STATE OF WISCONSIN CIRCUIT COURT BARRON COUNTY

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STATE OF WISCONSIN,

Plaintiff, **SENTENCING**

vs. Case No. 21 CF 254

LESLIE ALLEN TOEWS,

Defendant.

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The above-entitled matter came on to be heard before the Honorable J. M. Bitney, Circuit Court Judge - Branch 2, on March 4, 2022, at the hour of 2:05 p.m. in the Barron County Justice Center, Barron, Wisconsin.

APPEARANCES

JOHN M. O'BOYLE, Assistant District Attorney, 1420 State Highway 25 North, Barron, Wisconsin 54812, appearing as counsel on behalf of the State.

SCOTT S. SCHLOUGH, 1561 Commerce Court, Suite 220, River Falls, Wisconsin 54022, appearing as counsel on behalf of the Defendant.

LESLIE ALLEN TOEWS, the Defendant, appearing personally.

THE COURT: All right. My court reporter is reporting virtually by Zoom today so it's imperative that anyone that speaks needs to be microphoned or have their voice amplified on a mic so she can pick up everything that's being said.

Again, this is Barron County File 21 CF 254, State of Wisconsin v. Leslie Allen Toews, T-o-e-w-s. State is here by ADA John O'Boyle. Mr. Toews is here in person with his attorney, Scott Schlough. This is the date and time set for sentencing. The Court has received the Presentence Investigative Report.

Counsel, have you received that, as well?

MR. SCHLOUGH: Yes, Your Honor.

MR. O'BOYLE: Yes, Judge.

THE COURT: Are there any additions or corrections from the State?

MR. O'BOYLE: No.

THE COURT: Mr. Schlough, on behalf of the defendant?

MR. SCHLOUGH: No, Your Honor.

THE COURT: I noticed one, I think, typographical error, page four, second paragraph, last sentence reads: Detective Dexter asked the victim whose idea it was to do the touching and she immediately said "No mine." I assume that's "not mine."

MR. O'BOYLE: I believe that's correct from the police reports, yes.

THE COURT: That's the only grammatical error that I caught. If there's any others, I'd ask that counsel bring that to my attention, and they have not. Some further housekeeping, is Mr. Toews entitled to any sentence credit?

MR. O'BOYLE: I don't believe so, because I believe he was summonsed in and he's been on a signature bond since August 11th.

THE COURT: Mr. Schlough?

MR. SCHLOUGH: I believe that's correct, Your Honor.

THE COURT: All right. All right, before we begin or continue the sentencing hearing today, I will tell those that are here, the way that this Court conducts its sentencing hearings is that I will first hear from people that would like to speak in court or would like to submit something in writing if they haven't previously done so. And that's on both sides, both on behalf of the victim or her family or on behalf of the defendant or his family.

Once I receive all of that information or those statements, I will then hear from the attorneys as to what sentence they feel is fair and appropriate under all

the facts and circumstances. After that, Mr. Toews gets the last word, it's called his right of allocution, and after that, I will then pronounce sentence.

I would ask that this be an orderly process and that you be respectful of each other in the courtroom. I will not tolerate outbursts or disruptions of the proceedings. If there are, you will be removed by law enforcement, and I hope that that does not become necessary.

With that, Mr. O'Boyle, we'll start with you on behalf of the State. Are there any Victim Impact Statements either in writing or verbally that you wish to present this afternoon?

MR. O'BOYLE: Just verbally from Ms. [redacted]

THE COURT: Do you want to have her come on up?

Good afternoon, ma'am. Would you state your name for the record?

MS. [redacted]: My name is [redacted]

THE COURT: And [redacted] are you the victim or part of victim's family?

MS. [redacted]: I am the victim, Your Honor.

THE COURT: All right. Thank you, first of all, for coming today. I know it's a difficult thing to do. I know it takes a lot of courage to do that. I appreciate your courage. I'm very interested in what you

have to say.

MS. [redacted]: Thank you.

THE COURT: Go ahead, ma'am.

MS. [redacted]: Your Honor, first of all, I want to thank you for giving me this opportunity. I have known for years that being here today was a possibility, but I never thought it would be a reality. The little girl I was wouldn't have had the courage to do this, but little girls grow up.

When I started getting close to Mr. Toews in early 2010, I was in a very good place in my life. I was on the verge of becoming an adult and had great hope for the future. I was so happy to have someone who it felt like was listening to me and helping me navigate my teenage years. It didn't occur to me that Mr. Toews might have ulterior motives for being so close to me. At this time a family member expressed concern that we were becoming so close, but made me feel responsible for it. I was naive as to why they were so worried, and this created chaos and confusion for me.

Mr. Toews also made me feel comfortable and I trusted him. Slowly, but surely, Mr. Toews started to introduce inappropriate jokes and concepts to see how I would react. I had complete faith that he wouldn't do anything to hurt me. He used that to his advantage when

March -- in March of 2011 he first tried to put his hand down the front of my dress. I wasn't very happy about it, but I didn't say anything because I didn't want to lose my special relationship with him. He never told me not to tell anybody. It was just an unspoken understanding.

