

STATE OF WISCONSIN CIRCUIT COURT TAYLOR COUNTY

STATE OF WISCONSIN, SENTENCING

Plaintiff,

vs.

CASE NO: 00-CF-24

ROBERT PETERSON,

00-CM-02

Defendant.

HONORABLE GARY L. CARLSON, JUDGE PRESIDING

APPEARANCES:

MARA JOHNSTON, District Attorney, appeared on behalf of the State of Wisconsin;

WRIGHT LAUFENBERG, Attorney at Law, appeared on behalf of the Defendant, Robert Peterson.

August 25, 2000

Lisa M. Weber, RPR

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PROCEEDINGS

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2 THE COURT: State of Wisconsin,
3 plaintiff, vs. Robert L. Peterson, 00-CF-24,
4 00-CM-2. Appearing is Mara Johnston, district
5 attorney. Also appearing is Mr. Peterson with
6 his attorney, Mr. Wright Laufenberg.

7 MR. LAUFENBERG: Judge, this was the
8 time and place set, the 10:30 time today was set
9 for plea and sentencing for Robert Peterson. As
10 the Court may recall, we were in court about two
11 weeks ago on this matter all set for plea and
12 sentencing. The plea form was done when the
13 victim raised her eye or something of that nature
14 and the entire agreement was therefore modified
15 based upon the request of the victim.

16 Mr. Peterson and I were amenable to that and
17 trying to be as reasonable as possible and agree
18 to that. It was set for today's date for a final
19 hearing based upon the request of the victim.

20 The 9:30 hearing today was set for
21 motions. My client was here. Obviously he just
22 showed up in the courtroom on that one. We are
23 ready to proceed on that. However, the State
24 made a request to reset that motion hearing due
25 to the fact that their officers were unavailable.

1 We said we had no objection due to those reasons.
2 We thought that was reasonable for they were in
3 some other place for a court hearing. We agreed
4 to that and that matter was to be reset.

5 Based upon that, judge, I said, well,
6 I have to get down for a Fond du Lac hearing and
7 I have to leave right away, let's move
8 Mr. Peterson to a 9:30 plea and sentencing. That
9 was all agreed upon and ready to go except the
10 victims could not be notified in a timely manner.
11 Therefore, we cannot proceed at this time. I am
12 making a request that we reset this plea and
13 sentencing based upon those reasons.

14 MS. JOHNSTON: Your Honor, I have to
15 object to that. The victims have been notified
16 for numerous hearings in those cases. They have
17 been frustrated every time we've come into court
18 about it being rescheduled. There will be here
19 at 10:30; and if this proceeding is not going,
20 they will be definitely upset, and I'm very
21 hesitant to agree to have this scheduled for yet
22 another hearing. The state is ready to go. The
23 victims are here in the felony matter but not in
24 the misdemeanor matter and both cases are
25 scheduled for 10:30.

1 THE COURT: You have to be where by
2 when?

3 MR. LAUFENBERG: I have to be down to
4 Fond du Lac County about 1:00 this afternoon,
5 which is about three hours away. I understand
6 the State's position. We agree to their
7 obligation to the victim. We are back here
8 because of their request and the victim's
9 request, so it is not us, judge. They made this
10 last request to adjourn it. We said, sure,
11 whatever we can do to be nice people and help you
12 out; and now we said, let's do it at 9:30. That
13 was fine. It is just a time crunch issue. I
14 know the State can't agreed because they have the
15 victims. I think in fairness and equity and
16 because Mr. Peterson has been here and ready to
17 do it last week and a time crunch, I am asking
18 that it be reset.

19 THE COURT: Can you tell me what you
20 have in Fond du Lac County at 1:00?

21 MR. LAUFENBERG: I have a sentencing.
22 I have to go down and review the file. I have to
23 review a sentencing after revocation for
24 Mr. Allen.

25 THE COURT: Same Mr. Allen we have in

1 Taylor County?

2 MR. LAUFENBERG: Yes, sir.

3 THE COURT: What judge is in Fond du
4 Lac County that you are dealing with?

5 MR. LAUFENBERG: I think it is Judge
6 Weinke.

7 THE COURT: Can you tell me when that
8 proceeding got scheduled vis-a-vis the scheduling
9 of the hearing today. Was that done first?

10 MR. LAUFENBERG: That hearing was
11 actually set for 10:00 this morning; and after
12 about 60 calls probably and letters trying to
13 move that hearing, they agreed to move it until
14 2:00 this afternoon so I could be down there for
15 Mr. Allen.

16 THE COURT: What kind of hearing is it
17 for Mr. Allen?

18 MR. LAUFENBERG: Sentencing after
19 revocation, judge.

20 THE COURT: Can you tell me whether or
21 not they schedule down there in the sense that
22 everything is set at 1:00 and you might get in at
23 4:00 or do you think it is an hour certain?

