4241

CERTIFICATE OF SERVICE

This is to certify that the above-described demonstratives were hand delivered to Anne Walsh, Attorney for the Defendant the same day as filing.


(Deputy) Prosecuting Attorney

STATE OF INDIANA)
) SS: BEFORE THE HARRISON COUNTY
) SUPERIOR COURT
COUNTY OF HARRISON)

STATE OF INDIANA

VS


CAUSE NO. 31D01-0805-FA-389

LAWRENCE NUNLEY

STATE'S SUPPLEMENT WITH DEFENDANT'S MOTION FOR DISCOVERY AND PRODUCTION OF EVIDENCE

Comes now the State of Indiana, by Julie Fessel Flanigan, Deputy Prosecuting Attorney and supplements its Compliance with Discovery and Response to Defendant's Motion For Discovery and Production of Evidence with the following list of witnesses the state intends to call at trial:

1. Annie Young
2. Richard Caves
3. Tonya Caves
4. Kevin Bowling
5. William Wibbels
6. Donna Lloyd-Black
7. Chris Walden
8. Kiersten Sanders
9. Kristen Nunley
10. Kim Simler

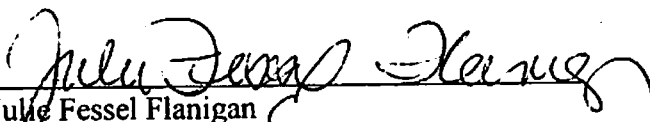

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 2008 NOV 17 AM 9:00
 FILED

This disclosure and production is made without regard as to whether the evidence to be disclosed and produced is deemed admissible at trial herein, and if the State of Indiana, after complying with the order to produce, finds either before or during trial additional information or facts which are or may be subject to or covered by such order, the State of Indiana shall properly notify the Court and the Attorney for the Defendant of its existence thereof. Certain names listed are needed for chain of custody and/or laboratory analysis. Any person named in this supplement to discovery or any previously provided compliance with discovery or supplement to discovery may

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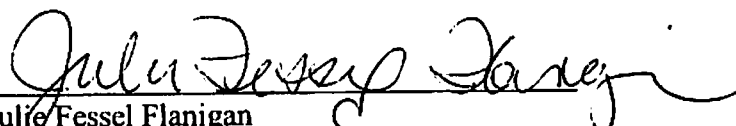
be called as witness. Any thing in this supplement or any previously provided compliance with discovery or supplement to discovery may be used at trial. The State may use any and/or all witnesses or documents necessary to prove prior convictions.

Dated this 17th day of November, 2008.


Julie Fessel Flanigan
Deputy Prosecuting Attorney
Third Judicial Circuit
1445 Gardner Lane NW
Corydon, Indiana 47112
Telephone: (812) 738-4241

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon Susan Schultz, Attorney for the Defendant by handing same to her this 17th day of November, 2008.


Julie Fessel Flanigan
Deputy Prosecuting Attorney

IN THE SUPERIOR COURT OF HARRISON COUNTY

STATE OF INDIANA

STATE OF INDIANA)

v.)

LAWRENCE E. NUNLEY)

CAUSE No. 31D01-0805-FA-389

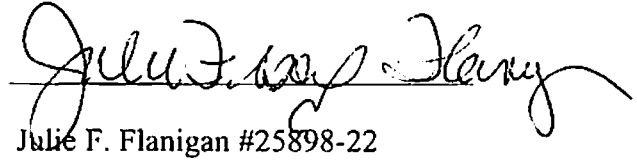
STATE'S MOTION IN LIMINE

Comes now the State of Indiana, by Deputy Prosecuting Attorney Julie F. Flanigan, and respectfully requests that the Defendant, his counsel and any of his witnesses be instructed not to mention or in any way refer to:

- (1) Any alleged drug use or activities of Tonya or Richard Caves;
- (2) Any employment of Tonya Caves;
- (3) Any living arrangements of Tonya Caves; or
- (4) Any domestic altercations between Tonya and Richard Caves.

2008 NOV 17 AM 9:08
 FILED
 CLERK OF SUPERIOR COURT
 HARRISON COUNTY
 Julie F. Flanigan

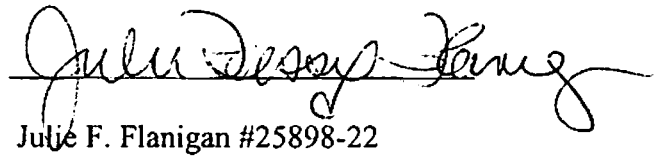
WHEREFORE, the State respectfully requests the Court instruct the Defendant, his counsel, or his witnesses, not to mention, refer to, interrogate concerning, or attempt to convey to the jury in any manner, either directly or indirectly, including during voir dire, any of the above-mentioned facts without first obtaining permission of the Court outside the presence and hearing of the jury, and further instruct the Defendant and counsel not to make any reference to the fact that this Motion has been filed and granted and to warn and caution each and every one of their witnesses to strictly follow these same instructions.



Julie F. Flanigan #25898-22

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon the attorney for the defendant by way of personal service, by placing said copy in a the tray designated for Susan Schultz and by hand.



Julie F. Flanigan #25898-22

STATE OF INDIANA
IN THE HARRISON SUPERIOR COURT

STATE OF INDIANA

VS.

LAWRENCE E. NUNLEY

CAUSE NO. 31D01-0805-FA-389

JURY TRIAL ORDER FOR NOVEMBER 18, 2008

The State of Indiana appears by Julie Flanigan, and Lauren Wheatley, Deputy Prosecuting Attorneys; the defendant appears in person, and by counsel, Susan Schultz. The parties advise the Court they are ready for trial.

Members of the regular venire of jurors appear and are duly sworn. The prospective jurors view the orientation video and are given an introduction to the case. The parties examine prospective jurors and inform the Court that they accept the jury.

The Court admonishes and releases the jury and directs them to return on November 19, 2008 at 9:00 A.M.

The hour of adjournment having arrived, the Court orders the trial of this cause recessed until November 19, 2008 at 9:00 A.M. Court adjourned.

So ORDERED this 18th day of November, 2008.



ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

STATE OF INDIANA
IN THE HARRISON SUPERIOR COURT

STATE OF INDIANA

VS.

LAWRENCE E. NUNLEY

CAUSE NO. 31D01-0805-FA-389

JURY TRIAL ORDER FOR NOVEMBER 19, 2008

The State of Indiana appears by Julie Flanigan and Lauren Wheatley, Deputy Prosecuting Attorneys; the defendant appears in person, and by counsel, Susan Schultz. The jury appears and is duly sworn, and the trial of this cause resumes.

The Court, outside the presence of the jury, gives to the parties, in writing, its Preliminary Instructions, which the Court will read to the jury; parties tender no preliminary instructions and have no objections to the Court's Preliminary Instructions.