Around this time, one of the first really dismaying incidents occurred. I was with Mr. Toews and his children. He attempted to put his hand down the front of my dress. His oldest child was watching, and I expressed concern that they would know what was going on. Mr. Toews told me the child was too young to understand what was happening. I, at 13, was not comfortable with this, so I turned away from this child. I am still haunted by the innocent, trusting eyes of that five-year old.

I remember being so excited and hopeful about graduating the eighth grade that spring. About a week after graduation, Mr. Toews put his hand up my skirt for the first time. I remember the feeling of shock and confusion. I didn't understand what was happening. I tried to stop him by squeezing my legs together, but he was stronger than me, so he always managed to get them apart. Several times while Mr. Toews was touching me he'd say, "You like that, don't you?" I hated it, but

was confused and disturbed by it. I couldn't understand why he thought I would like it.

Another particularly difficult memory that occurred that summer made me feel very disgusting. For several years I had done this thing where I would knock Mr. Toews' hat off in a very teasing, playful way. One day Mr. Toews said if I did this again he would unhook my bra. I didn't really think he would, but just in case, I made it so he couldn't. And I knocked his cap off. When he found that he couldn't unhook my bra, he pulled my underwear to my ankles. I felt so disgusted.

Something else that occurred that summer happened at a gathering one night. Mr. Toews once again put his hand up my skirt when everyone was around, but was sneaky enough not to get caught. Then in late fall, he suddenly stopped. That wasn't the last time he tried to touch me, though. About four months later he tried again. I knew that I didn't want to start -- want it to start again, so I told him no. He tried again a few minutes later when his wife was around. Once again, I told him no. It caused enough commotion that his wife noticed and asked what was happening. He replied "Nothing," which shocked me, because it wasn't nothing to me.

I also remember being in great turmoil around

this time. I felt like what happened to me was my fault. I couldn't handle it and shut it out, vowing to never tell anyone. At some point I even apologized to Mr. Toews for my supposed part in it all. I saw us as equals.

During this time I had many visits to doctors and specialists trying to deal with all of my medical problems. Unbeknownst to me, it was a result of all my repressed emotions. After several years of treatment with minimal results, I made an appointment with my primary doctor that would change my life. She asked me if I had ever been abused. At this time, I said no. I was in denial and didn't really understand what abuse was at that point. It shook me up so badly that I spent the next day in turmoil. Finally it was bothering me so much that I told my mom.

All of a sudden my whole world was turned upside down. I went into shock. I spent most of the next few days almost immobile. I didn't eat, spent most of my time sleeping, and couldn't get warm enough. As a result of that, I cannot stand being cold to this day.

My brain pretty much shut down, as well. At almost 18, I felt like I restarted my life. I had to learn the difference between what I thought was real and what actually was real. I learned that what happened to

me was not okay, and yet it was so ingrained in me to protect Mr. Toews even though what happened to me was horrible, I still thought I was the one.

As I started my journey toward healing, I began to experience more emotions than I thought existed. I had suppressed them for so long that when I started letting them out, they overwhelmed me. There was depression, anxiety, sadness, pain, grief, anger, fear, confusion, hopelessness, worthlessness, guilt, and the feeling that I was completely crazy. I also felt like some people thought I was to blame and that nobody loved me or I wasn't good enough.

I spent a lot of time in my room by myself because I felt safe there. Life often overwhelmed me. I didn't participate in many activities with my peers because of my anxiety. After a couple of years trying to cope, I was put on medication and saw a counselor for the first time. This helped me to see that staying in Wisconsin wasn't helping me to move forward. Around this time I visited an aunt and uncle in [redacted]. By the time I returned home, I decided to move.

In the spring of 2018 I moved to [redacted] and in with the uncle and aunt. I felt a sense of relief of being removed from the situation, but faced other problems. Because I had a hard time trusting people,

especially men, it was difficult to be in such close contact to [redacted], who was a brother to Mr. Toews. In my mind, [redacted] were all the same. But living there ended up helping me heal. [redacted] had plenty of opportunities to take advantage of me and never did. In fact, it felt like he went out of his way to make me feel comfortable.

Whilst in [redacted] I went back to therapy and made lots of progress, but I missed my family, so after a year and a half, I moved back to Wisconsin. I felt like therapy had equipped me to face the problems that had arised. I also wanted to give Mr. Toews a second chance to prove himself. What I experienced in the 11 months here would completely change the way I thought.

For the first couple of months everything was good, then Mr. Toews started the mind games that had always been part of the original offense, although he never physically touched me. The most frustrating part is that he seemed to enjoy doing it when other people were around and getting away with it. It left me feeling destroyed. I hit rock bottom. I tried seeing a counselor again, but it didn't really help. I then decided to move back to [redacted]. I thought that I would be able to bounce right back, but I couldn't. I felt helpless and I didn't feel safe. I felt like I

couldn't move forward.

When Detective Mary Dexter contacted me in February of 2021, I was relieved. For the first time in a long time I began to feel safe again. I felt like somebody finally truly believed me enough to help reach a resolution. There will never be enough words to describe the last 11 years of my life. I have been to rock bottom. There have been times I didn't want to live or die; I just didn't even want to exist. I have spent hours crying as if my heart would break. I have felt unlovable, dirty, used, objectified. I have watched my family suffer, as well, especially my parents. To see the look of utter helplessness on their faces is indescribable.

