

1 REPORTER'S NOTE: On-the-record Side Bar dis-
2 cussion held as follows:

3 MR. NESS: Elizabeth Ettinger was the landlady of
4 Larry Hake during the months between January 12, 1982 and
5 somewhere around February 18, 1982. Larry Hake lived in a
6 summer house on the farm where Elizabeth lived and rented
7 this summer house. Elizabeth talked to Jo Ellen Bailey af-
8 ter the first beating incident, and she will testify as to
9 certain statements Jo Ellen made regarding this first in-
10 cident.

11 MR. SMITH: What will the statements be?

12 MR. NESS: Something to the effect that the child
13 had to be disciplined twice for wetting the bed. Subse-
14 quently -- they were friends -- subsequently, Jo Ellen
15 Bailey came down and stayed for a number of days with the
16 child, I think about four days, between January 12th and
17 February 18th, in the summer house, with the child, with
18 Hake.

19 Jo Ellen Bailey told Elizabeth Ettinger that if
20 the authorities would ever contact her to lie and say that
21 she had come down to visit the witness and had no contact
22 with Hake.

23 She also took Jo Ellen Bailey up to the mobile
24 home, or accompanied her to the Defendant's mobile home,
25 when the child's father --

1 THE COURT: She took the Defendant to the De-
2 fendant's home?

3 MR. NESS: I think the Defendant was down at the
4 farm with Hake. She took the Defendant back to her mobile
5 home when the father's child was scheduled to come to York.
6 The father was there with the child, and was kind and affec-
7 tionate to the child -- that's Cameron Bailey -- and wanted
8 the child to ride along with him to go to the airport when
9 he was leaving to go back to his Military base. Now, Mr.
10 Smith, in his argument, referred to the fact that the father
11 was terrible to the child.

12 MR. SMITH: I didn't say terrible --

13 MR. NESS: In any event, Jo Ellen Bailey, in the
14 presence of Elizabeth Ettinger, told the father that if Hake
15 was there, Hake would kill the father, imparting certain
16 direction or control was a threat to the effect that, "Hake
17 will kill you. All I have to do is tell him what to do."
18 Something to that effect. The child started crying at that
19 point, and the witness told Jo Ellen she should not talk in
20 that fashion in front of the child.

21 THE COURT: Is that it?

22 MR. NESS: Yeah.

23 THE COURT: All right.

24 REPORTER'S NOTE: End of Side Bar discussion.

25 DIRECT EXAMINATION

1 BY MR. NESS:

2 Q Would you state your name and address?

3 A Elizabeth Ettinger, 730 East Chestnut Street in
4 York.

5 Q York, Pennsylvania?

6 A Yes.

7 Q During the months of January and February of 1982,
8 where did you reside?

9 A R. D. #1, Spring Grove.

10 Q What type of residence was that?

11 A A farm.

12 Q You lived on a farm?

13 A Yes.

14 Q In the farmhouse?

15 A I lived in the big farmhouse.

16 Q Incidentally, do you have a criminal record?

17 A No.

18 Q Did this farm have any outbuildings on it?

19 A A summer house, a barn, and another building.

20 Q During the months of January and February of
21 1982, did you see the Defendant?

22 A Yes.

23 Q Did you see her frequently or casually?

24 A Quite often.

25 Q Do you know Larry Hake, the Defendant's boyfriend

1 at that time?

2 A Yes.

3 Q Did he come down to the farm?

4 A He lived in the summer house.

5 Q When did he take up residence in the summer house,
6 approximately?

7 A Sometime before Christmas.

8 Q Sometime before Christmas. Did he stay there all
9 the time or did he leave for any period of time?

10 A No, he didn't stay there all the time. After he
11 met Jo Ellen, he used to stay up at her place.

12 Q Did you see them together down at the farm some-
13 time before Christmas?

14 A Yes.

15 Q Were they boyfriend and girlfriend at that time?

16 A Yes.

17 Q Did you see the child?

18 A Yes, she was usually always with her.

19 Q Now, did the Defendant discuss with you an in-
20 cident of abuse to the child that took place in January of
21 1982?

22 MR. SMITH: Mr. Ness, why don't you lead this
23 girl a little more?

24 MR. NESS: Did I hear an objection?

25 MR. SMITH: Yes, I object to the leading of the

1 question.

2 THE COURT: All right. We will sustain the ob-
3 jection.

4 BY MR. NESS:

5 Q Did you ever know whether this child had been
6 subjected to any physical abuse?

7 A Yes, in January.

8 Q In January. How did you know that?

9 A I saw the marks on her.

10 Q Where were the marks?

11 A On her buttocks, and on the lower part of her
12 back, and a little bit on her legs.

13 Q How did it happen that you saw the marks on this
14 child?

15 A She showed them to me.

16 Q Who?

17 A Jo Ellen showed them to me.

18 Q When she showed you these marks, did she make any
19 comment as to how they occurred?

20 A She said about the spanking that Larry spanked
21 her, but she didn't believe he did all of it. She thought
22 her sister did some of it to make him look bad.

