

1 ANNE MARIE WHELAN - DIRECT

2 A N N E M A R I E W H E L A N , having
3 first been duly sworn and asked to state and spell her name,
4 testified as follows:

5 THE WITNESS: Anne Marie Whelan, W-h-e-l-a-n,
6 Anne with an e.

7 DIRECT EXAMINATION

8 BY MR. WENIG:

9 Q Ms. Whelan, where do you reside?

10 A 721 West Court Street, Ithaca.

11 Q How long have you lived there?

12 A I have lived there since 1986.

13 Q And are you employed?

14 A Yes, I am.

15 Q Where are you employed?

16 A Ecological Society of American Publications Office in
17 Ithaca.

18 Q And what's the nature of your responsibilities in that
19 job?

20 A Like coordinate various aspects of our publication
21 process for free academic journals in ecology.

22 Q Do you know Kevin Saunders?

23 A Yes, I have known him since 1980.

24 Q What was your relationship with Kevin?

25 A Well, we met in 1980 and we lived together for

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2 thirteen years. Seven of those -- we were married in 1985 and
3 divorced in 1993. And we, we had a daughter in 1998.

4 And we continue since we've been divorced to maintain
5 contact basically around the care of our daughter as she, as she
6 goes back and forth between our two households.

7 Q And what's your daughter's name?

8 A Rachael.

9 Q How old is she now?

10 A She's fifteen.

11 Q And does she attend school?

12 A Yes, she does.

13 Q Where does she attend?

14 A She goes to the Alternative Community School here in
15 Ithaca.

16 Q And are you familiar with Kevin's psychiatric history
17 especially referring back to 1997, 1997 when he had the
18 episodes?

19 A Yes.

20 Q Are you also familiar with his admission last year,
21 five days at Cayuga Medical Center?

22 A Yeah, I was aware he was there.

23 Q And are you also aware that he is currently in Elmira
24 Psychiatric Center?

25 A That's right.

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2 Q During the course of the past six and a half years
3 since the incidents in 1997 has Kevin been regularly seeing his
4 daughter?

5 A Um, yes. There was a brief period there, was early on
6 1997 I believe, he wasn't seeing her. But as his condition
7 improved then he was seeing her regularly throughout the whole
8 rest of that period.

9 Q And about how often would he see Rachael?

10 A Usually every week for two or three days she would go
11 to his house. Sometimes longer, sometimes shorter depending on
12 -- we had a flexible kind of arrangement. If either of us had
13 something going on and needed her to go here or there, or if she
14 wanted to go to either house for something, for some particular
15 reason, we had a flexible arrangement, so we would make changes.

16 Q Were there certain days of the week that Rachael would
17 visit Kevin?

18 A It was usually Sunday through Tuesday or Wednesday.

19 Q Would Kevin be responsible for getting Rachael to
20 school?

21 A That's right.

22 Q And do you feel that Rachael and Kevin get along well?

23 A Very well, yes. She always loves to go to her dad's
24 house. And he's a good dad. We could discuss issues that were
25 going on with Rachael, and we could discuss those and come to a

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2 joint kind of understanding about them.

3 Q So the -- how would you characterize the nature of
4 your relationship now with Kevin?

5 A Congenial. You know, we are not close anymore but we
6 are able -- we do talk periodically. And, you know, now we have
7 a very civil relationship. He's always -- he's gotten more over
8 the years friendly and polite.

9 But, you know, we are not like close friends where we
10 see each other a lot. But we have conversations here and there
11 usually when my daughter goes back and forth. And we can talk
12 about different things.

13 MR. WENIG: All right, thank you. I have no
14 other questions.

15 THE COURT: Thank you.

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1 ANNE MARIE WHELAN - CROSS

2 CROSS-EXAMINATION

3 BY MS. COCCHIOLA:

4 Q Ms. Whelan, you have indicated that you have known Mr.
5 Saunders since 1980, and you married in 1985, and divorced in
6 1993. During those periods of time were you aware that he had
7 some psychiatric issues?

8 A Um, in retrospect you can call them psychiatric. At
9 the time I wouldn't have characterized -- I didn't characterize
10 them as psychiatric.

11 Q But it was happening?

12 A Yeah, he had an occasional episode of depression.

13 Q Now you have testified on direct that you were aware
14 of his admissions over the years, 1997 and 1998, then last year,
15 and then currently, right?

16 A Yes.

17 Q What is your understanding of the issues as far as the
18 reasons for his admissions?

19 A Well, in 1997 he committed an arson and the Judge
20 ruled that he was temporarily insane, and so he was remanded to
21 get treatment.