Outside the presence of the jury, the Court gives to the parties its ruling on State of Indiana's 404(b) Motion and Motion in Limine. The Court grants the State's Motion in Limine and denies the State's request to admit 404(b) evidence. The Court grants the State's request to admit certain hearsay evidence over the defendant's objections pursuant to I.C. 35-37-4-6.

The State of Indiana moves for separation of witnesses, which the Court grants said motion and directs the parties to admonish their witnesses accordingly.

The parties appear in open court and the Court reads said Preliminary Instructions, which are filed with the Clerk, and said instructions are ordered made a part of the record.

The Deputy Prosecuting Attorney makes opening statement; the defendant, by counsel, makes his opening statement to the jury. The State of Indiana introduces evidence in chief.

The hour of adjournment having arrived, the Court orders the trial of this cause recessed until November 20, 2008 at 9:00 A.M.

So ORDERED this 19th day of November, 2008.



ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

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2008 NOKED AM 8:22
CLERK HARRISON COUNTY

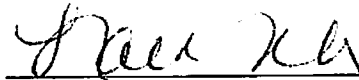
STATE OF INDIANA)
)SS:
COUNTY OF HARRISON)
)
)
STATE OF INDIANA)
)
)
V.)
)
LAWRENCE E. NUNLEY.)
Defendant)

IN THE HARRISON SUPERIOR COURT

CAUSE NO.: 31D01-0805-FA-389

STATE'S TENDER OF FINAL INSTRUCTIONS

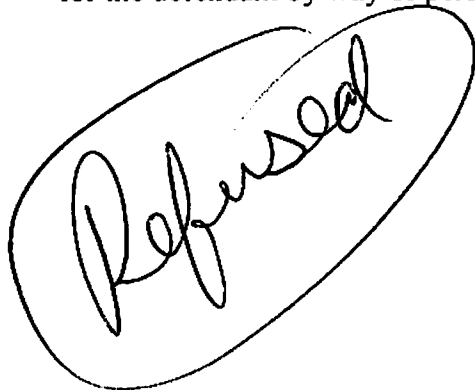
The State of Indiana hereby tenders the following final instructions and moves that the same be read to the Jury.




Lauren Wheatley, #22866-49
Deputy Prosecuting Attorney
1445 Gardner Lane, Suite 3101
Corydon, Indiana 47112

Certificate of Service

This is to certify that a copy of the foregoing has been served upon the attorney for the defendant by way of personal service on the same date of filing.





Lauren Wheatley
Deputy Prosecuting Attorney

INSTRUCTION NO. _____

Evidence of the intentional touching of a victim's genital area justifies an inference that the perpetrator acted with an intent to arouse or gratify sexual desires.

Refused

Hammond v. State (1985) Ind. App, 479 N.E.2d 629

STATE OF INDIANA
IN THE HARRISON SUPERIOR COURT

STATE OF INDIANA

VS.

LAWRENCE E. NUNLEY

CAUSE NO. 31D01-0805-FA-389

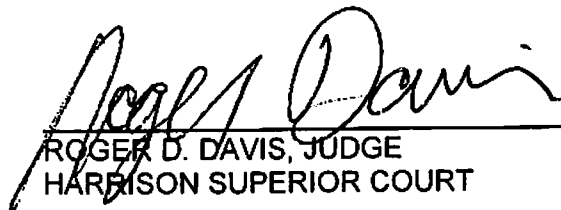
JURY TRIAL ORDER FOR NOVEMBER 20, 2008

The State of Indiana appears by Julie Flanigan and Lauren Wheatley, Deputy Prosecuting Attorneys; the defendant appears in person, and by counsel, Susan Schultz. The duly sworn jury appears and the trial of this cause resumes.

The State of Indiana, by its Deputy Prosecuting Attorney, continues its case in chief.

The hour of adjournment having arrived, the Court orders the trial of this cause recessed until November 21, 2008 at 9:00 A.M. Jury admonished and released; court adjourned.

So ORDERED this 20th day of November, 2008.



ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

GUILTY VERDICT

We, the jury, find the Defendant, Lawrence E. Nunley, **guilty** of **Count 1**, the offense of **Child Molesting**, a Class A Felony.

November 21, 2018
Date

Stephanus Jones
Foreperson

GUILTY VERDICT

We, the jury, find the Defendant, Lawrence E. Nunley, **guilty** of **Count 2**, the offense of **Child Molesting**, a Class A Felony.

November 21, 2008

Date

Stephanus Ferrell

Foreperson

GUILTY VERDICT

We, the jury, find the Defendant, Lawrence Nunley, **guilty** of **Count 3**, the offense of **Child Molesting**, a Class A Felony.

November 21, 2008
Date

Stephanie Ferrell
Foreperson

GUILTY VERDICT

We, the jury, find the Defendant, Lawrence E. Nunley, **guilty** of **Count 4**, the offense of **Child Molesting**, a Class C Felony.

November 21, 2018
Date

Stephanie Ferrer
Foreperson

GUILTY VERDICT

We, the jury, find the Defendant, Lawrence E. Nunley, guilty of **Count 5**, the offense of **Dissemination of Matter Harmful to Minors**, a Class D Felony.

November 21, 2008
Date

Stephanie Ferrel
Foreperson

NOT GUILTY VERDICT

We, the jury, find the Defendant, Lawrence E. Nunley, **not guilty** of **Count 1**, the offense of **Child Molesting**, a Class A Felony.

Date

Foreperson

NOT GUILTY VERDICT

We, the jury, find the Defendant, Lawrence E. Nunley, **not guilty** of **Count 2**, the offense of **Child Molesting**, a Class A Felony.

Date

Foreperson

NOT GUILTY VERDICT

We, the jury, find the Defendant, Lawrence Nunley, **not guilty** of **Count 3**, the offense of **Child Molesting**, a Class A Felony.

Date

Foreperson

NOT GUILTY VERDICT

We, the jury, find the Defendant, Lawrence E. Nunley, **not guilty** of **Count 4**, the offense of **Child Molesting**, a Class C Felony.

Date

Foreperson

NOT GUILTY VERDICT

We, the jury, find the Defendant, Lawrence E. Nunley, **not guilty** of **Count 5**, the offense of **Dissemination of Matter Harmful to Minors**, a Class D Felony.

Date

Foreperson

STATE OF INDIANA
IN THE HARRISON SUPERIOR COURT

STATE OF INDIANA

VS.

LAWRENCE E. NUNLEY

CAUSE NO. 31D01-0805-FA-389

JURY TRIAL ORDER FOR NOVEMBER 21, 2008

The State of Indiana appears by Julie Flanigan and Lauren Wheatley, Deputy Prosecuting Attorneys; the defendant appears in person, and by counsel, Susan Schultz. The duly sworn jury appears and the trial of this cause resumes.