23 Q That's what she told you?

24 A Yes.

25 Q Did she talk about disciplining the child?

1 A I guess she didn't discipline her much; he did it
2 when he was there.

3 Q Did she say why the child was disciplined?

4 A Because she wet the bed.

5 Q Now, after that incident, did you see her? After
6 you saw the marks on the child?

7 A After I saw the marks on her?

8 Q Yes.

9 A I saw her to take her to her house one time.

10 Q Did she stay down on the farm on occasion?

11 A She stayed there after the child was beaten the
12 first time in January. She came there to the farmhouse and
13 had Aleta with her, and she said that Larry wasn't supposed
14 to be around her.

15 Q She told you that?

16 A Yes.

17 Q Did she say why?

18 A She said he couldn't be around her because he had
19 beat her, but she said -- well, she didn't say she was go-
20 ing to stay there, but she said if anybody asked me, that
21 she was there visiting me not him.

22 Q She told you what?

23 A That she was there visiting me and not him.

24 Q If anyone would ask you --

25 A Yes.

1 Q -- to say what, that she was there visiting you?

2 A Yes.

3 Q Did she stay there?

4 A For four days.

5 Q Where?

6 A She stayed in the summer house with him and
7 another man rented the summer house.

8 Q Where was the child?

9 A She was there with them.

10 Q Is this before or after she told you Hake was not
11 supposed to be around this child?

12 A After he wasn't supposed to be around her.

13 Q After this occasion, did you ever go up to York,
14 Dover Township, with Mrs. Bailey?

15 A I took her up to her trailer one day.

16 Q Do you know about when this was?

17 A It was when Cameron was home on leave. He was
18 supposed to be going back to the Service.

19 Q Was it after the first beating?

20 A I'm not even sure of that, but I know I took her
21 up there, and there was no one home and she didn't have a
22 key to get in so we waited at the neighbor's house until he
23 got there.

24 Q What happened then?

25 A Then Cameron and Aleta came, and there were some

1 other people in the car too, but I don't know who they were.
2 I didn't even know Cameron except to see him when he came
3 in. He just walked by us and went in and started getting
4 clothes and things and taking them out. Jo Ellen said, in
5 front of me and Aleta, that if Larry was here, he would kill
6 him.

7 Q She said if Larry, meaning who?

8 A Larry Hake, if he was there he would kill Cameron,
9 and Aleta started crying.

10 Q Did she say this in a frightful fashion or an
11 aggressive or matter of fact fashion?

12 A If I was a little kid, it would have scared me
13 if it was my father.

14 Q I'm talking about to Cameron.

15 A Oh, she didn't say it to Cameron.

16 Q Who did she say it to?

17 A She said it in front of Aleta, to Aleta, and I
18 heard her say it to Aleta.

19 Q She said to her child that if Larry were there,
20 he would kill the child's father?

21 A Yes, and I told her, "You don't talk like that
22 to a little girl."

23 MR. NESS: Cross-examine.

24 CROSS-EXAMINATION

25 BY MR. SMITH:

1 Q Is it Miss or Mrs.?

2 A It's Miss.

3 Q You are a friend of Larry Hake?

4 A I was never a friend of Larry Hake's, not really.
5 I knew him.

6 Q Well, Dennis Best is a friend of Larry Hake's?

7 A Yes, he worked with Larry Hake.

8 Q He is a friend, is he not?

9 A No, he's not.

10 Q He's not a friend?

11 A No. They worked together.

12 Q Did Jo Ellen tell you that if anybody called you,
13 you should say to them that she wasn't there? Is that what
14 you are telling us?

15 A No. She said to say that she was visiting me.

16 Q Didn't she say if anybody called you?

17 A If anybody asked me, that she was there visiting
18 me.

19 Q I see. Well, how far do you live?

20 A What do you mean how far?

21 Q From center town, from York City?

22 A It might be 12 miles -- 13.

23 Q Was it pretty far out?

24 A Twelve mile out isn't remote.

25 Q Is it farmland?

1 A Yeah, it was a little farm.

2 Q You had an unlisted number, I think?

3 A Yes.

4 Q And did Mr. Hake have any phone in his facility
5 there that he lived in?

6 A No, he didn't.

7 Q Certainly, nobody could call you and ask you, be-
8 cause nobody had your number, and Mr. Hake didn't have a
9 phone, did he?

10 A I don't know if anybody could call me or not.
11 Some people can get your number. I've had calls from people
12 who got my number and shouldn't have had it.

13 Q All right. I have no further questions.

14 REDIRECT EXAMINATION

15 BY MR. NESS:

16 Q Did she say if anyone called or if anyone asked?

17 A She just said if anybody asked; she didn't say
18 called. She said, "If anybody asks, I am here visiting
19 you."

20 Q Was she upset when she showed you the bruises on
21 the child?

22 A No.

23 Q That's all.

24 THE COURT: You may step down.

25 Any objection if this witness is excused?