I've been diagnosed with depression and PTSD. I have suffered severe anxiety. At this time I have seen five different therapists. I've had terrible nightmares and many sleepless nights. There have been times that I have stayed awake until dawn because I couldn't relax enough to sleep in the dark.

I once heard a quote, "Every betrayal begins with trust." It has been especially true for me, because I didn't suffer at the hands of a stranger, but someone I have known all my life. Yet it has been my upbringing, my faith that has helped me through. It is what has made

me choose to forgive Mr. Toews so that I am able to move forward with my life. What I have been through is so horrible that I would not even wish it on Mr. Toews. I don't hate him, but sitting here today, he is a stranger to me. Your Honor, my only request is that you do everything in your power to keep this from happening to anyone else. That has worried me often, as I wonder who is next.

I determined from early on that I was not going to let what happened to me stop me. This has been a long, difficult journey, but I have grown so much as a person through this. I have good days and bad days. Sometimes something will trigger me and I will have to overcome it. Today starts the beginning of a new chapter and the ending of a long, arduous one.

I want to end with a quote that sums it all up. "One day you will tell your story about how you've overcome what you're going through now, and it will become part of someone else's survival guide." Unknown. Thank you.

THE COURT: Thank you very much. I appreciate you coming forward today with your family.

Anyone else that wishes to speak, Mr. O'Boyle, on behalf of the State?

MR. O'BOYLE: No.

THE COURT: All right, thank you, ma'am. You can have a seat again.

Mr. Schlough, is there anyone else that would like to speak on behalf of your client?

MR. SCHLOUGH: Your Honor, I believe Mr. Toews' wife, [redacted], wishes to speak.

THE COURT: [redacted], would you come forward?

Good afternoon, ma'am. Would you put the microphone up to your mouth? State your name for the record, please.

MS. TOEWS: [redacted] Toews.

THE COURT: Ms. Toews, what would you like for me to hear this afternoon?

MS. TOEWS: I believe that maybe -- I feel maybe not everything is how I see it, but I feel that God knows the truth, and I pray that He will reveal it to you and know how to proceed and sentence. And my wish would be that rather -- do a fine over time so that he could save the farm and provide for his wife and family, and -- even though I will support him and be behind him and help him in any situation, whatever situation that is decided.

THE COURT: I appreciate your comments.

MR. SCHLOUGH: Your Honor, I believe Mr. Toews' uncle Morrell also wishes to make a brief statement.

THE COURT: Go ahead, sir.

MR. MORRELL TOEWS: Judge, I have known Leslie from the day he was born.

THE COURT: State your name for the record, please.

MR. MORRELL TOEWS: Morrell Toews, Box 99, Clayton.

THE COURT: Spell your name, please.

MR. MORRELL TOEWS: M-o-r-r-e-l-l T-o-e-w-s.

THE COURT: Thank you, sir. Thank you for coming today. What would you like me to know? What would you like me to know today, sir?

MR. MORRELL TOEWS: I have known Leslie from the time he was born, lived half a mile from him. My boys have grown up with him, and Leslie is of good character. I have utmost confidence in him. He went to school with my boys, he went to church with my boys, Sunday school, and we were farmers next to each other, so we got to see each other all the time. He was never disrespectful, vulgar, or any such a thing. My boys would say the same.

But when this all came about, my wife and I were over at Leslie's mother's and father's place, there was some company out, Leslie was there. That was really the first time I've seen [redacted] act very strange. Leslie was sitting alone on the couch and [redacted] went over and

sat -- picked up a blanket and sat right tight to him and covered herself and him up -- clear up to her neck. It wasn't Leslie that did that. Her mother said that she got -- she told [redacted] -- [redacted] mother she needed to look after her daughter more. She was continuously chasing Leslie out in the shop, wanted to drive skid steer with him.

At 13, rather strange, very strange, and the mother apparently did not do nothing about it. It could have all been avoided -- Grandmother [redacted] said it could all have been avoided if she had listened and told [redacted] to take care of how her hormones were working or something, because it was out of ordinary. But anyway, Leslie wanted to clear his conscience and be a good Christian, and how this all came about, a big mess for him. But -- for Leslie to be punished for what he did, his family farm that he is farming for his folks has been in the family for 55 years, and it would be extremely difficult, any punishment that you would put on Leslie.

[redacted] knew very well what she was doing. I one time was riding in a car with my sister-in-law. She was young, about ten years old or so, and my boys were back there and I rubbed my boy's neck and the boys said -- [redacted] said, "Will you do what you did to my boys?" So I rubbed her neck and she just hollered "That's under my

dress." And my wife was very upset. I only rubbed her neck. A ten-year old knows; a 13-year old knows much more.

She was supposed to have pinned her underwear and she did that at home. Why would she put herself in a situation she needed to pin her underwear? There's quite a few things about it that I never asked Leslie any details how it started out, how it ended, but there's definitely another side than [redacted]. For this to land up in court and want him punished so severely that it can never happen to another one, we come from an Anabaptist faith where we do not punish people. I haven't been a church member for 30 years, but I still honor and respect and know what they are supposed to believe. We don't try and punish people.

