

1 ligent person, did he?

2 A As far as his I.Q., I wouldn't know.

3 Q I understand that. I don't know it either, but
4 he seemed like kind of a submissive kind of a dull person?

5 A I hate to make a judgment on a person just by
6 looks without really knowing him.

7 Q That's all I have.

8 MR. SMITH: You may step down.

9 BEVERLY MACKERETH CALLED AND SWORN

10 DIRECT EXAMINATION

11 BY MR. SMITH:

12 Q Your full name please?

13 A Beverly Mackereth.

14 Q And by whom are you employed, Ma'am?

15 A York County Children and Youth Services.

16 Q How long have you been employed in that capacity?

17 A Over two years.

18 Q In that capacity, did you, on January 12, 1982,

19 come to the home of Jo Ellen Bailey?

20 A Yes, I did.

21 Q And who was with you at that time?

22 A Detective Garber.

23 Q That's the gentleman seated here?

24 A Yes.

25 Q And, at that time did you see Mrs. Bailey?

1 A Yes, I did.

2 Q Who else was in the home?

3 A Larry Hake was there, Aleta was there, and another
4 man whom I don't know.

5 Q Now, did you explain to Mrs. Bailey your reasons
6 for being there?

7 A Yes, I did.

8 Q And, as a result of that, did you and she look at
9 the child?

10 A Yes.

11 Q Did you find something on the child that proved
12 offensive?

13 A She had bruises on her rear end, lower back, and
14 her thighs.

15 Q Now, did you arrange to take Aleta Bailey to the
16 hospital?

17 A Yes. I asked Mrs. Bailey to accompany me.

18 Q Did she do that?

19 A Yes, she did.

20 Q And the child, of course, was examined at the
21 hospital?

22 A Yes.

23 Q Now, as a result of that examination, was there
24 any arrangement made between Children's Services, Jo Ellen
25 Bailey, and Mr. Hake with regard to any rule or regulation

1 to keep Mr. Hake from being with the child at any time
2 alone?

3 A Yes.

4 Q Was there any prohibition or any objection to Mr.
5 Hake being in the presence of Jo Ellen Bailey?

6 A No.

7 Q Was there any prohibition or objection to Mr.
8 Hake being in the presence of Jo Ellen Bailey and the child
9 as long as Jo Ellen Bailey was there?

10 A No, and it wasn't overnight.

11 Q Now, did Mr. Hake indicate that he understood
12 this?

13 A Yes.

14 Q And was he in agreement with that?

15 A Yes.

16 Q Was there some discussion between you and Mr.
17 Hake and Mrs. Bailey with regard to some sort of educational
18 training for Mr. Hake concerning how to better handle the
19 child?

20 A And for Mrs. Bailey, yes.

21 Q And was there an arrangement made for them to
22 come see you sometime after January 12th?

23 A They came the next morning.

24 Q They told you they were going to come and, of
25 course, they both did come?

1 A Yes.

2 Q How often did they come, and what happened to the
3 training they were supposed to receive?

4 A They came to the office the following day, and we
5 talked then. I visited the trailer two times after that,
6 and then the case was transferred to Protective Services
7 who was going to follow up on the parenting skills.

8 Q Now, after this January 12, 1982 incident, did
9 you continue seeing Mrs. Bailey from that point on?

10 A I saw her, after January 12th, three times.

11 Q Tell us on what dates they were, if you can.

12 A January 13th in the office; that was Mrs. Bailey
13 and Mr. Hake, not Aleta. January 19th, Mrs. Bailey and
14 Aleta, and then on February 4th, Mrs. Bailey and Aleta, and
15 then the case was transferred to another worker.

16 Q Now, did you ever ask Aleta when you visited her
17 on January 12th, which was the first day, whether Mr. Hake --

18 MR. NESS: Your Honor, this I believe is hear-
19 say. It's not a dying declaration or admission against in-
20 terest.

21 THE COURT: The question he is framing isn't, but
22 I don't see the relevance of it. She would know whether she
23 asked her a question but what is the relevance of the answer
24 you are going to receive?

25 BY MR. SMITH:

1 Q Did you make any inquiries of Aleta as to whether
2 she had ever been mistreated before January 12th or January
3 10th?