22 Q Is that your understanding?

23 A Yeah.

24 Q Now as far as at the time of your divorce isn't it
25 true that his gender identity disorder was a factor?

1 ANNE MARIE WHELAN - CROSS

2 A In our divorce? No.

3 Q Well, isn't it true that on occasion he asked you to
4 go along with him socially when he dressed as a woman?

5 A Yes.

6 Q And were you comfortable with that?

7 A Well, kind of mixed. I mean I wasn't totally
8 comfortable with it, but I tried to accept it.

9 Q Was that difficult for you?

10 A Somewhat.

11 Q And when he was living with you he would dress as a
12 woman inside the house?

13 A Ah, sometimes.

14 Q And as far as your daughter is concerned you indicated
15 that she resumed -- he resumed custody, or visitation, I should
16 say, with her in 1997 when he got better you said?

17 A Ah, yeah. I can't remember the exact dates, but,
18 yeah. I think it was 1997, around that, you know, after,
19 following his, his being away.

20 Q Now isn't it true that in June of 1997 you reported
21 some concern about his talking about things such as violence and
22 rape in front of your daughter? Isn't it true you reported that
23 to the doctors?

24 A I don't think I spoke with any doctors.

25 Q Well, did that in fact happen? Wasn't he talking

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2 somewhat irrationally in June of 1997?

3 A Okay, I can't remember if it was June but, but yes,
4 there was a period when I asked for an order of protection
5 because he was delusional and he would talk about things,
6 strange things in front of my daughter.

7 And I was concerned at that time and felt that, that
8 it wasn't good for him to be around her.

9 Q She was about nine at the time, right?

10 A Yeah.

11 Q And he was talking about the truth regarding The
12 Silence of the Lambs, about violence and rape?

13 A Right. That was part of his delusions in that period
14 of time.

15 Q And you have indicated over the years you have become
16 more friendly, become more polite between you?

17 A Yeah.

18 Q About how often would you say you see him?

19 A Oh, once or twice a week.

20 Q Is that when your daughter's going back and forth to
21 your households?

22 A That's right.

23 Q And during the time of your marriage isn't it true
24 that he was at some point violent to you?

25 A Um, ...

1 ANNE MARIE WHELAN - CROSS

2 Q He in fact struck you?

3 A Only toward the very end once or twice, but not
4 throughout the whole rest of our relationship.

5 Q But at times, there was times toward the end?

6 A Well, just like a slap in the face kind of thing.

7 Q He would break things, yell, get angry?

8 A Um, he would yell and get angry. I don't know that he
9 would break things. Perhaps not. I don't recall that.

10 MS. COCCHIOLA: Thank you. I have nothing
11 further.

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1 ANNE MARIE WHELAN - REDIRECT

2 REDIRECT EXAMINATION

3 BY MR. WENIG:

4 Q Ms. Whelan, you mentioned that toward the end of your
5 marriage Kevin struck you once or twice?

6 A Yes.

7 Q Since that time do you know Kevin to be threatening or
8 violent in any way?

9 A No, no, definitely not.

10 Q Well, during the course of Kevin's visits with your
11 daughter after 1997 have you had any consternation or concern
12 about her going to see him?

13 A No, only that period where I didn't allow him. But
14 once I felt safe again about it where he was back in reality
15 then I had no further concerns, because he seemed fine. He
16 seemed he had really turned around.

17 MR. WENIG: Thank you.

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1 ANNE MARIE WHELAN - RE CROSS

2 RE CROSS-EXAMINATION

3 BY MS. COCCHIOLA:

4 Q Did you ever see him last year when he was delusional,
5 had to go to the Cayuga Medical Center? Did you seem then?

6 A No.

7 Q Did you see him earlier in April when he was by his
8 own admission psychotic, delusional?

9 A I talked to him on the phone during that period.

10 Q And he was saying bizarre things?

11 A Pardon me?

12 Q He was saying bizarre things?

13 A Actually not. But he did sound extremely strange. He
14 sounded very withdrawn and not his usual talkative self. But he
15 wasn't delusional at that time when I spoke with him.

16 Q When did you speak with him?

17 A It was -- I believe he went into the hospital Friday
18 morning. I spoke with him Thursday morning.

19 Q Would that have been April 3rd or 4th?

20 A Yeah.

21 Q Prior to going to which hospital?

22 A He first went to Cayuga Hospital. Then he was
23 transported to Elmira. That was the first day.

24 Q Are you aware he went twice to Cayuga Medical Center
25 that first week? Are you aware of that?

1 ANNE MARIE WHELAN - RECROSS

2 A No.

3 Q Twice in the period of time in twenty-four hours? Are
4 you aware of that?

5 A No, I wasn't aware of that.

6 MS. COCCHIOLA: All right, thank you. I have
7 nothing further.

8 MR. WENIG: Nothing further, Your Honor.

9 THE COURT: I had a couple of questions I wanted
10 to follow up with.

11
12 EXAMINATION BY THE COURT:

13 Q So you are saying the day before he had to be
14 hospitalized this last time you had a phone conversation with
15 him?