I was impressed -- my wife, we all read of a school shooting in Pennsylvania for an Amish school, a man came and shot ten of the students. It didn't ring a bell to me, but my wife got a movie of it and my heart was moved. They decided to -- there in court at the sentencing to tell him that they loved him, but when they brought it up to the one mother, she said, "That was my only daughter, I can't forgive him." She went off and lived in Philadelphia. But before the sentencing came, she came back home. She got back to her Amish faith and

said, "I can forgive him." I didn't see that out of [redacted]

I could have wrote down much more, but I don't want to drag this on too long, but I have all confidence in Leslie. Leslie has helped me like my own sons have, more so than my own sons. If there's any need I ever have, they've even told me, "Why don't you get Leslie to help you?" I think that does it. Judge, I thank you for the opportunity.

THE COURT: Thank you, sir.

Mr. Schlough, is there anyone else?

MR. SCHLOUGH: No, Your Honor.

THE COURT: Is there anything that has not been submitted yet to the Court in writing that counsel wants the Court to review prior to sentencing?

MR. O'BOYLE: No.

MR. SCHLOUGH: No.

THE COURT: All right, Mr. O'Boyle, we'll start with you then, first.

MR. O'BOYLE: Well, Mr. Toews is here because he pled guilty to having sexual contact with a child under the age of 16. Not somebody 17 and a half years old, but under the age of 16. The document that laid that charge out had Ms. [redacted] age in it, he stipulated and agreed to that when he pled guilty. The date of the

offense occurred when [redacted] was 13, going on 14, not 17 and a half, almost 18 years old as he indicated in the presentence report.

He's 45, 46 years old today, so at the time these incidents happened, he was roughly in his mid-30's. By any view, an adult having sexual contact with a 13, 14-year-old child, aside from the fact of the illegality of it, the morality of it is simply wrong, there's no two ways about that. And aside from whatever penalties our laws ascribe to that, it's serious. It's a significant charge that he entered a plea to. The morality of it, it's just plain wrong. Children are children. That's what they are. And there's just no excuse for it.

It's not [redacted] fault. She didn't entice him or tempt him. He made the decisions to do this. And what could have been avoided is if he simply didn't do it. If he had the moral fiber and strength to not do this. He didn't. And this isn't about a 13-year old wearing a lower neckline dress, tempting him, this is about what he did and the decisions that he made and the consequences and damage that Ms. [redacted] ended up enduring as a result of this.

And I would submit part of what she's probably had to endure was exactly what we just heard from his uncle, some of the blame. It must be her fault, a 13-

year old. That's what we're gonna go with, that it's her fault this happened. That's just nonsense. He was in a position of trust with her, he was essentially [redacted], and I think there was a description of being his favorite [redacted]. And I think the PSI writer put this very succinctly, if he was his favorite [redacted], how does he not know her age and how would he have any misunderstanding or misconception of what her age was?

The consequence that she's had to endure of being ostracized, blamed, not to mention the mental and physical toll that it took on her. She is not to blame for any of this, the defendant is. He's the one that did these acts, and part of the description of one of these -- the game that was described of having her elbows behind her back and it took her awhile at age 13 to realize why he was wanting her to do that, then it dawned on her so her breasts were more obvious for him to see and to notice. That's why we're here today is that kind of behavior being directed towards a 13-year old.

Fortunately this didn't evolve and progress to anything worse in terms of sexual intercourse, but I don't know that it makes much difference in terms of the toll that it took on [redacted] and what she's had to endure as a result of this, the damages there. I would submit there's probably, I think, a side of Mr. Toews people in

the community or his family simply didn't know about or simply didn't see. I think one interesting fact is how this all came to light. It wasn't out of consciousness of I did something wrong, I did something that hurt this child, he wanted something. He wanted a benefit by disclosing something about this, and that benefit was to be able to return to his church after having been excommunicated and having to disclose something about this.

And so what does he disclose? The minimal amount in the terminology and the age range of 17 and a half to 18 years old, because that sounds a little less damning, if you will, than coming forthright and saying, well, I had sexual contact with [redacted] when she was 13 or 14. If you couch it in terms of she's older, you can foist a little more blame on her and cast it on her as having a part of this and some responsibility for it. She has zero responsibility for any of this happening.

This comment about she didn't resist. She's 13, 14 years old at the time, not close to being an adult. So I don't know what his temptation was. I suspect there's a bit more here that needs to be addressed for him to come completely clean about why this happened. He certainly -- there is no responsibility for [redacted] tempting him to do what he did. He made these

decisions, and I would submit he probably did it because he thought he could get away with it because of the relationship he was in and the fact that people would look at [redacted] and blame her for it, just like we heard here a few minutes ago. So that's why we're here.

Those are some of the -- the Court obviously has to look at the seriousness of this, and this is incredibly serious for a lot of different reasons that I've already articulated. His personal characteristics and character, you know, he doesn't have any criminal history, but that, I think, is outweighed by what happened here and some of the tactics he used. There's clearly some grooming aspects going on here and taking advantage of the relationship that existed. That doesn't bode well for him.

His risk -- what's the risk to the public? Well, he doesn't have criminal history. I'm not sure that the COMPAS assessments really bear that much weight, because obviously there's a risk that this could happen, because it did happen. And is it likely to happen again? I don't think there's a tool that can really accurately and reliably measure whether that could happen again. I suppose if he's tempted in some fashion again, until he realizes why this happened, there's a risk for it to happen again.