4 A Yes.

5 Q How many times did she indicate she had been mis-
6 treated by Mr. Hake?

7 A She said it was one time.

8 Q When you saw Jo Ellen and Aleta on the 13th of
9 January, the 19th of January, and the 4th of February, was
10 there any evidence or any indication that Aleta had been
11 abused by anyone on those occasions?

12 A No.

13 Q Did the child seem cheerful?

14 A Yes.

15 Q Did she seem happy?

16 A Yes.

17 Q Now, the February 4th visit at the home of Jo Ellen
18 Bailey, was that the unannounced visit?

19 A Yes.

20 Q So, nobody knew you were coming.

21 A Right.

22 Q Was Mr. Hake there at that time?

23 A No.

24 Q Did you feel that Mrs. Bailey was cooperating
25 properly with you with regard to Aleta?

1 A Yes.

2 Q Did you feel that Mrs. Bailey was in any way a
3 participant in the abuse that had been seen of Aleta on
4 January 12th when you were in the home?

5 MR. NESS: I'm going to object as to what she
6 feels.

7 THE COURT: Objection sustained.

8 BY MR. SMITH:

9 Q Did you have any indication to believe that Mrs.
10 Bailey was a participant in the abuse you saw on January
11 12th?

12 A I can't say for sure. I saw that there were
13 problems.

14 Q Now, you say after February 4th you were no
15 longer with the case?

16 A I'm sorry, could you repeat that?

17 Q After February 4th, you were no longer with the
18 case?

19 A Yes, it was transferred.

20 Q To whom?

21 A To Tanya Kuhn, the Protective Service caseworker.

22 MR. SMITH: I think that's all I have of this
23 witness at this time.

24 CROSS-EXAMINATION

25 BY MR. NESS:

1 Q Mrs. Mackereth, you are presently on leave from
2 Children's Services, maternity leave?

3 A Yes, I am.

4 Q You had a baby a little while ago?

5 A Yes.

6 Q When you first went to the home on the 12th of
7 January, you had not been summoned by the mother, had you?

8 A No, I hadn't.

9 Q There was a complaint about the mother that some-
10 one had phoned in or called in and you went out there?

11 A Yes.

12 Q The mother was not interested in having you come
13 out, was she?

14 A No.

15 MR. SMITH: Objection -- I don't think she knows.

16 THE COURT: Only if she has a basis for making
17 this statement, of course, may she state that opinion.

18 BY MR. NESS:

19 Q When you got to the residence, it's true, isn't
20 it that the mother didn't invite you in and say, "My child
21 is injured, I'd like your help"?

22 A No. She did invite me in, however, she was very
23 resistant to my being there.

24 Q Did she indicate to you she had called a physician
25 for the child? I think she said her family physician was

1 Dr. Grove.

2 A No, she did not.

3 Q You saw clearly that medical attention was re-
4 quired, didn't you?

5 A I felt the bruising needed to be documented and
6 needed to be looked at, yes.

7 Q By a doctor.

8 A Yes.

9 Q Had it been your child, would you have taken her
10 to a doctor?

11 A Yes.

12 Q Now, isn't it true that when you first told the
13 mother about going to the hospital, the mother did not think
14 it was necessary?

15 A Yes.

16 Q It's true that she didn't?

17 A She did not think it was necessary.

18 Q You felt it was necessary.

19 A Yes, I did. Our procedure is to take any child
20 with any abuse to a hospital or a doctor.

21 Q You determined that this child had been abused?

22 A Yes, definitely.

23 Q You saw the child disrobed that day, didn't you?

24 A Yes, I did.

25 Q If this little girl had been in the house, for

1 example, with even just a pair of child's underpants on,
2 these bruises would have been visible beyond the area of
3 the skin covered by the underwear, wouldn't they?

4 A Yes.

5 Q Anyone in this home who would see the child with
6 just her underpants could see that the child was seriously
7 abused?

8 A Yes, she also had marks on her arms.

9 Q She had marks on her arms as well?

10 A From like being grabbed, finger marks, little
11 bruises.

12 Q You are fairly experienced in this sort of thing?
13 That's what you do for a living?

14 A Yes.

15 Q Now, I think there was some mention made about
16 Mr. Hake having or not having a criminal record. Did the
17 mother convey to you, or did she know that Mr. Hake had a
18 violent criminal record?