16 A Yes.

17 Q And you detected some change in his behavior or his
18 voice sounded different?

19 A Yes.

20 Q And was that change something you had observed in the
21 past with him?

22 A Um, no, not really.

23 Q And how about in the year before? Do you recall when
24 you were in contact with him compared to that hospitalization in
25 2002?

1 ANNE MARIE WHELAN - RE CROSS

2 A Well, the year before I think I only heard about it
3 afterwards. I didn't really talk to him during that time.

4 Q How about in 1997? Do you recall whether you were in
5 contact with him prior to the arson?

6 A Yes, I was. And -- no. Then he was very -- he had a
7 lot, lot to say. He was very anxious. He was highly stressed
8 out, and very anxious, and very concerned about his future. He
9 had a lot to say.

10 Q So this was before any of the trouble, is that what
11 you mean?

12 A Before any of the trouble?

13 Q Before the arson?

14 A Um, yeah. I mean there was trouble before the arson.
15 That wasn't the beginning of the trouble.

16 Q Okay. What I'm getting at is whether or not through
17 your relationship you have noticed any kind of pattern where you
18 see a person who is relatively stable and then you start
19 receiving some indicators that stress or something is happening,
20 and there is some changes, and you got some sense that there may
21 be something coming up here.

22 A Oh, yes, there is definitely a pattern there. When
23 there is a big stress -- I mean in 1997 he was -- his
24 relationship with Susan was evolving or however you want to put
25 it. Had separated. He had finally gotten her to leave his

1 ANNE MARIE WHELAN - RE CROSS

2 house.

3 But she came back, and she was extremely provocative,
4 and it did something to him. I mean, you know, this is a long
5 complicated story, and I only know bits and pieces of it. But
6 he was under extreme, extreme stress during that period.

7 There was a DWI where he felt somebody had spiked his
8 drink in a bar, and he thought she might have been involved with
9 that. And then she had an allegation against him of -- even
10 though she had come to his house willingly after he had asked
11 her to leave once before she at that point called the police and
12 accused him of harassment.

13 Q Let me stop you there. Like you say, it's obviously
14 an involved thing. Have you seen any similar patterns with him
15 other than that time where somehow things seem to be building,
16 and there is a lot of accusations, and you question whether he's
17 in reality?

18 A Well, last year when he went into the hospital what I
19 heard was that ...

20 Q What he told you?

21 A What he told me was that he was worried about the
22 water.

23 Q The water?

24 A Yeah. That was poisoned or something. And but at
25 that time he was being transferred to Elmira when he was getting

1 ANNE MARIE WHELAN - RE CROSS

2 treatment in Ithaca. And he was very upset about that, that
3 they were going to make him drive down to Elmira for treatment
4 when he felt he was already getting the treatment in Ithaca.

5 And it was a hardship for him to have to drive down
6 there every week or so and to a new group of people he didn't
7 know. And so he was very stressed out that they were, that they
8 were doing this. So that seemed to precipitate that event.

9 And then this past time we all thought that he had been
10 getting better, that his five years of monitoring would be up,
11 which was a burden to him. It was an expense. It was an
12 inconvenience to have to go to Elmira. And he was looking
13 forward to a release of that five year period.

14 And then to hear that he was going to be under this
15 monitoring for another five years, at first when he heard -- we
16 were all kind of shocked and disappointed. And he was -- at
17 first he was taking it calmly and was trying to figure out what
18 to do about it, and -- but I was concerned about him then.

19 And then didn't see him that much over the course of
20 the following week or two. But I could just picture it, you
21 know, the -- that distress was starting to get to him. And
22 that's what happened.

23 And I heard his mother was concerned about him, and
24 she called me. So I called Kevin to talk to him, and that's
25 when I was aware that he was in a bad way. And, um, but it was

1 ANNE MARIE WHELAN - RE CROSS

2 that stress of finding out that news.

3 Q Okay. Have you ever had the experience of seeing him
4 interrupt that pattern, or recognize that pattern, or see kind
5 of an inevitability to it?

6 A I have seen him recognize it to the point where he
7 says he's not feeling well when Rachael was over. That was a
8 recognition, but it has been fairly infrequent to that degree.

9 So there doesn't seem to be something in place for him
10 to figure out how to deal with events and acceleration into that
11 kind of crisis.

12 THE COURT: Thank you. Any follow-up on that?

13 MS. COCCHIOLA: No, thank you.

14 MR. WENIG: No, thank you.

15 THE COURT: Thank you very much for your
16 testimony. You can step down. Mr. Wenig?

17 MR. WENIG: Yes. Dr. Connor.

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