And I believe he definitely needs to be in a sex offender assessment program to come to grips as to why he did this, what his reasonings were and what led him to commit this type of offense against [redacted].

I do think he's a probation case. The Court has to consider that as a first viable option. I think with no criminal history and the fact that he did plead guilty lends to a conclusion that his treatment needs could be met in the community, and I do think that's an appropriate direction to go. I do think that a year in jail is more than appropriate here for what he's done and the damage that it's caused for [redacted]. I think she's, fortunately, on a path to potentially heal based on what I heard from her today and what I've heard from her in the past. But he definitely needs to have a sex offender assessment.

I think no contact with her is appropriate. He's subject to registration. I think the only issue relative for you on that issue is whether or not it's lifetime registration or if it's just limited by the statutory time period of, I believe it's 15 years after any period of probation is complete. The PSI is recommending four to five years probation. I think that's an appropriate amount. I think there's a lot more to this story from Mr. Toews. I don't think he's come

completely clean about this, and the treatment is undoubtedly going to take some time, particularly if he's surrounded by individuals and people conveying to him that this isn't his fault and she's partly responsible as a 13-year old for his actions and his behavior. That may be the biggest barrier to break down and for him to come to grips with what he did and the damage that he caused to Ms. [redacted]

So my recommendation is that you impose the five years probation, sex offender assessment. I think a year in jail is appropriate for him, and the registration, I would submit you should seriously consider making that a lifetime registration given the nature of what took place here.

THE COURT: Thank you, Mr. O'Boyle.

Mr. Schlough?

MR. SCHLOUGH: Thank you, Your Honor.

Before I begin, Your Honor, I do want to thank the victim for coming forward and speaking to the Court. I know that's a very difficult thing to do for anyone, and especially in situations like this. I also want to thank her directly for her thoughtful consideration of what would be appropriate here. I think she outlined the biggest concern that most of us share, that this never happens again. Obviously there's concerns about making

sure that we address what did happen, but as she properly noted, it's important to protect everyone in the future, as well.

I'll try and keep my statements relatively short, as I -- the defense is, at this point, joining the recommendation of the Presentence Investigation and the State that the Court withhold sentence and place Mr. Toews on four to five years of probation with one year of conditional jail. We would ask for Huber on that, as well.

Your Honor, I think obviously, as Mr. O'Boyle aptly pointed out, there's no way this can be put on the victim in this case. She didn't do anything, there's no excuse. It doesn't matter if the person is 6, 13 or 60, you don't touch someone without their consent. It doesn't matter if they're wearing a low-cut dress, no clothes at all, you need to have consent. That's something that in this day and age has been very abundantly clear and has been addressed in the community for as long as I can remember, at least, that is. It is never the victim's fault. Mr. Toews recognizes that he was the one in charge. He said it's on me. It doesn't matter if I was tempted or not, it's my choice, it was my decision. She didn't control that. That is a small step in the right direction.

He wasn't able to identify what led him to taking action on those temptations. That's something that will have to be addressed during sex offender counseling. The PSI points out that on the Static-99R he was a below average risk to reoffend sexually, and I think that's a big contributing factor in the PSI's ultimate recommendation that this is a probation case versus a prison case. It's not often, if ever, that I see a COMPAS and Static-99R come out so low on risk. In fact, I've never seen it in a felony case, and certainly not in a sex offense case where all the risks are this low.

What we need to do first and foremost is get to the root of the cause of the problem here for Mr. Toews, and that is what led to this decision. The only way we can really do that is through some type of counseling. The good that we have is that Mr. Toews is, besides this offense, crime free. We don't have -- at least as of this point we know of no other victims, so it appears that this was limited to the one individual, it didn't continue on with anyone else, it didn't continue on for this victim, it was stopped by Mr. Toews.

Mr. Toews did first -- as Mr. O'Boyle pointed out, he wanted to rejoin the Mennonite church. Part of that was confessing all his sins. This is obviously the

biggest one that Mr. Toews has to deal with. Mr. Toews also then has to go first with Detective Mary Dexter and state the same things, that this did happen. Mr. Toews has never denied that it happened.

I've only known Mr. Toews a short while. I probably can't speak to his character as some others, but I can say that he's been a very polite, respectful, responsible individual. He was prompt for every appointment that we had, he was early for all court appearances, he was cooperative in the discussions of the facts of the case. Really, as far as it goes, probably an ideal client. He was respectful of my time, but always made sure we got what we needed to done.

From what I can glean from reading the PSI and speaking to his family, he's a dedicated family provider. He is one of the primary farm -- farmers, I guess. He's one of the main people responsible for the family farm. They have 140 dairy cows that he is primarily responsible for taking care of, along with other family members. They also raise, it appears to be, all of their own feed for those cows.

It's a troubling crime. There is a need to protect the public, but Mr. Toews' character, I think, weighs equally in that assessment, and that's what leads to the recommendation in the PSI and why the defense is

joining that is yes, it's severe; yes, there needs to be protection. How do we protect the public? We make sure it doesn't happen again. That's best addressed through counseling. Mr. Toews will be required to do that through the Department of Corrections one way or another. That type of counseling is available in our community. Mr. Toews is dedicated to addressing the problem, getting to the root cause, and so we would ask that the Court withhold sentence, place Mr. Toews on a period of probation of four to five years and impose the one year in the county jail with work release, and if deemed appropriate, we would ask for electronic monitoring. I understand that's really at the jail's discretion.

