

1 A. That is not correct.

2 MS. STEWART: Okay. I have no further  
3 questions, Judge.

4 THE COURT: Okay.

5 MR. BROSS: I have some.

6 REDIRECT EXAMINATION

7 BY MR. BROSS:

8 Q. You were asked about some of the things that  
9 you've looked at in regards to your reporting and your  
10 opinions in this case. If I show you some of that,  
11 would that refresh your recollection?

12 A. Yes.

13 MR. BROSS: (Tenders documents.) Do you  
14 want to look at these?

15 MS. STEWART: What's the question?

16 MR. BROSS: The question is: Would it  
17 refresh your recollection if I showed you --

18 MS. STEWART: What are you -- what are  
19 you refreshing? There's no question that needs  
20 refreshing.

21 MR. BROSS: You had asked her, ma'am,  
22 you were asking her -- Yes, the question was,  
23 you were asking her: What about things that  
24 you've looked at to form an opinion in this  
25 case?

1 MS. STEWART: Well, what did she look  
2 at?

3 MR. BROSS: And I said: Would it  
4 refresh your recollection to see those papers?  
5 And I am now showing them to her, so she can  
6 look at them and refresh her recollection.

7 MS. STEWART: Judge, the question would  
8 be: What has she looked at? And if she didn't  
9 know, then he could refresh her --

10 THE COURT: How is this relevant?

11 MR. BROSS: Because she was asked on *Defendant*  
12 cross examination numerous times about the *DANA*  
13 documents and evidence that she looked at in *LOYD*  
14 forming her opinions. *→ Her opinions + viewpoint that*  
*CAUSED her to call the Abuse*

15 And she, the State, asked her to list *Hotline*  
16 all of those things. And she said that she  
17 could remember some of them, but she couldn't  
18 remember all of them.

19 So, I am asking -- I'm now going to show  
20 her some of those things, so it can refresh her  
21 recollection, so she can tell the ladies and  
22 gentlemen of the jury the things that she  
23 looked at in forming her opinion and the basis  
24 for making the call.

25 THE COURT: \*Mr. Bross, that does not go

question if you ARE calling the ABUSE  
→ Hotline - it's ABOUT A "Bad Act" -  
845

Right?

Important - Read the STATUTE LOYD is  
Charged With - Does it say differently

1 to any material allegation in the case. This  
2 is not a case of whether or not your client  
3 believed that there was some form of injustice  
4 occurring or some bad act occurring.\*

5 \* The question for the jury is whether or  
6 not there was a false allegation of child abuse  
7 made; period, end of story.\* Whether -- whether  
8 your client believed she was doing it for a  
9 good reason or not she's -- she can say, but  
10 you are getting way far afield.

11 MR. BROSS: Your Honor, I was --

12 THE COURT: You are getting way far  
13 afield.

14 MR. BROSS: I'm going to have to ask to  
15 approach. (side bar)

16 THE COURT: You're welcome to.

17 (Whereupon, the following sidebar  
18 proceedings, out of the hearing of the Jury:)

19 \* ISSUE: DEFENSE MOTION FOR MISTRIAL \* \* \* \* \*

20 MR. BROSS: Based upon the comments that  
21 the Court just made, I'm going to ask for a  
22 mistrial.\* I think based upon those comments,  
23 that was akin to jury instructions.

24 You just basically tried to take away  
25 the complete defense, the things that are her

Acting in good faith.

1 belief and the things that she thought were not  
2 relevant to the facts of this case. I believe  
3 that's basically instructing the jury.

4 The jury just heard everything you said,  
5 and I believe that's an improper instruction of  
6 the jury. And there's no way un-ring that bell  
7 and I'm asking for a mistrial.

8 Because when you -- I was trying -- the  
9 State asked numerous times: What did you look  
10 at? What documents did you look at for making  
11 this call?

12 And she tried to answer, she couldn't  
13 remember everything. And so I was going to let  
14 her look at some of the documents, the  
15 documentation, so she could answer Ms.  
16 Stewart's questions more effectively.

17 And they objected, and then Your Honor  
18 basically said that none of that was relevant.  
19 And her thoughts about, you know, whether or  
20 not if it was true in the allegations.

21 And Judge -- not that it was relevant,  
22 and the only thing that's relevant is the false  
23 call. That's akin to instructing the jury.

24 And that's akin to, in my opinion, that  
25 the Court is making opinions about the case and

1 basically telling the jury that she's guilty.  
2 And I'm asking for a mistrial, there's no way  
3 to un-ring that bell.

4 THE COURT: Ms. Stewart?

5 MS. STEWART: Judge, first of all, what  
6 he was trying to do at that time when he says:  
7 You looked at documents?

8 Yes, I did.

9 Will it refresh your recollection?

10 He didn't say: What documents did you  
11 look at?

12 And she didn't say: I don't know.

13 So that was the reason for my saying  
14 that it was improper. I don't think now -- I  
15 mean, I don't have an opinion on a mistrial,  
16 except that the whole -- well, no; I don't -- I  
17 don't. You're making a ruling on an objection,  
18 that's all.

19 MR. BROSS: But you went beyond that,  
20 Your Honor, you basically told the jury that  
21 this case was about whether or not she made a  
22 false call. And I think that --

23 THE COURT: It took me (indicating  
24 document) I'm going to tell the jury that in  
25 about an hour.

1 MR. BROSS: Uh-huh, in looking at that

2 --

3 THE COURT: About an hour from now.

4 MR. BROSS: And if you --

5 THE COURT: I'm reading all -- I'm  
6 looking at the instructions here.

7 MR. BROSS: All right, but that's --

8 THE COURT: And the State is going to be  
9 (indiscernible). That's why I have it turned  
10 back (indicating) to open this page here, so we  
11 could see what the elements were, and if there  
12 was any relevant reason for you to now go down  
13 the whole rabbit-hole to --

14 MR. BROSS: Knowing and willfully making  
15 a false report, that is why they are relevant.

16 COURT'S RULING

17 THE COURT: Mr. Bross. Mr. Bross,  
18 respectfully, your motion for mistrial is  
19 denied. You have made a record of it and your  
20 -- and the -- bringing in the documents that  
21 she used to form her opinion --

22 MR. BROSS: Goes to whether or not it  
23 was knowingly and willfully making a false  
24 report. That's why it's relevant.

25 MS. STEWART: Those documents are not

1 even near the time period of the phone call.

2 MR. BROSS: They are -- they are  
3 relevant and they are -- I mean, they are  
4 damning, I mean, pictures of the child --

5 MS. STEWART: Based on his unfounded --  
6 (More than one speaker, indiscernible.)

7 MR. BROSS: -- of ejaculation and all  
8 sorts of things. I mean, it's obscene and it's  
9 relevant to --

10 THE COURT: Mr. Bross, this is getting  
11 way too far afield. She stated that she looked  
12 at documents. You held documents up for the  
13 jury to see. Please, please move on.

14 MR. BROSS: And the State --

15 THE COURT: Please move on.

16 MR. BROSS: Huh.

17 THE COURT: That's all.

18 (Whereupon, before the Court and Jury.)

19 BY MR. BROSS:

20 Q. Ma'am, was part of the basis for your call  
21 looking at Riley's private journal?

22 A. Not the entire -- Not the entire journal --  
23 but there was pieces from the journal that I looked  
24 at; yes.

25 Q. Was part of the basis of your phone call