24 MR. LAUFENBERG: That is an absolute
25 hour certain, judge.

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THE COURT: When they scheduled this, were they aware that you had obligations here at 10:30?

MR. LAUFENBERG: Yes, they were, sir.

THE COURT: And they scheduled it anyway?

MR. LAUFENBERG: It was my request to schedule it. I thought I could get down there, judge. I was a mistake. I didn't know how long it took to get down there.

THE COURT: Two and three quarter hours to the Appleton area. So Fond du Lac is another 20 miles down the road.

MR. LAUFENBERG: I had to move the sun and earth to get it set at two for the last two weeks.

THE COURT: You are going to need a transporter to get there by 1:00 as it is. I'm sorry I do not know your names but I have been told you are the victims in the felony case. Can I have your names?

MS. TERESA RAKOVEK: Rakovek's.

THE COURT: Okay. You've come in in the middle of this and you may not understand what has happened. Mr. Laufenberg has an

1 obligation in another court in Fond du Lac at
2 1:00. He is asking if we can reset
3 Mr. Peterson's sentencing so he can get to Fond
4 du Lac in that case.

5 MR. LAUFENBERG: Judge, the hearing is
6 at 2:00. I need to be down there to meet with
7 the DA. I don't want to mislead the court.

8 THE COURT: I understand. This would
9 be an inconvenience to you. It is an
10 inconvenience to him. It is an inconvenience to
11 his client in Fond du Lac. No matter how it
12 works out, somebody is going to be
13 inconvenienced. Ms. Johnston is objecting. Do
14 you have any comment as to whether or not I
15 should allow Mr. Laufenberg to go to Fond du Lac
16 and do that hearing in that other case. I'm not
17 going to put the burden on you. I want to know
18 if you have any comment. I will make the
19 decision.

20 MS. TERESA RAKOVEK: I think this has
21 gone on plenty long, and I think he knowingly
22 said that they were both set up for today, and I
23 think he should have timed it better. We have
24 come several times.

25 MR. LAUFENBERG: We were set up,

1 ma'am. You changed the last time.

2 MS. JOHNSTON: I don't think he should
3 be arguing with the victim.

4 THE COURT: I don't know if it is who
5 changed the deal but the deal did not work.
6 You've indicated you agreed to the new deal
7 ramifications and you wanted it scheduled for
8 today. Fond du Lac County scheduled you in any
9 event, and apparently it was because you
10 misunderstood the length of time it will take you
11 to get from here to there. This is a no win
12 situation because there is no way anybody is
13 going to be happy here today.

14 If I require Mr. Laufenberg to remain,
15 I'm going to have -- he is going to have problems
16 with Judge Weinke down in Fond du Lac County. I
17 believe the thing in Fond du Lac involves a
18 gentleman from here who also has things pending
19 here if I remember right, which may or may not be
20 dependent on what happens in Fond du Lac County.
21 I suppose I could call Judge Weinke and ask him
22 if he might possibly move it, his hearing back an
23 hour or so so we could do this.

24 MR. LAUFENBERG: I don't think you
25 will get through, judge. They don't answer their

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phone.

THE COURT: We will try. We will go off the record.

MR. LAUFENBERG: I could get on the road, and I could appear by phone with Mr. Peterson.

THE COURT: Do you have any objection to that? Your attorney appearing by conference telephone as he is driving to Fond du Lac as opposed to him sitting here with you right now. It is up to you.

MR. LAUFENBERG: He would rather have me sitting here, judge.

THE COURT: We will go off the record.
(Discussion off the record.)

MR. LAUFENBERG: Judge, we were here and set to go. It was the victim's and the state's request, that is the whole point of the story judge. Now, we are spending 15 minutes, we could have been done with the sentencing by then. We were here and ready to go. It was the victim's input that changed and modified the whole thing. We are asking for a different hearing and finalize this matter.

MS. JOHNSTON: Blaming the victim

1 isn't getting you anywhere, Wright.

2 MR. LAUFENBERG: The whole thing is
3 modified because of that.

4 THE COURT: It doesn't help to blame
5 the victims. The victims have a right to have
6 input if they don't like the way things are going
7 down. They have a right to make the statement.
8 If the two of you change the agreement because of
9 that, I wouldn't blame the victims for that.

10 MR. LAUFENBERG: It is ridiculous that
11 the inherent flexibility of Mr. Peterson to be
12 here and modify and change is not then rewarded
13 in this case when his counsel has to be somewhere
14 else. That is inherently unfair.

15 THE COURT: I am tending to agree with
16 you Mr. Laufenberg, so don't blow it. I would
17 like to hear from Judge Weinke if I can. That is
18 all but then that probably screws up a district
19 attorney and victims over there.

20 (Discussion off the record.)