The State of Indiana, by its Deputy Prosecuting Attorney, continues its case in chief and rests.

During the State's case in chief, the defendant, by his attorney, moves for mistrial. The Court denies said motion.

The defendant, by his attorney, presents his case in chief and rests.

The State of Indiana, by its Deputy Prosecuting Attorney, presents its rebuttal evidence and rests. The defendant, by his attorney, informs the Court that they have no surrebuttal evidence.

The Court gives to the parties, in writing, its Final Instructions which will be read to the jury. The State tenders one Final Instruction and ask that it be read to the jury. The Court refuses State's requested instruction. The defendant, by his attorney, requests no final instruction. Neither the State nor the defendant have any objections to the Court's proposed Final Instructions.

The State appears by its Deputy Prosecuting Attorneys; the defendant appears in person and by his attorney; the duly sworn jury appears and the parties make Closing

Arguments to the jury. The Court reads its Final Instructions to the jury and said instructions are filed with the Clerk and ordered made a part of the record in this cause.

The Bailiff, Sharon Carpenter, is sworn and the jury retires to the jury room to deliberate upon its verdict.

The State of Indiana appears by its Deputy Prosecuting Attorneys; the defendant appears in person and by his attorneys; the duly sworn jury appears and returns in open Court the following verdicts:

Count 1, Child Molesting, a Class A Felony – Guilty;

Count 2, Child Molesting, a Class A Felony – Guilty;

Count 3, Child Molesting, a Class A Felony – Guilty;

Count 4, Child Molesting, a Class C Felony – Guilty; and

Count 5, Dissemination of Matter Harmful to Minors, a Class D Felony – Guilty.

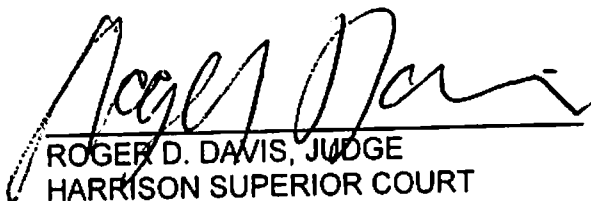
The defendant, by his attorney, requests the Court to poll the jury. The Court polls each juror, who indicates that the verdicts are his or her own verdicts.

The Court accepts the verdicts and are filed and made a part of the record in this cause, and Judgement of Conviction on each count is entered against the defendant.

The Court orders the Probation Office to prepare and file Presentence Investigation Report and sets sentencing hearing for January 15, 2009 at 9:00 A.M.

Jury is discharged.

So ORDERED this 21st day of November, 2008.



ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

STATE OF INDIANA
HARRISON SUPERIOR COURT

STATE OF INDIANA

VS.

LAWRENCE NUNLEY

CAUSE NO. 31D01-0805-FA-389

SENTENCING ORDER

Comes now the State of Indiana by its Deputy Prosecuting Attorney, Julie Flanigan, and comes now the Defendant, in person, and by counsel, Susan Schultz.

The defendant, after having previously been found guilty by a jury on all counts, and the Court, after having considered the Presentence Investigation Report filed by the Probation Office, now sentences the defendant as follows:

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED by the Court that the Defendant, for the offenses by him committed, is hereby sentenced as follows:

**Indiana Department of Correction
Count 1, 35 years; Count 2, 35 years; Count 3, 35 years;
Count 4, 4 years and 8 months; Count 5, 21 months.
Counts 1, 2, 4 and 5 are to be served consecutive;
Count 3 to be concurrent with Counts 1 and 2.
All time to be served (-0- suspended).
Defendant to receive credit for time served of 232 actual days.**

FINE:

Defendant shall pay:

- (X) \$164.00 Court costs
- (X) \$250.00 Sexual Assault Victim's Assistance Fee.


OTHER PROVISIONS:

- (X) No bond, payment stayed for 90 days after release from incarceration.
- (X) Defendant to have no contact with the victim in this cause.
- (X) Defendant to undergo H.I.V. testing.
- (X) Defendant is ordered to register as sex offender for life.

- (X) Defendant is found to be a sexually violent predator per 35-38-1-7.5(b)(1)(c).
- (X) Defendant is ordered not to reside within 1,000 feet of school property.
- (X) Defendant is ordered not to reside within one (1) mile of the victim's residence.
- (X) The Court appoints Melissa Albertson as the victim's representative.

The defendant is advised of his right to appeal. The Court further finds that the defendant is indigent and appoints Matthew McGovern to represent him for appeal purposes.

SO ORDERED this 15th day of January, 2009.



HON. ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

cc: Harrison County Sheriff ✓

STATE OF INDIANA
IN THE HARRISON SUPERIOR COURT

STATE OF INDIANA

VS.

LAWRENCE NUNLEY

CAUSE NO.: 31D01-0805-FA-389

COMMITMENT TO THE
INDIANA DEPARTMENT OF CORRECTIONS

The State of Indiana appears by its Deputy Prosecuting Attorney, and the Defendant appears in person and by counsel. And the Court, having entered a Judgment of Conviction and pronounced sentence against the defendant for the following crimes:

- Counts 1, 2 and 3, Child Molesting, Class A Felonies;
- Count 4, Child Molesting, Class C Felony;
- Count 5, Dissemination of Matter Harmful to Minors, Class D Felony;

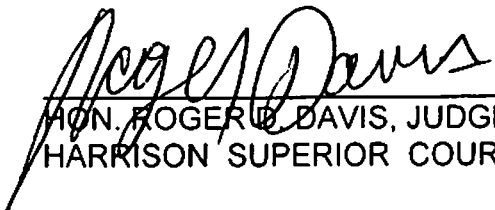
now finds that the defendant be imprisoned as follows:

Count 1, for 35 years; Count 2, for 35 years; Count 3, for 35 years;
Count 4, for 4 years and 8 months; and Count 5, for 21 months.
-0- time suspended, all to be served.
Counts 1, 2, 4 and 5 are to be served consecutive; and Count 3 to be
served concurrent with Counts 1 and 2. (Credit for 232 actual days
already served.

OTHER PROVISIONS:

Defendant is remanded to the custody of the Harrison County Sheriff.

The Sheriff of Harrison County is hereby charged with the due execution of the foregoing judgment.



 HON. ROGER E. DAVIS, JUDGE
 HARRISON SUPERIOR COURT

DATED, this 15th day of January, 2009.

cc: Harrison County Sheriff

STATE OF INDIANA
IN THE HARRISON SUPERIOR COURT

STATE OF INDIANA

vs.