THE COURT: Thank you, Mr. Schlough.

Mr. Toews, every defendant in a criminal case has what is known as their right of allocution. That means the last person that a judge hears from before he or she decides what is an appropriate sentence is the defendant him or herself. While you're not required to say anything if you don't want to, if you'd like to add anything to what's been said, this is your opportunity to address the Court personally. If he is, he'll need to have the mic slid up close to where he's seated, please.

THE DEFENDANT: I guess what I would like to say is I apologize for anything that has happened, the

way this has happened. But it's like my wife said, if I could just be home and take care of my family, provide for them, train my children so they would never have to see this courtroom like I have. It would be a great honor if I could -- I guess if I would just be at home and be able to take care of them. And I will say that this -- as far as for myself, this will never happen again. Thank you.

THE COURT: Thank you, Mr. Toews.

The Court has to consider three factors in sentencing the defendant under the laws in the State of Wisconsin. I have to consider the seriousness or gravity of the offense, Mr. Toews' character and rehabilitative needs, whether there's a need to protect the public. I have to also consider any aggravating mitigating circumstances. Probation is the preferred disposition in every criminal case unless confinement is necessary to protect the public, unless the offender is in need of treatment which is available only in the structure of a correctional institution, or if placing the defendant on probation would unduly depreciate the seriousness of the offense.

Other factors that the Court is obligated to consider include the defendant's personality and character, his culpability, his demeanor, his education,

background and record, his remorse, repentance and cooperation, if any is shown; statements, comments and recommendations regarding all interested parties and persons; rehabilitative needs of the victim; the information supplied in the Presentence Investigative Report and the COMPAS risk assessment, including the COMPAS risk assessment tool. And the weight that is given to each of these factors lies solely within the sound discretion of the trial court judge.

Leslie Toews is here to be sentenced for -- or after having pled guilty to third-degree sexual assault as a Class G felony. Under Wisconsin law, that provides for potential fines of up to $25,000 and a potential prison term of up to ten years. That was part of a plea agreement that was struck between the defendant and the prosecution because the defendant had originally been charged with second-degree sexual assault of a child under 16 years of age, which under Wisconsin law is a Class C felony, punishable by a fine of up to $100,000 and imprisonment in the state correctional facility for up to 40 years.

So Mr. Toews is here on a very serious matter before the Court, a matter that is not only a felony, but that the underlying penalties for which prescribed by law could include incarceration for a prolonged period. It's

also serious and grave when you look at the facts that were pled to to underpin his plea to the amended charge and to sentence him this afternoon.

By that, I mean that this was not a singular or isolated incident involving inappropriate sexual contact between the defendant and [redacted]. According to the information provided to the Court, there were multiple assaults that occurred for this young girl to endure that happened on almost a weekly basis for the better part of a half a year or more. So if the State had really wanted to charge the full extent of the gravity or seriousness of this situation, they could have charged, theoretically, dozens of counts of second-degree sexual assault of a child, which would have likely resulted in this man being confined for the balance of his natural life. That ought to give us some appreciation for how serious this case is and how serious the defendant's conduct was that has led him to be before the Court this afternoon.

It's also very serious, and there are clearly aggravating circumstances here in that the victim was the defendant's [redacted], who she trusted and who her family trusted. My heart breaks every time that I see children who are victimized, it's rarely by strangers. It's almost always by trusted members of the family who are

allowed access to children because they're not perceived to be a threat to their safety or their welfare, and so moms and dads don't have a problem with uncles or grandpas or others having unsupervised access to vulnerable children. And the defendant took advantage of that. He took advantage of that repeatedly.

And I was struck by one of the very first things that [redacted] said when she began her comments to the Court this afternoon, something to the extent or to the effect that a child would not have had the strength to do that or to come here, but now that she's a young adult, she has mustered the strength to come here.

I want to remind her and everyone here, even at 13 she had the strength to put an end to this, not him. She was the one who finally said no and made enough of a stink about it that he knew that this could not go on or he would be essentially caught. She is stronger than I think she imagines. She's an articulate, intelligent, strong young lady, and she will not be defined by what happened to her, and she should not be. She's a survivor. She is a warrior, in this Court's mind.

What the defendant has done has torn this family. It has separated loved ones from loved ones. It has caused people to drawn lines in the sand, it has caused family and friends to blame this child as though

she were somehow responsible for this. She is somehow, in their eyes, a Lolita that couldn't be stopped, and nothing could be farther from the truth. She was the one that put a stop to this. Thank God she did, because the defendant was not going to. He had groomed her, he had repeatedly assaulted her, and I have very little doubt that this would have continued had she not put a stop to it.

As Mr. O'Boyle indicated, if Mr. Toews was the kind of upstanding person that he and his family try to portray himself to be, if what he said or what his family said had any kernel of truth, he would have rebuffed this, he would have stopped this, this would have never happened. None of this would have ever happened if, in fact, as he alleged this child's hormones were somehow out of control, he would have said something to her and very shortly thereafter to her mother or her father or his wife. But he didn't. This was clearly sexually motivated.