21 THE COURT: The record should reflect
22 that Judge Weinke has joined us on the conference
23 speaker phone. Judge, I've explained the
24 situation to you about Mr. Laufenberg's problems
25 and the timing for our hearing and your hearing.

1 JUDGE WEINKE: Yes, that's correct.

2 THE COURT: You'd indicated on the
3 phone that you might be able to move his hearing
4 back a bit so we could do ours here.

5 JUDGE WEINKE: That would also be
6 correct. If that helps Mr. Laufenberg.

7 THE COURT: Would that help you,
8 Mr. Laufenberg?

9 MR. LAUFENBERG: Yes, it would, judge.

10 THE COURT: If we conduct our hearing
11 here and we are done by quarter to 11, how much
12 time do you need to get to Fond du Lac and talk
13 to your client then, at least three hours to get
14 there?

15 MR. LAUFENBERG: I have no idea. I
16 have never traveled from here to Fond du Lac.

17 THE COURT: I would imagine if you can
18 get to Fond du Lac by 2:00 to 2:15, you can talk
19 to your client. Judge, would you be able to
20 conduct his hearing sometime after 3:00?

21 JUDGE WEINKE: I think so. That would
22 be fine, judge.

23 THE COURT: Thank you very much,
24 judge. I appreciate your consideration.

25 JUDGE WEINKE: Very good. Thank you,

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Judge Carlson.

MR. LAUFENBERG: Judge Weinke, will you be advising the district attorney's office of that?

JUDGE WEINKE: I will take care of that for you.

MR. LAUFENBERG: Thank you, sir.

THE COURT: We will recess until the victims are here, but we will start at 10:30 whether they are here or not.

(A recess was taken.)

THE COURT: State of Wisconsin plaintiff, vs. Robert L Peterson. Case number 00-CF-24 and 00-CM-2. Appearing in this matter is Mara Johnston, district attorney. Mr. Peterson is here personally with his attorney, Mr. Wright Laufenberg. Also present is Sara Olson by conference telephone. I believe she is a victim in one of the cases. There are also present in court the Rakovek's R-A-K-O-V-E-K.

MS. JOHNSTON: The juvenile and her mother.

THE COURT: They are the victims in the felony case. This is the date and time set

1 by the Court for plea and disposition I believe
2 in this case. Mr. Laufenberg, Ms. Johnston.

3 MS. JOHNSTON: Your Honor, as you
4 noted, the victims have been notified and are
5 present and available in court. I believe that
6 each and every one of them would like to make a
7 statement prior to the Court making the final
8 decision.

9 The agreement that we have reached is
10 as follows: As to case number 00-CM-02, the
11 defendant has agreed to plead no contest to the
12 charge of theft. Our agreed sentencing
13 recommendation is to impose and stay 90 days
14 county jail, a \$200 fine plus costs and
15 restitution. He would be placed on probation for
16 a period of two years with the following
17 conditions: Restitution, \$50 fine plus costs,
18 ten days county jail with work release
19 privileges. Additionally, he would pay
20 restitution in case number 00-CF-24, have no
21 contact with Jerilyn Rakovek R-A-K-O-V-E-K and
22 attend and successfully complete sex offender
23 treatment with Bob Fox as recommended by the
24 probation agent.

25 As to 00-CF-24, the defendant would

1 plead guilty to count one, sexual assault of a
2 child. The State would move to dismiss but read
3 in the remaining charges. After his guilty plea
4 but before the Court finds him guilty, the State
5 moves for a deferred prosecution agreement on
6 this felony charge. He will pay no fine but
7 court costs on the charge as an additional
8 condition of his probation in case number
9 00-CM-2.

10 If he successfully completes his
11 probation in case 00-CM-2 at the end of the
12 two-year period, the State will move to amend the
13 felony charge to a misdemeanor offense of sexual
14 contact with a person who is 16 but not yet 18.
15 If he does not comply with his probation in that
16 other case, the State would move to revoke the
17 deferred prosecution agreement and he would face
18 sentencing upon his guilty plea. The deferred
19 prosecution agreement has been prepared as an
20 order for Your Honor's signature and has been
21 reviewed already by the defense.

22 THE COURT: All right.

23 Mr. Laufenberg, is that your client's and your
24 understanding of the agreement here?

25 MR. LAUFENBERG: Judge, that is our

1 understanding of the proposal. With regard to
2 the restitution in 00-CF-24, Mr. Peterson would,
3 of course, and I will explain that to him in
4 great detail, have the right to request a
5 restitution hearing for any and all restitution
6 that may be claimed.