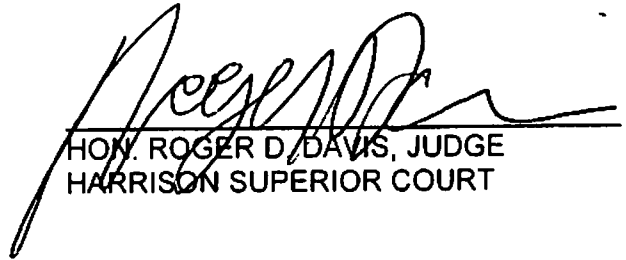
LAWRENCE NUNLEY

CAUSE NO. 31D01-0805-FA-389

ORDER TO TRANSPORT

To the Sheriff of Harrison County, you are hereby ordered to transport the Defendant, in your custody from the Harrison County Jail to the Indiana Department of Correction pursuant to Commitment within five (5) days of receipt of this order.

SO ORDERED this 15th day of January, 2009.



HON. ROGER D. DAVIS, JUDGE
HARRISON SUPERIOR COURT

cc: Harrison County Sheriff ✓



ABSTRACT OF JUDGMENT

State Form 8466

INDIANA DEPARTMENT OF CORRECTION

INSTRUCTIONS: This form must accompany the Judgment, Pre-Sentence Report, and all other documents required by law, upon the commitment of the adult offender to the Indiana Department of Correction. A separate Abstract must be used for each Cause Number.

| | |
|---|--|
| Case Name STATE OF INDIANA VS. LAWRENCE E. NUNLEY | |
| Cause No. 31D01-0805-FA-389 | Court Harrison Superior |
| Date of sentencing 15-Jan-09 | Presiding judge Roger D. Davis |
| Prosecutor Julie Flanigan, Deputy | Defense attorney Susan Schultz |

| Part 1 The Defendant was found Guilty of the following crimes under the above-referenced cause: | | | | | |
|---|---|-------|-------|--------|--------------------|
| COUNT | CRIME | CLASS | √FEL. | √MISD. | STATUTORY CITATION |
| I | CHILD MOLESTING | A | X | | 35-42-4-3 |
| II | CHILD MOLESTING | A | X | | 35-42-4-3 |
| III | CHILD MOLESTING | A | X | | 35-42-4-3 |
| IV | CHILD MOLESTING | C | X | | 35-42-4-3 |
| V | DISSEMINATION OF MATTER HARMFUL TO MINORS | D | X | | 35-49-3-3 |

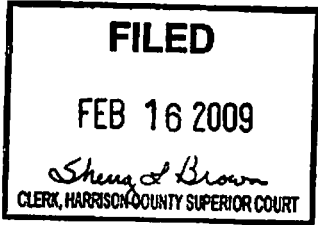
| Part 2 As a result of the above convictions, the Court has sentenced the defendant to the Department of Correction as follows: (If consecutive time is received, check only those counts which are to follow the original sentence) | | | | | |
|--|-----------------------|-----------|------------|-----------|-----------------------------------|
| COUNT | SENTENCE YEARS / DAYS | SUSPENDED | CON. CUR.√ | CON-SEC.√ | ... WITH (COUNT OR CAUSE NUMBERS) |
| I | 35 years | none | | X | Counts 2, 4 and 5 |
| II | 35 years | none | | X | Counts 1, 4 and 5 |
| II | 35 years | none | X | | Counts 1 and 2 |
| IV | 4 years & 8 months | none | | X | Counts 1, 2 and 5 |
| V | 21 months | none | | X | Counts 1, 2 and 4 |

| Part 3 JUDGE'S RECOMMENDATIONS | |
|--|--|
| Is the defendant to be returned to the Court for probation at the completion of his/her sentence? <input type="checkbox"/> Yes (complete at right) <input checked="" type="checkbox"/> No | Chief Probation Officer |
| No. of Days confined prior to sentencing 232 actual days | Recommended degree of security <input type="checkbox"/> Maximum <input type="checkbox"/> Medium <input type="checkbox"/> Minimum <input type="checkbox"/> No recommendation |
| Additional comments and recommendations: See Judgment of Conviction and Commitment | |

| PART 4: JUDICIAL SIGNATURE | |
|--|--------------------------|
| Signature of committing judge <i>Roger D. Davis</i> | Date signed 1/15/2009 |

| Part 5 AFFIDAVIT OF CLERK | |
|---|---|
| State of Indiana County of <i>✓</i>) SS: | |
| I, _____, Clerk of _____ County, State of Indiana, | |
| do hereby certify that the foregoing is a true and complete abstract of judgment of said Court in the above-entitled cause, on the date first shown on record in my office. | |
| As testimony of these facts, I sign my name and affix the seal of the _____ Court | |
| of _____ County, at my office | Signature of Clerk <i>Sherry L Brown</i> |
| in the City of _____ | |
| this _____ day of _____, 20____ | |

| | | |
|--------------------|------|--------------------------------|
| STATE OF INDIANA |) | IN THE HARRISON SUPERIOR COURT |
| |)SS: | |
| COUNTY OF HARRISON |) | CAUSE NO.: 31D01-0805-FA-389 |
| |) | |
| STATE OF INDIANA |) | |
| (Plaintiff) |) | |
| |) | |
| V. |) | |
| |) | |
| Lawrence E. NUNLEY |) | |
| (Defendant), |) | |



NOTICE OF APPEAL

Defendant, Lawrence E. Nunley, by counsel, Matthew Jon McGovern, and pursuant to Ind.Appellate Rule 9(A), respectfully gives notice of an appeal from the following judgment and order entered by the Harrison Superior Court: *Judgment of Conviction of November 21, 2008, and the Sentencing Order of January 15, 2009.*

This appeal is from a final judgment.

This appeal will be taken to the Indiana Court of Appeals pursuant to Indiana Appellate Rules 4 & 5.

Pursuant to Indiana Appellate Rule 10, the clerk of the Harrison Superior Court is requested to assemble the Clerk's Record, as defined in Ind. Appellate Rule 2(E).

Pursuant to Indiana Appellate Rule 12(A), the clerk of the Harrison Superior Court is also requested to copy the full and assembled Clerk's Record and provide it to the undersigned.

Pursuant to Indiana Appellate Rule 11, the Court Reporter of the Harrison Superior Court is requested to transcribe, certify, and file with the Clerk of the Harrison Superior Court the following hearings of record:

- (1) The full hearing(s) on November 14, 2008;
- (2) The full trial, including all pretrial hearings (including any hearings held before, during, or after voir dire), opening and closing arguments, all instructions and arguments on or objections to instructions, all offers to prove, all arguments and rulings thereon, all bench conferences, *and any and all video and audio tapes* offered by the parties and/or played at trial; and

(3) The sentencing hearing.