He came forward to try to once again get back into the good graces of his faith community, and even when he came forward, his descriptions were outright lies. He downplayed this to where it bore very little resemblance to what actually occurred here. Well this was maybe a one-time thing, maybe a couple times, and all

I did was touch her top area. That's absolutely not true. We know that there were multiple assaults that included not only touching of her breasts, but touching of her vaginal area, skin to skin repeatedly, sometimes in the presence of his own minor children. The only person who exhibited any sense of decency was [redacted] to try to turn her body to shield the children from what was happening to her.

This was classic grooming. [redacted] described this to a "T" and I found her statement very credible that this began with her being lavished with attention, special treatment, progressing to either lewd comments or lewd jokes to test the waters to see how she would react, how far he could get her to go. And then it progressed from there to hugging, and very shortly thereafter, inappropriate sexual contact or sexual touching.

It wasn't -- his conduct wasn't limited to just the sexual touching, it included humiliation, degradation, pulling a vulnerable young preteen or early teen girl's pants down for the purpose of humiliating and degrading her. This would not have been possible, but for the fact of the trust position that the defendant was in, and in this Court's opinion, in this particular faith community, the undying emphasis that children are to respect adults unquestioned. You do not question

authority, you do not question adults, children are better to be seen than heard. You just put up and you go along with it.

Thank God she had the courage to come forward eventually despite all of these overwhelming odds, she finally mustered the courage to come forward and tell her mom. She carried this dark secret with her for years. It tore her up emotionally, psychologically, physically to where she couldn't endure it anymore, contemplated suicide, didn't think life was worth living, didn't understand who she could trust or if she could ever trust again, after having been abused by a trusted family member. It is amazing that [redacted] is here and is doing as well as she is and has had the courage to see this through. Bless her for that.

You have the defendant's uncle coming in here, having the audacity to blame this young lady for what occurred. I hope he was listening when Leslie's attorney said, rightfully so, you don't have relations with people unless you have express permission or consent to do that, period. Nobody in word, act or deed gave Leslie Toews permission or consent to do what he did with [redacted]. That was simply an act of selfish gratitude (sic) for which this young lady has suffered along with her family for the better part of a decade or more, and as counsel

have indicated, both counsel, he alone bears the responsibility for that.

This defendant has shown very little, if any remorse towards the victim. His concerns are understandably for the welfare of his family. I didn't hear any concerns from him or his family concerning the welfare of this young lady or her family. That's unfortunate. That shows a total lack of insight. It shows a significant lack of acceptance of responsibility by the defendant, which indicates that he has a lot of work to do to try to figure out why and how this happened and to ensure that this never happens again to another child, because [redacted] didn't ask for a pound of flesh today. She said Judge, I just want to make sure somebody else doesn't have to go through what I and my family went through. That's her only hope and prayer. That's not asking too much.

To the defendant's credit, he does not have any record that the Court is aware of. He's been a hard-working member of the community, member of the Mennonite community, been part of a farming operation for his life that has probably gone on for generations. And many people depend on him, and he is loved by many people. He is loved by those in the room, and I'm sure many others. He's indicated he would like to try to get through this

with as little damage to his family as possible. While that's understandable, that's not what the law provides.

The author of this report, which is lengthy and detailed, concludes that the gravity of the offense or offenses here is great. This is a man in his mid-30's who took sexual advantage of a child who was only 13, and my guess is that was a pretty naive 13-year old, given the upbringing that she had. The sexual assaults were repeated, they were not isolated, and as Mr. O'Boyle highlighted, when the defendant was confronted with his conduct initially by Ms. Dexter, and even as late as his comments to the PSI author, Agent Kunz, tried to place at the very least half blame on the victim saying she didn't resist, she didn't say no, and the way that she dressed and came on to me made her at least partly to blame. That shows a tremendous lack of insight, lack of sensitivity, and is very concerning to the Court.

Because the truth of the matter is, [redacted] did try to say no. She may not have mustered the words, but her body language, everything she did to try to fight him off made it crystal clear he was crossing boundaries that she was not comfortable with, did not invite, and despite her best efforts, she was overpowered repeatedly as the defendant continued to have his way with her.

Frankly, it doesn't matter what a woman wears,

let alone a child, on whether or not it's open season on her sexually. It's not. People may disagree with women's modesty or what they wear. It is never tantamount to permission or consent to have sexual relations with them, especially under these circumstances.

The agent goes on to conclude, given all of these facts and circumstances, there is a need to protect the public. The defendant is not able to understand or articulate why he did what he did, and until this is addressed, there is a risk of possibly him engaging in similar behaviors that would cause similar harm to others in the future, and he must be held accountable for his actions.

Regarding his rehabilitative needs, the agent concludes it's quite evident that the defendant is in need of sex offender treatment because of his lack of insight, minimizing and lying about the extent of his behaviors, blaming the victim all show that he has very little insight into what caused him to act out in the way that he did. Succinctly put, he told the agent me and my wife were having intimacy issues because of her recent surgery, and then he put it on this child, that he could not resist the temptation. That's all he could come up with for an explanation. That speaks volumes, in this

Court's opinion, about this significant need for rehabilitation.