7 THE COURT: A hearing on it?

8 MR. LAUFENBERG: Yes, sir.

9 THE COURT: Do you have a plea
10 questionnaire form?

11 MR. LAUFENBERG: Yes, I do, judge.

12 THE COURT: Mr. Peterson, do you
13 understand the agreement your attorney and the
14 district attorney put on the record?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Is that what you are
17 intending to do today?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Then in 00-CM-2 charging
20 you with theft, what is your plea?

21 THE DEFENDANT: Guilty.

22 THE COURT: In 00-CF-24, to count one
23 second degree sexual assault of a child, what is
24 your plea?

25 THE DEFENDANT: Guilty.

1 THE COURT: Now, you and your lawyer
2 did this plea questionnaire form. It seems to
3 have been completely filled out. Is this your
4 signature, Robert, on page two?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: When you signed this, had
7 you read it?

8 THE DEFENDANT: Yes.

9 THE COURT: Did you understand what
10 you were reading?

11 THE DEFENDANT: Yes.

12 THE COURT: When you completed the
13 document by filling in the blanks and checking
14 the boxes and signing the document, did you do so
15 in a truthful and honest manner?

16 THE DEFENDANT: Yes.

17 THE COURT: Can I rely, Robert, on the
18 representations you are making to me in this
19 document?

20 THE DEFENDANT: You bet.

21 THE COURT: When a person enters a
22 plea of guilty to criminal charges, there are
23 rights they are giving up. They are listed on
24 the front of the form. Those rights include your
25 right to have a trial in this case, your right to

1 remain silent and not give any evidence against
2 yourself, your right to testify yourself and
3 present evidence at that trial. In fact, the
4 right to have subpoenas or court orders issued
5 directing people to come to court to give
6 testimony on your behalf. You have a right at a
7 trial to have 12 jurors chosen from the community
8 who can be fair and impartial and listen to the
9 evidence and they would decide if you are guilty
10 or not guilty. They would also have to make that
11 decision unanimously, all of them would have to
12 agree.

13 You have a right to confront here in
14 court while under oath the witnesses against you
15 and to question or cross-examine them; and
16 finally, you have the right to make the State
17 prove that you are guilty of these offenses by
18 the burden of proof of beyond a reasonable doubt.
19 If you enter the plea today, you are giving up
20 those constitutional rights. Do you understand
21 that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand and are
24 you, in fact, giving them up of your own free
25 will?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Are any of these rights
3 something that you have any question about or you
4 would like me to explain further to you?

5 THE DEFENDANT: No, sir.

6 THE COURT: Your lawyer has also
7 attached to the document another page called
8 elements of common criminal offenses, and he has
9 checked the box for theft, which is the charge in
10 00-CM-2 to which you are pleading. This sets out
11 the elements, that is, what it is the State would
12 have to prove in order to find you guilty. Do
13 you understand those elements?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Would you like me to
16 explain them in greater detail to you this
17 morning?

18 THE DEFENDANT: No, sir.

19 THE COURT: He has also listed on the
20 front of the form the elements of the offense of
21 second degree sexual assault. That is that you
22 had sexual intercourse with an individual who was
23 not over the age of 16 at that time. Do you
24 understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you have any question
2 about what I mean by the term sexual intercourse?

3 THE DEFENDANT: No, sir.

4 THE COURT: Do you have any question
5 about what I mean that the person was not of a
6 legal age, 16 or over? Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you have any question
9 at all, sir, about what it is you are pleading
10 guilty to here this morning?

11 THE DEFENDANT: No, sir.

12 THE COURT: Are you entering these
13 pleas of your own free will?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Are you satisfied you
16 understand and know what you -- what it is you
17 are doing here today?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, do you understand
20 that even though counsel and you have reached an
21 agreement, those are recommendations and judges
22 are not required to impose what a recommendation
23 is. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: In fact, the judge could

1 impose up to the maximum penalty in a case if the
2 judge chose to do that. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: I believe for the record,
5 the charge of theft is a class A misdemeanor
6 punishable by a fine of \$10,000 and nine months
7 in the county jail, and the charge of second
8 degree sexual assault of a child is a class B/C
9 felony punishable by a fine of \$10,000 and up to
10 20 years in the Wisconsin State Prison System.
11 Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And further, on the
14 felony, this is something that is alleged to have
15 occurred after December 31 of 1999, I believe.

16 MS. JOHNSTON: No, Your Honor, it is
17 not.

18 THE COURT: Okay so it is not.
19 Mr. Peterson, knowing the rights you are giving
20 up, do you still wish to plead guilty to these
21 two counts?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Laufenberg, have you
24 had a sufficient opportunity to thoroughly
25 discuss this case and the plea decision with your

1 client?

2 MR. LAUFENBERG: Yes, sir.

3 THE COURT: Are you satisfied he is
4 entering the pleas this morning freely,
5 voluntarily and intelligently?

6 MR. LAUFENBERG: Yes, sir.

7 THE COURT: Are you satisfied that
8 Mr. Peterson understands the nature of the
9 charge, including the elements of the offense and
10 the effects of the plea?