Respectfully Submitted,



Matthew Jon McGovern
Attorney for the Defendant
Atty. No.: 21016-49
P.O. Box 5583
Evansville, IN 47716
(812) 842-0286

CERTIFICATE OF SERVICE

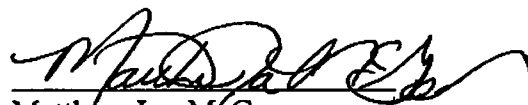
I hereby certify that on this 16th day of February, 2009, the foregoing was served upon the following parties, persons, and/or entities by the means indicated:

Harrison County Prosecutor's Office
Harrison County Justice Center
1445 Gardner Lane
Corydon, IN 47712
by First Class Mail, postage prepaid;

Ms. Sharon Webb
Harrison Superior Court Reporter
1445 Gardner Lane, Suite 3018
Corydon, Indiana 47112
by First Class Mail, postage prepaid

The Indiana Attorney General
Government Center South, 5th Floor
402 West Washington Street
Indianapolis, IN 46204
by First Class Mail, postage prepaid

Clerk of the Indiana Court of Appeals
State House, Room 217
200 West Washington Street
Indianapolis, IN 46204
by First Class Mail, postage prepaid



Matthew Jon McGovern
Attorney for the Defendant
Atty. No.: 21016-49
P.O. Box 5583
Evansville, IN 47716
(812) 842-0286

FINAL JURY INSTRUCTION NO. 1

Under the Constitution of Indiana the jury has the right to determine both the law and the facts. The Court's instructions are your best source in determining the law.

FINAL JURY INSTRUCTION NO. 2

In deciding this case, you must determine the facts from a consideration of all the evidence and look to these instructions from the court for the law of the case and find your verdict accordingly.

All of the law of this case has not been embodied in any one instruction. Therefore, in construing any single instruction you should consider it with all other instructions given.

FINAL JURY INSTRUCTION NO. 3

The crime of Child Molesting is defined by law as follows: A person at least twenty-one (21) years of age who, with a child under fourteen (14) years of age, performs or submits to deviate sexual conduct, commits Child Molesting, a Class A Felony, as charged in Count 1.

Before you may convict the defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The defendant, Lawrence E. Nunley,
2. knowingly or intentionally
3. performed or submitted to deviate sexual conduct with A.Y., namely, touched the vagina of A.Y. with his mouth
4. when A.Y. was a child under fourteen (14) years of age, and
5. when Lawrence E. Nunley was at least twenty-one (21) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of Child Molesting, a Class A Felony, as charged in Count 1.

FINAL JURY INSTRUCTION NO. 4

The crime of Child Molesting is defined by law as follows: A person at least twenty-one (21) years of age who, with a child under fourteen (14) years of age, performs or submits to deviate sexual conduct, commits Child Molesting, a Class A Felony, as charged in Count 2.

Before you may convict the defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The defendant, Lawrence E. Nunley,
2. knowingly or intentionally
3. performed or submitted to deviate sexual conduct with A.Y. , namely, had A.Y. put her mouth on his penis
4. when A.Y. was a child under fourteen (14) years of age, and
5. when Lawrence E. Nunley was at least twenty-one (21) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of Child Molesting, a Class A Felony, as charged in Count 2.

FINAL JURY INSTRUCTION NO. 5

The crime of Child Molesting is defined by law as follows: A person at least twenty-one (21) years of age who, with a child under fourteen (14) years of age, performs or submits to deviate sexual conduct, commits Child Molesting, a Class A Felony, as charged in Count 3.

Before you may convict the defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The defendant, Lawrence E. Nunley,
2. knowingly or intentionally
3. performed or submitted to deviate sexual conduct with A.Y., namely, put his hand in the vagina of A.Y.
4. when A.Y. was a child under fourteen (14) years of age, and
5. when Lawrence E. Nunley was at least twenty-one (21) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of Child Molesting, a Class A Felony, as charged in Count 3.

FINAL JURY INSTRUCTION NO. 6

Child Molesting is defined by law as follows: A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits Child Molesting, a Class C Felony, as charged in Count 4.

Before you may convict the defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The defendant, Lawrence E. Nunley,
2. knowingly or intentionally
3. performed or submitted to any fondling or touching of A.Y. or Lawrence E. Nunley
4. with the intent to arouse or satisfy the sexual desires of A.Y. or Lawrence E. Nunley
5. when A.Y. was a child under fourteen (14) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of Child Molesting, a Class C Felony, as charged in Count 4.

FINAL JURY INSTRUCTION NO. 7

The crime of dissemination of matter harmful to minors is defined by law as follows:

A person who knowingly or intentionally displays matter that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by the minors' parent or guardian, commits dissemination of matter harmful to minors, a Class D Felony as charged in Count 5.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant, Lawrence E. Nunley
2. knowingly or intentionally
3. displayed matter that is harmful to minors in an area to which A.Y. had visual, auditory, or physical access
4. when A.Y. was not accompanied by her parent or guardian.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dissemination of matter harmful to minors, a Class D Felony as charged in Count 5.

FINAL JURY INSTRUCTION NO. 8

A matter or performance is harmful to minors if:

1. It describes or represents, in any form, nudity, sexual conduct, sexual excitement or sado-masochistic abuse;
2. Considered as a whole, it appeals to the prurient interest in sex of minors;
3. It is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable matter for or performance before minors; and
4. Considered as a whole, it lacks serious literary, artistic, political, or scientific value for minors.

FINAL JURY INSTRUCTION NO. 9

Under the law of this State, a person charged with a crime is presumed to be innocent. To overcome the presumption of innocence, the State must prove the defendant guilty of each essential element of the crime charged, beyond a reasonable doubt.

The defendant is not required to present any evidence to prove his innocence or to prove or explain anything.

FINAL JURY INSTRUCTION NO. 10

The burden is upon the State to prove beyond a reasonable doubt that the defendant is guilty of the crime(s) charged. It is a strict and heavy burden. The evidence must overcome any reasonable doubt concerning the defendant's guilt. But it does not mean that a defendant's guilt must be proved beyond all possible doubt.

A reasonable doubt is a fair, actual and logical doubt based upon reason and common sense. A reasonable doubt may arise either from the evidence or from a lack of evidence. A reasonable doubt exists when you are not firmly convinced of the defendant's guilt, after you have weighed and considered all the evidence.

A defendant must not be convicted on suspicion or speculation. It is not enough for the State to show that the defendant is probably guilty. On the other hand, there are very few things in this world that we know with absolute certainty. The State does not have to overcome every possible doubt.

The State must prove each element of the crime(s) by evidence that firmly convinces each of you and leaves no reasonable doubt. The proof must be so convincing that you rely and act upon it in this matter of the highest importance.

If you find that there is a reasonable doubt that the defendant is guilty of the crime(s), you must give the defendant the benefit of that doubt and find the defendant not guilty of the crime(s) under consideration.