19 A I told her that on the way to the hospital.

20 Q What did she say?

21 A She said that that was a side of his personality
22 that she had never seen. She said he wasn't like that.

23 Q Did she acknowledge that she knew it?

24 A No, she said she didn't know it until I told her.

25 Q But then when you told her she knew it?

1 A Yes.

2 Q Did she express any concern because he had a
3 criminal record?

4 A No. In fact, I told her that he had threatened
5 the life of Detective Garber. That's why I brought him
6 along to the house because I was fearful for my own safety.

7 Q Did that trouble her or bother her in any way?

8 A No.

9 Q You say the child said she was mistreated only
10 one time?

11 A Yes.

12 Q Did you find out from your discussions that, in
13 fact, it had been on two occasions?

14 A No, that's still not clear at all. The doctor
15 stated he couldn't tell if the bruises were separate ages.
16 I asked and Mrs. Bailey, we both asked him that. Aleta
17 kept saying it was one time; Mr. Hake said once; Mrs. Bailey
18 said it was once. I felt it might have been two.

19 Q You felt it was two?

20 A Might have been.

21 Q Did you make it clear to Mrs. Bailey that under
22 the law you were returning the child to her and that she
23 was responsible for the safety of this child?

24 A Yes.

25 Q What did you tell her?

1 A I told Mrs. Bailey that she was responsible for
2 the protection of her child, and that if the child ever had
3 another injury or was ever abused or beaten again that she
4 would be held as responsible as if she had done it herself,
5 whether she had or not.

6 Q You made that clear to her?

7 A Yes, the day in my office with Mr. Hake there.

8 Q Did she acknowledge that she would protect the
9 child?

10 A Yes, and we felt she was capable of protecting
11 that child.

12 Q Because she told you Hake would not have continued
13 access to the child?

14 A Because she would be there; she would make sure
15 he never disciplined the child again, and because she was
16 not afraid of Hake, so we felt that she would not fear pro-
17 tecting her own daughter.

18 Q She told you she was not afraid of Mr. Hake at
19 all?

20 A Right. I asked her specifically if he had ever
21 abused her, and she said no, he never had. So, we felt
22 that she should and could have been able to protect her
23 daughter.

24 Q When you went to see her on other occasions, did
25 she ever tell you that she and Mr. Hake were spending the

1 night together?

2 A No. I knew he had been visiting the trailer for
3 short periods of time.

4 Q Did she tell you or the agency that she had spent
5 the night with him out at the farm on R. D. Spring Road?

6 A No.

7 Q Now, you said the child was fine and cheerful
8 the last time you went. Isn't it true that the child was,
9 in fact, ill?

10 A Yes, but she was cheerful though. She did have a
11 cold but she was cheerful. She was smiling, playing.

12 Q But she had a bad cold?

13 A She did have a cold, yes.

14 Q That's all.

15 REDIRECT EXAMINATION

16 BY MR. SMITH:

17 Q Now, when Aleta was taken to the doctor at the
18 hospital, did the doctor do anything for these apparent
19 marks on her?

20 A Well, as I said it's our procedure to take chil-
21 dren that had been abused to the hospital to have it
22 documented.

23 Q So, there was no treatment rendered by the doctor?

24 A No treatment.

25 Q But it is your policy when you see this to take

1 the child to the hospital?

2 A We take the child to the hospital to a doctor
3 immediately.

4 Q That's all I have. Thank you.

5 RECROSS-EXAMINATION

6 BY MR. NESS:

7 Q Did the doctor clearly tell Mrs. Bailey about
8 Mr. Hake not having access to the child?

9 A Yes. He felt it would be dangerous for Aleta to
10 be along with Mr. Hake, and that Aleta needed to be pro-
11 tected.

12 Q The mother said she would do that?

13 A Yes.

14 Q That's all.

15 MR. SMITH: May she be excused?

16 MR. NESS: Maybe if she would stay around for a
17 little bit.

18 TANYA KUHN CALLED AND SWORN

19 DIRECT EXAMINATION

20 BY MR. SMITH:

21 Q What is your name please?

22 A Tanya Kuhn.

23 Q By whom are you employed?

24 A York County Children and Youth Services.

25 Q Mrs. Kuhn, the Aleta Bailey case was assigned to