11 MR. LAUFENBERG: Yes, sir.

12 THE COURT: Robert, have you had
13 enough of an opportunity to thoroughly discuss
14 this case and the plea decision with your
15 attorney?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Are you satisfied by the
18 assistance Mr. Laufenberg has provided to you?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Then I do direct that the
21 clerk enter the pleas in the record and ask the
22 State for the facts she has to support the
23 charge.

24 MS. JOHNSTON: The State relies on
25 each of the criminal complaints.

1 THE COURT: Any objection to that?

2 MR. LAUFENBERG: No, sir.

3 THE COURT: The Court finds that the
4 defendant understands these proceedings and that
5 his plea is a free, voluntary and intelligent
6 one. I'm satisfied that Mr. Peterson does
7 understand the constitutional rights that are
8 waived by the plea and that he is waiving these
9 rights freely and voluntarily. I'm satisfied a
10 factual basis exists for these pleas based on the
11 record, that he has committed the crimes charged
12 to which he is entering a plea.

13 On the misdemeanor, the Court accepts
14 the plea and I find the defendant guilty. Upon
15 that finding of guilty, it is adjudged that the
16 defendant is convicted of the crime of
17 misdemeanor theft in violation of section
18 943.20(1)(a). With respect to the felony charge,
19 the request is for a deferred prosecution
20 agreement, so I will not enter a finding of guilt
21 at this time. With respect to sentencing then,
22 does the district attorney have a comment she
23 wants to make?

24 MS. JOHNSTON: No, Your Honor.

25 THE COURT: Does the defense have a

1 comment it wants to make, Mr. Laufenberg?

2 MR. LAUFENBERG: I would like to
3 reserve my comments until after I hear the
4 victim's speech.

5 THE COURT: Mr. Peterson, anything you
6 want to say or any reason why the Court should
7 not impose sentence against you?

8 THE DEFENDANT: No, sir.

9 THE COURT: Ms. Olson, do you wish to
10 make any statement before the Court sentences
11 Mr. Peterson on the misdemeanor theft?

12 MS. OLSON: Yeah, I would just like
13 Robert to think next time before he does
14 something. It has put me through a lot of stress
15 and anxiety over the whole situation. I think he
16 should think next time before he does something
17 that is against the law. Robert is a full grown
18 man and he should know right from wrong. That is
19 all I have to say.

20 THE COURT: Thank you very much,
21 Ms. Olson. Is it Jerilyn?

22 MS. TERESA RAKOVEK: Gerald is my
23 husband.

24 THE COURT: Your name?

25 MS. TERESA RAKOVEK: Teresa.

1 THE COURT: Any comments you want to
2 make before the Court imposes sentence? That's
3 fine you may do so. You can stay back there. I
4 would only ask that you speak loud enough so the
5 court reporter can hear you.

6 MS. TERESA RAKOVEK: As you can see by
7 now, first of all, Jerilyn is expecting. Things
8 need to be understood. When you look at
9 statistics about what happens to young girls when
10 things like this happen to them, I think Robert
11 should be held accountable. He thought -- Robert
12 came into our home and acted like a nice guy. He
13 walked down to the grandparents. He acted like
14 he was just a nice person until you got to know
15 the real Robert. It's not the same person that
16 he is trying to portray himself as he is here as
17 far as I'm concerned.

18 He told Jerilyn he cared about her.
19 Meanwhile, he got her on drugs, he raped her, he
20 intimidated her, he scared her, he stalked her.
21 He told her that if he ever -- if she ever got
22 another boyfriend, that he would kill both of
23 them is what he had told her. She told me this,
24 I mean, at the time when she knew him before I
25 knew the situation here and made this girl scared

1 to death. She, first of all, would not talk to
2 the detective when he came out because she was so
3 intimidated. She said, mom, he will do
4 something. He will hurt us, and I had to tell
5 her and convince her that we could fight this.
6 It was ridiculous.

7 Jerilyn said that he had shown her a
8 list of 20 to 30 girls that he had had sex with
9 by the age of 17 and a half. Personally, I think
10 Robert has some mental problems and needs some
11 big time counseling to deal with his problems.
12 Next, I don't think that the ten days in jail
13 under the Huber law is enough. I think he should
14 get more out of it. I think what he did to this
15 gal is terrible, and I think it is a problem in
16 today's society that people get away with it.

17 I would like to thank Mara for
18 proceeding with this case because I think way too
19 often this kind of stuff gets left and people
20 just deal with the mess, so I very much thank her
21 for taking it on; and I thank Patty for
22 everything she has done because we have never
23 dealt with the court system before, never in our
24 family life and its been tough. We've never
25 needed them before, so I thank both of them for

1 everything they did.