FINAL JURY INSTRUCTION NO. 11

It is for the jury to determine the weight and credit to be given the statements made by A.Y. to Trooper Kevin Bowling, Tonya Caves, Richard Caves, and A.Y.'s videotaped statements made at the Comfort House on April 18th, 2008. In making that determination, the jury shall consider the following:

1. The mental and physical age of the person making the statement or videotape.
2. The nature of the statement or videotape.
3. The circumstances under which the statement or videotape was made.
4. Other relevant factors.

FINAL JURY INSTRUCTION NO. 12

The evidence must be judged and considered from your memory of the testimony of the witnesses and such exhibits as may have been admitted for your examination.

FINAL JURY INSTRUCTION NO. 13

The unsworn statements or comments of counsel on either side of the case should not be considered as evidence in this case. It is your duty to determine the facts from the testimony and evidence admitted by the court and given in your presence, and you should disregard any and all information that you may derive from any other source.

FINAL JURY INSTRUCTION NO. 14

Neither sympathy nor prejudice for or against either the alleged victim or the defendant in this cause should be allowed to influence you in whatever verdict you may find.

FINAL JURY INSTRUCTION NO. 15

These instructions do not contain any information concerning the penalties that could be imposed upon a conviction. The judge is solely responsible for assessing the

penalty within a broad range of possibilities. The law has been so written that you may make your decisions without being influenced by the apparent severity or leniency of the sentence.

FINAL JURY INSTRUCTION NO. 16

Your verdict must represent the considered judgment of each juror. In order to return a verdict of guilt or innocence you must all agree.

It is your duty, as jurors, to consult with one another and to deliberate with a view toward reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

After you return a verdict, you are under no obligation to discuss it, or the reasons for it, with anyone.

After you have retired to your jury room the bailiff of this court will be in attendance, but he/she cannot be present in your jury room during any of your deliberations.

Should you at any time during your deliberations of the cause leave the jury room, you must leave in a body and at all times be in the charge of the bailiff. While you are absent from the jury room, you must not talk about this case among yourselves, with the bailiff or with any other person or persons.

During your deliberations, should you have any questions you should put them in writing and deliver them to the bailiff, who will deliver them to the court. Most often, the court cannot answer your questions except by re-reading the court's instructions. As the court is sending the court's instructions with you to the jury room, you may be able to answer your questions by reviewing the court's instructions.

The Court will be sending to the jury room all exhibits admitted into evidence during this trial.

When there is a disagreement among jurors concerning the nature of testimony given during a trial, the jurors may request the Court to have the disputed testimony reread or replayed for the jury. If there is no disagreement or dispute among jurors about testimony, the Court will not reread or replay testimony for the jury. If the jury requests the Court reread or replay testimony without indicating that there is a dispute or disagreement among jurors about the testimony, the Court will not reread or replay

the testimony. If the jury indicates or states that there is a disagreement or dispute among jurors about certain testimony the Court will reread or replay that testimony for the jury.

The court is submitting to you forms of possible verdicts you may return in this case. These forms will be supplied to you when you retire to the jury room for deliberations.

Upon retiring to the jury room, you will select one of your members as foreperson. The foreperson will preside over your deliberations and must sign and date the verdict(s) to which you all agree. Do not sign any verdict form for which there is not a unanimous agreement. The foreperson must return all verdict forms into open court.

When you have agreed upon a verdict(s), you will inform the bailiff that you have agreed. You will remain in the jury room until the bailiff, on order of the court, conducts you into open court where your verdict(s) will be reviewed and read.

FINAL JURY INSTRUCTION NO. 17

If, at any time any juror realizes that you have personal knowledge of any fact that is material to this case, you shall inform the bailiff immediately.

FINAL JURY INSTRUCTION NO. 18

In the preliminary instructions previously given, the Court has already instructed you as to the credibility of witnesses and the manner of weighing the testimony and evidence received, charges are not any evidence of guilt, definitions of knowingly, intentionally, deviate sexual conduct, minor, and matter. You have copies of these instructions and they are preliminary instruction numbers 18, 15, 10, 11, 12, and 13. These instructions will not be re-read to you and you will keep them in mind as they are applicable to the trial and your deliberations.

FINAL JURY INSTRUCTION NO. 19

The alternate juror, Claude Rottet, shall not take part in or participate in any deliberations of the jury in any way whatsoever unless he replaces a regular juror. Replacement of a regular juror shall only occur by order of the Court. Regular members of the jury shall not ask questions of the alternate jurors concerning evidence, his recollection of the evidence or induce or cause him to participate in deliberations in any way whatsoever.

PRELIMINARY JURY INSTRUCTION NO. 1

You have been selected as jurors and you are bound by your oath to try this case fairly and honestly.

You are permitted to discuss the evidence among yourselves in the jury room during recesses from trial only when all jurors are present. You should keep an open mind. You should not form or express any conclusion or judgment about the outcome of the case until the Court submits the case to you for your deliberations.

You must not talk about this case with anyone else. Do not talk to any of the parties, their lawyers or any of the witnesses. If anyone tries to talk about the case in your presence, you should tell the Bailiff immediately and privately. If there is any publicity about this trial, you must not read, listen to or watch it.

You should focus your attention on the court proceedings and the evidence, and reach a verdict based upon what you hear and see in this Court.

PRELIMINARY JURY INSTRUCTION NO. 2

You are to consider all the instructions together. Do not single out any certain sentence or any individual point or instruction and ignore the others.

PRELIMINARY JURY INSTRUCTION NO. 3

Under the Constitution of Indiana the jury has the right to determine both the law and the facts. The Court's instructions are your best source in determining the law.

PRELIMINARY JURY INSTRUCTION NO. 4

In this case, the State of Indiana has charged the Defendant with the following counts:

Count 1: Child Molesting

William Wubbels, a Police Officer, affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one Lawrence E. Nunley, a person at least twenty-one (21) years of age, who with a child under fourteen (14) years of age, identified as A.Y., did perform or submit to deviate sexual conduct, to-wit: Lawrence E. Nunley, who was born October 23, 1966, touched the vagina of A.Y., who was born June 24, 2000, with his mouth, which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

Count 2: Child Molesting

William Wubbels, a Police Officer, affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one Lawrence E. Nunley, a person at least twenty-one (21) years of age, who with a child under fourteen (14) years of age, identified as A.Y., did perform or submit to deviate sexual conduct, to-wit: Lawrence E. Nunley, who was born October 23, 1966, had A.Y., who was born June 24, 2000, put her mouth on his penis, which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

Count 3: Child Molesting

William Wubbels, a Police Officer, affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one Lawrence E. Nunley, a person at least twenty-one (21) years of age, who with a child under fourteen (14) years of age, identified as A.Y., did perform or submit to deviate sexual conduct, to-wit: Lawrence E. Nunley, who was born October 23, 1966, put his hand in the vagina of A.Y., who was born June 24, 2000, which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