The aggravating factors that the agent commented upon included his relationship as the trusted [redacted]. He was to be there to protect her and nurture her. The number of times that the assaults occurred over months makes this case even more serious in the agent's opinion, and the Court could not agree more. The impact on the victim and her family was significant and remains significant and substantial.

She then says that these aggravating circumstances and factors, coupled with his minimization and dishonesty about refusing to fully own up to his conduct really could call out for a prison recommendation. She then goes on to conclude, however, because the defendant has no criminal history and has at least acknowledged some of his behavior, treatment in the community may be possible. She states the defendant supposedly stopped these behaviors on his own. I disagree with that.

[redacted] was the one that put the brakes on this, not Leslie. Also to his credit, this is an unusual case in that these assaults occurred over a decade ago, and not only does Mr. Toews not have a criminal history, to this Court's knowledge, there have been no other

reoffenses in that last decade's worth of time. There has been no similar conduct that has occurred since the conduct with [redacted]. And the Court has to consider that in fairness to Mr. Toews.

The agent then goes on to conclude given all the facts and circumstances, they're recommending that the Court either withhold or impose, but stay a prison term, put the defendant on probation for a lengthy period of time and impose a year in the county jail.

Considering all the facts and circumstances here, the Court having spent an inordinate amount of time reviewing, re-reviewing the file, including the Presentence Investigative Report and having listened very carefully, closely to all the statements made during the hearing this afternoon, the Court concludes that probation is not an appropriate sentence for Leslie Toews. It would, in this Court's opinion, substantially unduly depreciate the seriousness of the conduct that occurred here. It would also send the wrong message to this young lady, her family and others regarding the penalty that would befall on someone who takes advantage of a family minor on a repeated basis and then goes on to blame the victim.

It is also not lost on this Court that this county currently does not have a Huber program, which

means whoever gets placed on Huber gets a monitor, gets a bracelet and gets to go home. That would also unduly depreciate the seriousness of the conduct that has led to this conviction to simply allow Mr. Toews to be placed on a monitoring program. That, too, would seriously and substantially unduly depreciate the seriousness of these crimes, the gravity of the crimes and the substantial impact that it's had on the victim, her family and the defendant's own family and community.

For all of these reasons, it is the sentence of the Court that the defendant serve a term of confinement in the Wisconsin State Prison System totaling six years and six months, the initial confinement portion of which will be one year and six months, followed by five years and zero months of extended supervision.

Conditions of his extended supervision will be no contact with the victim or her family. He will not have any unsupervised contact with minor children under the age of 16 years outside of his immediate family. He is to undergo a sex offender evaluation and complete any and all recommended treatment, therapy or counseling for sex offenders. He will be required to register as a sex offender for a period of 15 years following the completion of his sentence. He will go through any and all other evaluations or assessments that may be ordered

by the Department of Corrections and then shall successfully complete all recommended treatment or therapy.

He will pay statutory costs, to include a DNA surcharge. He will be required to submit a DNA sample upon his being remanded into the custody of the Sheriff's Department of this county to await transport to Dodge Correctional. He is not entitled to any credit for time served.

His initial period of confinement, again, is one year and six months, or a total of 18 months. That, however, can be extended under certain terms and conditions if the defendant refuses or violates prison rules or regulations, refuses to perform assigned duties. It can also be extended if he engages in violent or disruptive conduct in prison that results in him being placed in segregation or controlled status. It can also be increased if he files malicious and harassing lawsuits against prison or other officials or assists others in so doing. And once he's released to extended supervision, if he violates the terms of the extended supervision that the Court has ordered or any other conditions imposed by him -- on him by the Department of Corrections, his extended supervision can be revoked and he can be returned to the state prison system to serve the balance

of the time remaining. He is not entitled to eligibility for the Challenge Incarceration Program, nor is he entitled to eligibility for the Substance Abuse Program.

Sentence will be executed forthwith. He is remanded into the custody of the Barron County Sheriff's Department to await transport to Dodge.

Mr. O'Boyle, anything further from the State?

MR. O'BOYLE: No, thank you.

THE COURT: Mr. Schlough?

MR. SCHLOUGH: No, Your Honor.

THE COURT: The defendant needs to execute the Voter Ineligibility Form. He also should be advised that he has the right to appeal the sentence of the Court. He has 20 days within which to violate his Notice of Intent to Appeal. If he fails to do that, he may waive rights to appeal the proceeding or the sentence that the Court has handed down this afternoon.

Madam Clerk, anything else for the record? I have the form. I will give that to him.

(Proceedings were concluded at 3:25 p.m.)

STATE OF WISCONSIN )
) SS. CERTIFICATE
BARRON COUNTY )

I, Karen L. Schaaf, Official Court Reporter for the County of Barron, State of Wisconsin, do hereby certify that I reported the above matter on March 4, 2022, and that the foregoing partial transcript, consisting of 43 pages, has been transcribed by me by means of computer-aided transcription, and that it is a true and correct transcript of the proceedings had in said matter, to the best of my ability.

Dated this 9th day of March, 2022.

Electronically signed by
Karen L. Schaaf

_____
Karen L. Schaaf, RMR, CRR
Circuit Court - Branch 2
Barron County Justice Center
715-537-6259