

1 we could even say bad words over there." (Pg. 5)

2 Anthony: "And so what did somebody tell T.R. to take her clothes off, or did she just take
3 them off?"

4 H.T.: "He said we could take our clothes off if we wanted to." (Pg. 5)

5 Anthony: "Okay did he tell anyone to take their clothes off, or just said that you could take
6 them off if you wanted to?"

7 H.T.: "He said he didn't care." (Pg. 5)

8 Anthony: "So where did this happen. Like what part of the house?"

9 H.T.: "The living room." (Pg. 6)

10 Anthony: "So who was the first person to take off their clothes?"

11 H.T.: "T.R.." (Pg. 6)

12 Anthony: "T.R.. Did she take her clothes off in the living room, or in a different room?"

13 H.T.: "In her bedroom." (Pg. 6)

14 Anthony: "In her bedroom, okay. Were you and everybody else back in the bedroom
15 when she did that?"

16 H.T.: "I think. It was a long time ago when it was in...(inaudible)." (Pg. 6)

17 Anthony: "Okay. So, uh, do you think that you guys might have all been back there in her
18 room?"

19 H.T.: "Um-hum. I think so." (Pg. 6)

20 Anthony: "So he told you guys that if you wanted to, that you could take your clothes off?"

21 H.T.: "Yeah." (Pg. 6)

22 Anthony: "Okay and when they were sitting there were their legs together or were their
23 legs apart?"

24 H.T.: "I think – I'm not sure...(inaudible)."

25 Anthony: Okay.

26 H.T.: "And they tried to – uh, L.D. and T.R. tried to force me to take my clothes off.

27

28 Anthony: "How did you feel about that?"

1 H.T.: "I didn't want to."

2 **TWENTIETH MISSTATEMENT OF EVIDENCE**

3 **Alleged Victim/Witness: H.T.**

4 **Page 21 (See Exhibit L), (Lines 6 - 20)**

5 Ms. Kaelble: "Did she say whether the suspect had touched her?"

6 Det. Watson : "I believe so. I'm not sure. I'd have to refer back to the reports."

7 Ms. Kaelble: "If it would refresh your recollection."

8 The Court: "Would it refresh your recollection?"

9 Det. Watson: "Yeah. Yes. The suspect had also asked her to sit up on his lap as
10 she was partially clothed and rubbed between her legs area."

11 **FACTS:** Misstatement of the evidence. Whatever report Detective Watson used to
12 refresh his recollection could not have been this witness's statement. He
13 misstates the statement by indicating this witness was touched.

14 Listed below are excerpts from the alleged victim's recorded statement: **(See Exhibit H)**

15 Anthony: "Okay so and that he was doing that to the people who had their clothes on?"

16 H.T.: "And my sister. I don't think he did it to me." (Pg. 7)

17
18 32. After reviewing Detective Watson's testimony, it is my opinion he embellished and
19 made knowingly false statements for the purpose of validating an arrest which lacked probable
20 cause. The elements that establish Lewd Conduct were not present at the completion of the
21 witness interviews. None of the statements provided showed any consistency. Further, the
22 contradictory versions of events surrounding the birthday party night lacked any basis to
23 conclude that "touching" was done for the purpose of sexual gratification. None of three
24 witness statements related any pattern of touching that would meet the criteria under Penal
25 Code Section 11164.5 which states in relevant part"...(4) The intentional touching of the
26 genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks)
27 or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual
28 arousal or gratification, except that, it does not include acts which may reasonably be
construed to be normal caretaker responsibilities; interactions with, or demonstrations of
affection for, the child; or acts performed for a valid medical purpose..."