Count 4: Child Molesting

William Wibbels, a Police Officer, affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one Lawrence E. Nunley, did then and there with a child less than fourteen (14) years of age, identified as A.Y., did perform or submit to any fondling or touching, of either the child or himself, with intent to arouse or to satisfy the sexual desires of either the child or himself, to-wit: Lawrence E. Nunley, touched the vagina of A.Y., who was born June 24, 2000, with his penis, which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

Count 5: Dissemination of Matter Harmful to Minors

William Wibbels, a Police Officer, affirms under the pains and penalties of perjury that on or about the 13th day of April, 2007, in Harrison County, State of Indiana, one Lawrence E. Nunley, did then and there display matter that was harmful to a minor in an area to which the minor had visual, auditory, or physical access, and that the minor was not accompanied by a parent or guardian, to-wit: Lawrence E. Nunley showed a pornographic movie to A.Y. who was born June 24, 2000, and who was not accompanied by her parent or guardian, which is contrary to the form and the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

PRELIMINARY JURY INSTRUCTION NO. 5

The crime of Child Molesting is defined by law as follows: A person at least twenty-one (21) years of age who, with a child under fourteen (14) years of age, performs or submits to deviate sexual conduct, commits Child Molesting, a Class A Felony, as charged in Count 1.

Before you may convict the defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The defendant, Lawrence E. Nunley,
2. knowingly or intentionally
3. performed or submitted to deviate sexual conduct with A.Y., namely, touched the vagina of A.Y. with his mouth
4. when A.Y. was a child under fourteen (14) years of age, and
5. when Lawrence E. Nunley was at least twenty-one (21) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of Child Molesting, a Class A Felony, as charged in Count 1.

PRELIMINARY JURY INSTRUCTION NO. 6

The crime of Child Molesting is defined by law as follows: A person at least twenty-one (21) years of age who, with a child under fourteen (14) years of age, performs or submits to deviate sexual conduct, commits Child Molesting, a Class A Felony, as charged in Count 2.

Before you may convict the defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The defendant, Lawrence E. Nunley,
2. knowingly or intentionally
3. performed or submitted to deviate sexual conduct with A.Y. , namely, had A.Y. put her mouth on his penis
4. when A.Y. was a child under fourteen (14) years of age, and
5. when Lawrence E. Nunley was at least twenty-one (21) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of Child Molesting, a Class A Felony, as charged in Count 2.

PRELIMINARY JURY INSTRUCTION NO. 7

The crime of Child Molesting is defined by law as follows: A person at least twenty-one (21) years of age who, with a child under fourteen (14) years of age, performs or submits to deviate sexual conduct, commits Child Molesting, a Class A Felony, as charged in Count 3.

Before you may convict the defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The defendant, Lawrence E. Nunley,
2. knowingly or intentionally
3. performed or submitted to deviate sexual conduct with A.Y., namely, put his hand in the vagina of A.Y.
4. when A.Y. was a child under fourteen (14) years of age, and
5. when Lawrence E. Nunley was at least twenty-one (21) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of Child Molesting, a Class A Felony, as charged in Count 3.

PRELIMINARY JURY INSTRUCTION NO. 8

The crime of Child Molesting is defined by law as follows: A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits Child Molesting, a Class C Felony, as charged in Count 4.

Before you may convict the defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The defendant, Lawrence E. Nunley,
2. knowingly or intentionally
3. performed or submitted to any fondling or touching of A.Y. or Lawrence E. Nunley
4. with the intent to arouse or satisfy the sexual desires of A.Y. or Lawrence E. Nunley
5. when A.Y. was a child under fourteen (14) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of Child Molesting, a Class C Felony, as charged in Count 4.

PRELIMINARY JURY INSTRUCTION NO. 9

The crime of dissemination of matter harmful to minors is defined by law as follows:

A person who knowingly or intentionally displays matter that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by the minors' parent or guardian, commits dissemination of matter harmful to minors, a Class D Felony as charged in Count 5.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant, Lawrence E. Nunley
2. knowingly or intentionally
3. displayed matter that is harmful to minors in an area to which A.Y. had visual, auditory, or physical access
4. when A.Y. was not accompanied by her parent or guardian.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dissemination of matter harmful to minors, a Class D Felony as charged in Count 5.

PRELIMINARY JURY INSTRUCTION NO. 10

Intentionally and knowingly are defined by statute as follows:

A person engages in conduct "intentionally" if, when he engages in the conduct, it is his conscious objective to do so.

A person engages in conduct "knowingly" if, when he engages in this conduct, he is aware of a high probability that he is doing so.

PRELIMINARY JURY INSTRUCTION NO. 11

The term "deviate sexual conduct" means an act involving:

1. A sex organ of one person and the mouth or anus of another person; or
2. The penetration of the sex organ or anus of a person by an object.

PRELIMINARY JURY INSTRUCTION NO. 12

The term "minor" means any individual under the age of eighteen (18) years.

PRELIMINARY JURY INSTRUCTION NO. 13.

The term "matter" means:

1. Any book, magazine, newspaper, or other printed or written material;
2. Any picture, drawing, photograph, motion picture, digitized image, or other pictorial representation;
3. Any statue or other figure;
4. Any recording, transcription, or mechanical, chemical, or electrical reproduction; or
5. Any other articles, equipment, machines, or materials.

PRELIMINARY JURY INSTRUCTION NO. 14

A matter or performance is harmful to minors if:

1. It describes or represents, in any form, nudity, sexual conduct, sexual excitement or sado-masochistic abuse;
2. Considered as a whole, it appeals to the prurient interest in sex of minors;
3. It is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable matter for or performance before minors; and
4. Considered as a whole, it lacks serious literary, artistic, political, or scientific value for minors.

PRELIMINARY JURY INSTRUCTION NO. 15

The charges which have been filed is the formal method of bringing the defendant to trial. The filing of a charge or the defendant's arrest is not to be considered by you as any evidence of guilt.

A plea of not guilty has been entered on behalf of the defendant.

PRELIMINARY JURY INSTRUCTION NO. 16

Under the law of this State, a person charged with a crime is presumed to be innocent. To overcome the presumption of innocence, the State must prove the defendant guilty of each essential element of the crime charged, beyond a reasonable doubt.

The defendant is not required to present any evidence to prove his innocence or to prove or explain anything.

PRELIMINARY JURY INSTRUCTION NO. 17

The burden is upon the State to prove beyond a reasonable doubt that the defendant is guilty of the crime(s) charged. It is a strict and heavy burden. The evidence must overcome any reasonable doubt concerning the defendant's guilt. But it does not mean that a defendant's guilt must be proved beyond all possible doubt.