2 As far as Mr. Laufenberg in trying to
3 blame Jerilyn the first time we were here, I
4 would like to ask him how he sleeps at night
5 because I think he was totally, totally wrong and
6 he can say and do what he wants, but I know what
7 happened and to try to sit there and blame the
8 kid that is 15 against this boy that is 17 and a
9 half is absolutely ridiculous, just ridiculous.
10 I think he also should have to write a letter of
11 apology to Jerilyn and write a letter of apology
12 to us, and I really, really think he needs some
13 ordered counseling.

14 THE COURT: Okay. Thank you.
15 Jerilyn, anything you want to say?

16 MS. JERILYN RAKOVEK: I will let Patty
17 talk for me.

18 THE COURT: All right. Ms. Krueger.

19 MS. KRUEGER: Jerilyn has asked me to
20 relay to the Court the frustration and hurt the
21 criminal justice process has caused her, not only
22 the crime in and of itself that was difficult,
23 having had to sit through these hearings and
24 being attacked by Robert through his attorney has
25 been like being assaulted again. At one hearing

1 the defense attorney claimed that Robert was the
2 victim. Earlier today I was being pressured to
3 proceed to this hearing before it was scheduled.
4 Everything about this process has been focused on
5 Robert and not me.

6 I want a letter of apology not only to
7 me but to my family as well. Robert's actions
8 nearly destroyed my relationship with my entire
9 family. I don't think that ten days in the
10 county jail is enough for what he has done to me.
11 His actions today are further proof of it. As my
12 mom was reading, I watched him smirk, and I
13 wonder if he will ever understand.

14 THE COURT: Thank you. Jerilyn, is
15 that basically what you wanted me to know?

16 MS. JERILYN RAKOVEK: Yes.

17 THE COURT: Mr. Laufenberg, you
18 withheld comment until after you heard from the
19 victims. We have now heard from them. Any
20 argument you want to make about disposition here?

21 MR. LAUFENBERG: Yes, sir, I have
22 absolutely no problem sleeping at night, ma'am.

23 MS. JOHNSTON: Your Honor, I don't
24 think the defense attorney should be addressing
25 the victims.

1 MR. LAUFENBERG: I can address the
2 victims any time I want. She is attacking my
3 credibility

4 THE COURT: I want you to address your
5 comments to me. It is Mr. Peterson that gets
6 sentenced, not them.

7 MR. LAUFENBERG: You have a boy in
8 front of you. He was 17 years old at the time.
9 The girl was 15. Now, so the Court is aware of
10 it, she is obviously pregnant right now and that
11 is not Robert's baby, so she is otherwise
12 pregnant and she is 16 years old. I know parents
13 when they make mistakes in life and the children
14 don't turn out as they will, they need to blame
15 someone else. They need to deflect the blame,
16 let's blame the criminal justice system, let's
17 blame the 17-year-old boy, his attorney. The
18 blame should lie where it starts with.

19 Judge, the discovery reports are that
20 this child was suicidal previously and the cops
21 showed up, and she said she was suicidal because
22 she hates her mother and wants to die. That is
23 directly from the police reports that the officer
24 noted when they came to her house. And why does
25 the defense attack the victim? I am not

1 attacking the victim. I'm stating the
2 uncontroverted facts from the friend of Jerilyn.

3 There is one -- one of the incidents
4 is involving this car and there is four people in
5 the car. Robert is in the back seat with
6 Jerilyn. She proceeds to give him oral sex.
7 There is the people in the front seat. This is a
8 girlfriend of hers and another gentleman and the
9 person in the front seat does the same thing.
10 They speak to the people in the front seat. They
11 speak to the girl and she says -- her name is
12 Tiffany. Tiffany indicated that her recollection
13 of the incident was that Jerilyn and herself were
14 in a vehicle with two male individuals. She
15 indicated Jerilyn made the statement to her
16 whether or not they were going to give the two
17 boys blow jobs for giving them a ride in their
18 vehicle.

19 Tiffany stated at this point she felt
20 she was going to perform this act due to the fact
21 that Jerilyn was also going to do it. Tiffany
22 stated that the reason she had oral sex with the
23 person in the front was that Jerilyn can be
24 somewhat manipulative and she has a way of
25 convincing people with going along with what she

1 wants them to do or become involved.

2 She stated the reason she had was that
3 Jerilyn was going to do that in the back seat.
4 Jerilyn made the statement to her in the vehicle
5 in relation to, if you do it with Darin and I
6 will do it with Robert and that is why she did
7 it. Now, is that attacking the victim? That is
8 not attacking the victim. That is what her
9 friend told the police when they came to the
10 story or when they came to ask her about that.
11 Is that attacking someone? That is not attacking
12 someone. Is the resolution we've reached here
13 that he has plead to a felony and has a felony
14 over his head, is that reasonable? That is
15 terribly reasonable.

