

(COURT RECONVENED) (November 28, 1991)

MR. MIAZGA: ..starting court today, I just wanted - there's a few things to kind of get resolved here, in part. I just would tell the Court about what, you know, what happened. It turned - it's apparent Michael was not telling the truth about these notes. He produced this book which is basically completely empty. There were no note pages at all in the room. The parents went there.

THE COURT: It doesn't surprise me.

MR. MIAZGA: Yeah. So anyway, I've been trying to kind of, you know, figure out what's, you know, what's the reason for all this and everything. And I was talking to Defence, giving that information, and that's why we're late this morning, just so you know what the problem there is.

Anyway, I guess Defence would like to recall - or finish up their re-exam - or their cross-examination of Michael this morning, and I'd like to continue on with the rest of the evidence and finish up the prelim, which I expect to do today, unless something, you know, there's a lengthy cross-examination. And then essentially, I think quite frankly, the Crown would like perhaps over the weekend till Monday morning to just sit and think about this and determine what, you know, what argument we're

going to take and what position we're going to take on Monday morning, if that was an acceptable plan. And give us some time just to kind of digest the things that have happened and see where things go. But I just wanted to let the Court know and Defence know that that's my course of action.

THE COURT: Alright, when you say that you think you'll want an adjournment, that is to consider on what counts you have sufficient evidence on which you are going to argue for a committal, is that what you're saying or -

MR. MIAZGA: That's certainly part of it and whether or not, I guess, we want to proceed with the other prelim and whether or not it's - being quite frank, whether or not, even if there is sufficient evidence for a committal, whether or not it's something which should proceed on further, because of the, you know, nature of some of the other, you know, the other cases and what's coming up. So I guess, you know, it's - I guess, you know, essentially yeah, just to review some of the evidence and determine what counts to be argued, you know initially. But I think there's some other things we'd like to consider as well, about the case in general, and an assessment of the case and the credibility and the likelihood of seeking convictions on - or getting convictions on any of these charges.

So anyway, that's kind of where we sit
and -

THE COURT: I must express my surprise that you would be considering that way. It may be that one of your witnesses, the credibility might be at question. I personally would have - I mean it's not my function to assess credibility but, simply voicing my own -

MR. MIAZGA: Well, I appreciate that and I - you know, there's a lot of things, of course, the - you know, that - well, there's just a lot of other factors as well to be considered. And I appreciate your comments in that area. And again, it's just - I think it's just - I am surprised about this, quite frankly, because I - this had been something that had been talked about with me, and Defence are aware of this, over the course of our preparation, that there had been disclosures of notebooks and notes being kept. And it was something that I had assumed was legitimate and ongoing and apparently -

THE COURT: Well, when Michael - when I asked him if he would bring the notes today, he said that he wouldn't be able to because the garbage would - had been taken out. And then, of course, there became the problem of the garbage didn't leave until today. So it doesn't surprise me.

MR. MIAZGA: Okay. Anyway, that's kind of what - you

know, that's kind of what the Crown's particular view is at this moment. As I said, you know, I've just - I think part of the problem is it's kind of hard to sit and assess all this stuff on short notice, as to what - you know, what course of action is best for us to take.

THE COURT: Alright. Good morning, Michael.

THE WITNESS: Good morning.

THE COURT: How are you today?

THE WITNESS: Good.

THE COURT: Roads good on the way in?

THE WITNESS: Yeah.

THE COURT: Have you had breakfast?

THE WITNESS: Huh?

THE COURT: Did you have breakfast?

THE WITNESS: Yeah.

THE COURT: So you're all set to go then, are you?

THE WITNESS: Yeah.

THE COURT: Okay.

MR. KERGOAT: Thank you, Your Honour.

Notes (don't exist)

MICHAEL LONDON ROSS (THOMPSON),
having been previously SWORN, states:

MR. KERGOAT:

CROSS-EXAMINATION:

1088 Q So, Michael, you were to get some notes for us today, is that right?

A Yes.

1089 Q Okay. And I've already talked to Matt too, so that I have to ask you this question just for the record, okay. And the notes you talked about don't exist?

A Yes.

1090 Q They do exist or they don't exist?

A They don't.

1091 Q They don't. They never did?

A That was in one of my daydreams.

1092 Q That was one of your daydreams, eh?

A (No audible reply.)

1093 Q You thought the notes did exist, yesterday?

A Yeah.

THE COURT: Talk into the mike please.

1094 Q You thought they did exist yesterday?

A Yes.

1095 Q And it seemed real at the time?

A Yes.

1096 Q And today you know they never did exist?

A Yes.

MR. KERGOAT: Okay. That's all I wanted to

Notes

ask you and thanks again, okay.

THE COURT: Mr. Mullord?

MR. MULLORD: Nothing further from me, Your Honour.

THE COURT: Mr. Miazga?

MR. MIAZGA: No. Well just - there was one thing (inaudible - not clear) ask him.

MR. MIAZGA: RE-EXAMINATION:

1097 Q Okay. Yeah, now I got it here. Yesterday, Michael, when you were talking about these notes to Mr. Kergoat, to Roger who was asking you questions about remembering stuff, and you said that, if I recall what you said correctly, that you would remember things from - you were remembering things from those pieces of paper, in court?

A Yes.