A reasonable doubt is a fair, actual and logical doubt based upon reason and common sense. A reasonable doubt may arise either from the evidence or from a lack of evidence. A reasonable doubt exists when you are not firmly convinced of the defendant's guilt, after you have weighed and considered all the evidence.

A defendant must not be convicted on suspicion or speculation. It is not enough for the State to show that the defendant is probably guilty. On the other hand, there are very few things in this world that we know with absolute certainty. The State does not have to overcome every possible doubt.

The State must prove each element of the crime(s) by evidence that firmly convinces each of you and leaves no reasonable doubt. The proof must be so convincing that you rely and act upon it in this matter of the highest importance.

If you find that there is a reasonable doubt that the defendant is guilty of the crime(s), you must give the defendant the benefit of that doubt and find the defendant not guilty of the crime(s) under consideration.

PRELIMINARY JURY INSTRUCTION NO. 18

You are the exclusive judges of the evidence, which may be either witness testimony or exhibits. In considering the evidence, it is your duty to decide the value you give to the exhibits you receive and the testimony you hear.

In determining the significance of a witness' testimony, some factors you may consider are:

1. The witness' ability and opportunity to observe;
2. the behavior of the witness while testifying;
3. any interest, bias, or prejudice the witness may have;
4. any relationship with people involved in the case;
5. the reasonableness of the testimony considering the other evidence;
6. your knowledge, common sense, and life experiences.

You should not disregard the testimony of any witness without reason and without careful consideration. If you find conflicting testimony, you must determine which of the witnesses you will believe and which of them you will disbelieve. The quantity of evidence or the number of witnesses need not control your determination of the truth. You should give the greatest value to the evidence you find most convincing.

PRELIMINARY JURY INSTRUCTION NO. 19

During the trial, the Court may rule that certain questions may not be answered and/or that certain exhibits may not be allowed into evidence. You must not concern yourselves with the reasons for the rulings. The Court's rulings are strictly controlled by law.

Occasionally, the Court may strike evidence from the record after you have already seen or heard it. You must not consider such evidence in making your decision.

Your verdict should be based only on the evidence admitted and the instructions on the law. Nothing I say or do is intended to recommend what facts or what verdict you should find.

PRELIMINARY JURY INSTRUCTION NO. 20

You must decide the facts from your memory of the testimony and exhibits admitted for your consideration. You may take notes during the trial. However, do not become so involved in note taking that you fail to listen carefully and observe the witnesses as they testify.

PRELIMINARY JURY INSTRUCTION NO. 21

If at any time you realize you know something about the case or know a witness or the defendant, you must inform the bailiff privately at your earliest opportunity.

PRELIMINARY JURY INSTRUCTION NO. 22

The trial of this case will proceed as follows:

First, the attorneys will have an opportunity to make opening statements. These statements are not evidence and should be considered only as a preview of what the attorneys expect the evidence will be.

Following the opening statements, witnesses will be called to testify. They will be placed under oath and questioned by the attorneys. Exhibits may also be received as evidence. If an exhibit is given to you to examine, you should examine it carefully, individually, and without comment.

When the evidence is completed, the attorneys may make final arguments. These final arguments are not evidence. The attorneys are permitted to characterize the evidence, discuss the law and attempt to persuade you to a particular verdict. You may accept or reject those arguments as you see fit.

Finally, just before you begin your deliberations, I will give you further instructions on the law.

PRELIMINARY JURY INSTRUCTION NO. 23

Under the Constitution of Indiana the Jury is given the right to decide both the law and the facts. Jurors may ask questions of witnesses. Questions must be asked before a witness leaves the courtroom. Should any juror have a question for a witness you should put it in writing and deliver it to the Bailiff. The Judge will review the question and determine whether it is an appropriate question. Rules of evidence strictly control the kinds of questions and matters that may be brought before the jury. If the Judge rules your question is not appropriate such ruling should not be considered as any evidence for or against either side in this cause.

IN THE
INDIANA COURT OF APPEALS

Appellate Case No: _____

| | | |
|---------------------------|---|--|
| <u>LAWRENCE E. NUNLEY</u> |) | |
| _____ |) | |
| _____ |) | Appeal from the <u>Harrison Superior</u> |
| _____ /Appellant(s), |) | _____ Court, No. _____ |
| vs. |) | Trial Court Case No: |
| _____ |) | <u>31D01-0805-FA-389</u> |
| <u>STATE OF INDIANA</u> |) | |
| _____ |) | The Honorable _____ |
| _____ /Appellee(s). |) | <u>ROGER D. DAVIS</u> , Judge |

NOTICE OF COMPLETION OF CLERK'S RECORD

Sally Whitis, ~~Clerk~~/Deputy Clerk of Harrison Superior

_____ Court, hereby notifies the parties, pursuant to Appellate Rule 10(C), that the Clerk's Record in this case has been assembled and is complete. As of the date below, the Transcript is (select one):

- _____ (a) Completed and filed with this clerk.
- X (b) Not yet completed.
- _____ (c) Not requested in the Notice of Appeal.

Attached to this Notice of Completion is a certified and updated copy of the Chronological Case Summary.

Sally Whitis
Clerk/Deputy Clerk

March 6, 2009
Date issued

CERTIFICATE OF SERVICE

I certify that on March 6, 2009, I sent by United States Mail, postage pre-paid, a copy of this notice to all parties of record and the original and one copy of this notice, with a certified copy of the Chronological Case Summary attached, to the Clerk of the Indiana Supreme Court, Court of Appeals, and Tax Court for filing.

Sally Whites
Clerk/Deputy Clerk

STATE OF INDIANA
IN THE INDIANA COURT OF APPEALS 8:13

CASE NO. 31A01-0902-CR-088

LAWRENCE E. NUNLEY,
Appellant

VS.

STATE OF INDIANA,
Appellee

) APPEAL FROM THE HARRISON
) SUPERIOR COURT
)
) TRIAL COURT CASE NO.
) 31D01-0805-FA-389
)
) THE HONORABLE ROGER D. DAVIS,
) JUDGE

NOTICE OF FILING OF TRANSCRIPT

Karen Hamilton, Court Reporter of the Harrison Superior Court, hereby notifies the parties, pursuant to Appellate Rule 11(A), that the Transcript in this cause has been prepared and certified, and is complete. This 15th day of May, 2009, the Transcript was filed with the Clerk of the Trial Court in accordance with Appellate Rule[s] [28, 29 and/or 30].

Karen Hamilton
Court Reporter

CERTIFICATE OF SERVICE

I certify that on the 15th day of May, 2009, I sent copies of this document to all parties of record by United States Mail, postage pre-paid or in person.

Karen Hamilton
Court Reporter

VERIFICATION OF ACCURACY OF APPENDIX

I verify under penalties of perjury that the documents in this Appendix are accurate copies of parts of the Record on Appeal.

Respectfully Submitted,



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