16 It is a 15-year-old and 17-year-old;
17 and pursuant to her friend, she is the one that
18 initiated this. Judge, we did file a motion to
19 dismiss the complaint for selective prosecution.
20 He was a boy. He was under the age of 18. A
21 crime could have been charged against her for
22 what she did. The Court decided -- the DA
23 decided not to prosecute that. The Court decided
24 not to countenance that motion. You have a young
25 boy here. Girls mature faster than boys. I

1 guarantee the maturity of the child is more than
2 the maturity level of Robert Peterson next to me,
3 Judge.

4 The counseling from Bob Fox for sexual
5 offender, which is not on point, he will do it
6 and make sure he does a good job at it. He will
7 continue with his job. He will continue to be a
8 good person. He will continue to stay out of
9 trouble, but is he some mad rapist lurking in the
10 woods to assault people as they willey nilley
11 come down the road, that is not the case here,
12 Judge. I say to you that the deal that is
13 reached is reasonable if not more stiff than
14 necessary. There is not really given this
15 factual pattern and given the initiative actions
16 of the victim, there is no reason for more than
17 what is being proposed to the Court. This is
18 extremely reasonable; and if they say that is
19 attacking a victim, reading the police report,
20 the discovery from the district attorney's office
21 from the cops talking to the people, if that's
22 attacking a victim, well, I'm sorry then I am
23 going to state the facts to the Court, and I
24 would ask the Court to adopt this is more than
25 reasonable. This is more than fair, and we

1 certainly are going to reserve the right to
2 challenge any restitution figure that comes out
3 as a result of this.

4 THE COURT: Ms. Johnston, do you have
5 any rebuttal?

6 MS. JOHNSTON: No.

7 THE COURT: As to the sentencing here
8 today, the recommendation is that the Court, in
9 fact, sentence Robert on the misdemeanor theft
10 charge but defer the prosecution on the felony
11 sexual assault charge. The theory is that if
12 Robert can follow through on the deferred
13 prosecution agreement on the probation, make the
14 restitution, do the counseling and basically
15 prove that he is capable of conforming his
16 conduct with the law, then the Court, pursuant to
17 the deferred prosecution agreement, would enter a
18 sentence on a misdemeanor charge. If he doesn't
19 and he messes it up, the deferred prosecution
20 agreement would be revoked and he would be back
21 in here and he would then be sentenced on the
22 felony sexual assault.

23 So I want to make the victims clear
24 that if I go along with this agreement, the
25 sentence that is actually being imposed today is

1 on the theft and I'm holding open what I am going
2 to do on the felony sexual assault charge to see
3 if Robert can toe the line. And if he can't,
4 then he is going to be back in front of me and he
5 has a 20-year maximum sentence facing him. I
6 think it is 20 years. If he can toe the line, if
7 in fact he is the boy that Mr. Laufenberg claims
8 he is, then the Court would sentence on a lesser
9 charge.

10 Now, I've heard Jerilyn and her mother
11 indicate that they don't believe ten days in the
12 county jail is enough, and it is not enough on a
13 sexual assault charge. I absolutely agree with
14 you. It is enough in this case on the theft
15 charge. So I want you to understand if I go
16 along with this, that I agree with you that ten
17 days would not be enough for what Robert did to
18 Jerilyn. And if it comes time to tell him that,
19 I can take that into consideration. But I think
20 it is important that you understand what I have
21 to deal with today and I realize the Rakovek's,
22 as she said, have not been in court before. They
23 don't understand the system.

24 I want you to understand this part of
25 the system. There is two cases here,

1 misdemeanor, felony sexual assault. But what I'm
2 really sentencing today is on the misdemeanor.
3 I'm holding that sexual assault over Robert's
4 head; and if it comes time that he proves he
5 can't follow through, as I think the Rakovek's
6 are saying -- I don't think they have a lot of
7 faith in Robert -- he will be back in front of me
8 and he will find out what I think a second degree
9 sexual assault is worth.

10 The plan that the attorneys have put
11 before me, in my opinion, gives me the
12 opportunity to sort of have my cake and eat it
13 too. Because on the misdemeanor, I can sentence
14 him. I can put him on probation. I can make him
15 pay restitution and make him do all of the
16 counseling that everybody thinks Robert needs;
17 and I can hold a sword over his head and say,
18 Robert, you are on an incredibly short leash.
19 You jerk that leash even once, it's probably
20 going to be taken away and you are going to be
21 sitting in jail and probably prison for a long
22 time, so that's what I mean by having the ability
23 to have my cake and eat it too because I can do
24 what I want to do; but I also have the
25 opportunity to hold a very long period of

1 incarceration over Robert's head to make sure he
2 does what I want him to do.