1 33. Detective Watson's embellishments and false testimony included inferences that were
2 not in evidence that the elements of Penal Code Section 11164.5 were met. When in fact,
3 the evidence is that two of the three witnesses/victims denied any touching and the one
4 witness/victim that mentions touching is ambiguous about where the touching occurred. If
5 Detective Watson would have testified accurately it is likely the Court would have found that
6 the element under Penal Code 11164.5 were applicable only to the extent that the Defendant
7 was acting as a normal caretaker and was showing mere demonstrations of affection. Any
8 reasonable and astute investigator would question whether a suspect would actually engage
9 in any pattern of molestation with five different witnesses present. Further, the victims in this
10 matter are all of sufficient age to understand the difference of normal affection and
11 inappropriate touching. Not one victim reported to their parent or guardian any sort of
12 discomfort of inappropriateness following the birthday party sleep-over. The facts in evidence
13 indicate five five to nine year old girls were having a sleep-over and engaged in horseplay that
14 at some point included the Defendant. It is an unreasonable leap to conclude that any father
15 or stepfather whose nine-year-old daughter runs out from the bath or shower naked and jumps
16 in his lap and he rubs, pats or tickles her stomach, buttocks, or legs is a child molester. I also
17 question the veracity of the victim who alleges repeated sexual assaults, but entices and
18 persuades one or more of the friends to get naked and climb onto the perpetrator lap. Further,
19 the recorded statement of Tara Mullen leads me to suspect the victim has learned this
20 behavior from Baldemar Sanchez (Papa). To memorialize Ms. Mullen's statement, "My
21 daughter told me she and T.R. jumped on the bed naked at Papa's house."

22 SUMMARY AND CONCLUSION

23 34. It is my opinion this case followed the wrong path at its inception. The allegations
24 were brought forth by the non-custodial father and stepmother following their summertime
25 visitation. An experienced investigator recognizes ulterior motives for false allegations when
26 any custody issue exists. It is the duty of an investigator to seek exculpatory evidence
27 especially in a case involving minors. To overlook or conceal exculpatory evidence in a case
28 such as this is egregious. The investigation to establish probable cause to arrest the
Defendant lacked credibility, veracity and professionalism. Several investigation steps were
not pursued. Among those are 1) A search of Defendant's residence to seek biological
evidence. This evidence could have included bedding, the victim's underwear, and evidence
of a photographic nature. 2) Photographing the interior of the residence to prove or disprove

1 the witness statements.

2 35. I would normally extend the benefit of the doubt to any Law Enforcement Officials.
3 However, after obtaining the recorded statement of Ms. Christina Schoenauer, I telephoned
4 Detective Watson. I identified myself and advised him the purpose of my call was to report
5 relevant information that related directly the possibility of Sanchez continuing to endanger
6 children. I explained that notwithstanding The Defendant Black matter, the information I
7 possessed caused reasonable suspicion that any children in the company of Baldemar
8 Sanchez are in danger. His response was, "What does this have to do with this case?" I
9 explained that the victim had previously alleged molestation at the hands of Sanchez. I
10 informed him Sanchez had continuing contact with the victim and other prepubescent girls.
11 I explained that it was my opinion that I was in possession of a tape-recorded session that may
12 be considered criminal evidence. I simply requested that he meet with me for the purpose of
13 delivering this tape to him and reporting the possible endangerment to children pursuant to
14 Penal Code Section 11165.9 which states:

15 Reports of suspected child abuse or neglect shall be made by mandated reporters to any police
16 department or sheriff's department, not including a school district police or security department,
17 county probation department, if designated by the county to receive mandated reports, or the
18 county welfare department. **Any of those agencies shall accept a report of suspected child
19 abuse or neglect whether offered by a mandated reporter or another person,** or referred by
20 another agency, even if the agency to whom the report is being made lacks subject matter or
21 geographical jurisdiction to investigate the reported case, unless the agency can immediately
22 electronically transfer the call to an agency with proper jurisdiction. When an agency takes a
23 report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction,
24 the agency shall immediately refer the case by telephone, fax, or electronic transmission to an
25 agency with proper jurisdiction.

26 36. Detective Watson refused to meet with me or review the tape. The tape was ultimately
27 turned over to the District Attorney's office. To date, notwithstanding the notification of my
28 suspicions, I don't believe the District Attorney's office or the Tulare Police Department has
29 notified Child Protective Services or the Welfare Agencies as required by law. I can only
30 conclude the District Attorney and Detective Watson are more interested in validating an arrest
31 that lacked probable cause than they are protecting the children of Tulare.

32 **I DECLARE UNDER PENALTY OF PERJURY THE ABOVE IS TRUE AND CORRECT TO**

1 THE BEST OF MY KNOWLEDGE AND BELIEF. EXECUTED THIS 4th DAY OF JUNE,
2 2002, IN THE CITY OF IRVINE, CALIFORNIA.

3 GERALD R. THOMPSON

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6 DECLARANT

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