1098 Q And what did you mean by that, that you were remembering from the pieces of paper, when the pieces of paper apparently didn't - weren't around or -

A Well, I was going to bring when I wrote notes from the lake.

1099 Q Pardon?

A When I wrote notes from the lake.

1100 Q So had you ever made some notes?

Notes & memory

- A Yeah, at the lake.
- 1101 Q That was this past summer?
- A Yes.
- 1102 Q And do you have those notes around?
- A No.
- 1103 Q What happened to those?
- A I threw them out.
- 1104 Q Did you ever show those notes to anybody?
- A Yes.
- 1105 Q Who did you show them to?
- A To my mom Marilyn.
- 1106 Q And to anybody else?
- A And to my dad Lyle.
- 1107 Q To anybody else?
- A No.
- 1108 Q Did you ever show any notes that you made to Carol at any time?
- A Not that I remember.
- 1109 Q So when you said that you were talking about remembering from notes or writings that you had made, what were you referring to again?
- A I was referring to the notes at the lake that I made this summer.
- 1110 Q Let me ask you this question. Can you today, forgetting about any notes or any things you've read or anything that people told you, I know

Notes & memory

it's hard to do that but try to do that, can you
remember in your own head what your birth dad did
to you?

A Yes.

1111 Q You can. And your birth mom?

A Yes.

1112 Q And Donald White?

A Yes.

1113 Q Do you need notes or writings to be able to
remember those things?

A Sometimes.

1114 Q And what do they help you remember?

A They help me to remember what they did to me, to
make me tell the truth to make them go to jail.

1115 Q Well, do you have anything that you - right now
that you use, any notes at all or are they all
gone?

A What do you mean, do I have any notes right now?

1116 Q Yeah, at home or at school or any place?

A My feelings book is right there.

1117 Q This book is empty?

A I know.

1118 Q There's nothing in this book?

A That's what I use - that's what I write my notes
on and stuff.

1119 Q But there isn't anything in this book?

Notes & memory

- A I know.
- 1120 Q So have you ever written anything in this book?
- A Yes.
- 1121 Q Where is that stuff?
- A It's in the garbage.
- 1122 Q When did you throw it in the garbage?
- A This summer.
- 1123 Q So there - you took pages out of this book?
- A Yes.
- 1124 Q Had you ever shown anybody this book before?
- A My mom helped us make it.
- 1125 Q Okay. Before you came to court yesterday or the day before, had you read anything or looked at any kind of papers that you had written on to help you remember?
- A No, I didn't.
- 1126 Q What were you remembering from?
- A Some - I'd write notes when I forgot the stuff but at that time I didn't forget.
- MR. MIAZGA: Okay. Those are all the questions I have.
- THE COURT: Anything arising out of that, from either Mr. Kergoat or Mullord?
- MR. KERGOAT: No, Your Honour.
- MR. MULLORD: I'm just going to put a couple of questions to him.

MR. MULLORD:CROSS-EXAMINATION:

1127 Q Michael, one thing I noticed about your evidence is that, with all these people that are accused, what happens between you and that person was the same thing, it's always the same, -

A What do you mean by that?

1128 Q - you put your penis in his bum and then he put his penis in your bum?

A Yes.

1129 Q And the same thing with your birth dad and the Klassens and the different people, it's always the same?

A Yes.

1130 Q Everyone did the same thing?

A Yes.

1131 Q And I find that strange, I find that strange. I would have thought different people would do different things, but you say everyone did the same thing?

A Yes.

1132 Q Now, is that because you can actually remember what those people did?

A Some of the people I can actually remember what they did.

1133 Q Okay. And what about for the people you can't remember?

Memory of Klassens & birth parents

A Sometimes I write notes the night before. Last night I didn't.

1134 Q Well, is it true that the ones that were more recent are the ones you can remember?

A Like you mean the Klassens and stuff?

1135 Q Yeah.

A Yeah.

1136 Q And could it be that what happened with your birth parents happened such a long time ago that you don't clearly remember it?

A Yes.

1137 Q But you think that what happened was the same as happened at the Klassens'?

A Yes, and it's true.

1138 Q But when you say it's true but at the same time you're saying you can't clearly remember. So I - you're answering the same question in two different ways, one - sometimes you say you can't remember, sometimes you say it's true. What can you really remember?

A What the Klassens did to me.

1139 Q What the Klassens did to you. But you can't really remember what your birth parents did because it was too long ago, a long time ago?

A Yes.

1140 Q That's true?

A Yes.

MR. MULLORD: Those are my questions, Your Honour.

THE COURT: Alright. Anything arising out of that, Mr. Miazga?

MR. MIAZGA: Maybe just -

MR. MIAZGA: RE-EXAMINATION:

1141 Q Did you understand Mr. Mullord's last question that he asked you?

A Not clearly.

1142 Q Pardon?

A Not clearly.

1143 Q What did you think he asked you?

A (No audible reply.)

1144 Q You know, it doesn't matter whether what you say is right or wrong. I'm just asking you what it is that you think, which is always right for what you think. What did you think he just asked you about?

A Which -

THE COURT: It's okay, you're not in any - you just - there's no problem, Michael. We just want to know what question you think he asked you. You're not - there's nothing to be concerned about. Just think about what did Mr. Mullord ask?