3 I've taken a little additional time to
4 explain this because I wanted Jerilyn and her
5 mother to understand that I agree with them.
6 What happened is not worth ten days. It just
7 isn't. Two of Mr. Laufenberg's arguments that
8 Jerilyn may have initiated this, the bottom line
9 is that it doesn't make one bit of difference and
10 it doesn't make one bit of difference because of
11 her age and his age. Yes, under the law as it
12 exists now, he was under the age of 18.
13 Therefore, he too is a person who cannot have
14 sexual contact or intercourse.

15 However, under the criminal law, he is
16 17; and as a 17-year-old, he is deemed to
17 understand that he has responsibilities and those
18 responsibilities are those of an adult; and those
19 responsibilities are as an adult, not to either
20 take advantage of juveniles, that's it, not to
21 take advantage. He is supposed to know better.
22 Does he know better? Maybe he is the immature
23 gentleman that Mr. Laufenberg says he is. Maybe
24 he is a boy. Maybe he needs to grow up, but
25 under the law when you reach that 17th threshold,

1 that year of your life, you are deemed to know
2 the law and deemed to accept the responsibilities
3 not to break it and not to break it by taking
4 advantage of a young girl, not to break it by
5 taking advantage of the people who help you out
6 and do things for you, not to steal from people.

7 As Ms. Olson says, you are an adult.
8 You know better. You knew what you were doing
9 was wrong but you did it any way. That is what
10 the problem is. Because this agreement gives me
11 the opportunity to have it both ways here, I will
12 agree to it. I would probably not have agreed to
13 the deferred prosecution agreement alone, but
14 because of the misdemeanor which allows me to use
15 the offices of the Department of Corrections
16 Probation and Parole to engage in additional
17 monitoring and the ability to order additional
18 factors, including restitution and counseling, I
19 will go along with the agreement.

20 I will tell you now, Robert, you are
21 on a short leash. You do mess it up, you're in
22 serious trouble. This is a huge thing for a
23 person of your age to be possibly facing in terms
24 of prison time and you've got to trust me,
25 Robert, no matter what your attorney said, even

1 if it is true, you still knew better. You can't
2 do that.

3 When a judge imposes a sentence, I
4 have to think about a lot of different things and
5 one of the things I have to think about is how
6 other people your age might respond similarly to
7 these situations; and I have to make an example
8 of you sometimes and say to you because of what
9 you did, I want to do something to make sure
10 others understand that they can't do that. When
11 there are other Jerilyn's out there, I want 17
12 and a half year old boys to know they are facing
13 an extremely serious penalty if they do that.

14 So I will approve and I impose as the
15 sentence in the misdemeanor case that which was
16 recommended by counsel. I will direct that the
17 restitution be calculated and a report filed by
18 probation and parole within 45 days; and if
19 Mr. Peterson wishes to have a hearing on that, we
20 will schedule it appropriately. I direct the
21 clerk of court to prepare a judgment of
22 conviction in accordance with this agreement.

23 There are fines and restitution that
24 will have to be paid. I direct that the fine be
25 paid within the first 90 days of the probation.

1 The restitution shall be paid on a schedule
2 adopted by the Department of Corrections. On the
3 felony charge, I'm going to approve the deferred
4 prosecution agreement and order in this case, and
5 I will at this time sign the same and order the
6 parties to comply with it. I hope, Mr. Peterson,
7 we do not have to come back again to this court
8 for a sentencing on the felony. I don't want the
9 Rakovek's, and I'm sure I'm messing your name up,
10 I don't want to put them through this again, but
11 I think you are now in a situation where it is
12 your decision to make which way we go.

13 You know, people have crossroads in
14 life. This is a major cross road for you. You
15 are going to make a decision to toe the line
16 straight and narrow, not violate the law. Do
17 what you've got to do and make decisions that are
18 appropriate as an adult in which case this will
19 be something that you will be able to get over
20 and move on in your life and Jerilyn can move on
21 in her life. Ms. Olson can move on in her life.

22 On the other hand, you make the wrong
23 turn today, you will be committing a major
24 mistake that is going to drastically change the
25 rest of your life. You've gone through the plea

1 questionnaire and the appeal rights with your
2 client. I assume that has been resolved. Jail
3 will commence within 20 days at the discretion of
4 probation and parole. Jerilyn and Teresa, do you
5 have any comments? Ms. Olson?

6 MS. OLSON: No.

7 THE COURT: All right. Then at this
8 time, we will be disconnecting and we are
9 completed with the proceeding.

10 MS. TERESA RAKOVEK: You asked if I
11 had any other comments. Just a quick one here.
12 Tiffany was not Jerilyn's friend. They make it
13 out that way. She was not. It was their friend.

14 THE COURT: Okay. Thank you very
15 much. Court's in recess.

16 (The record was concluded at this
17 point)

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