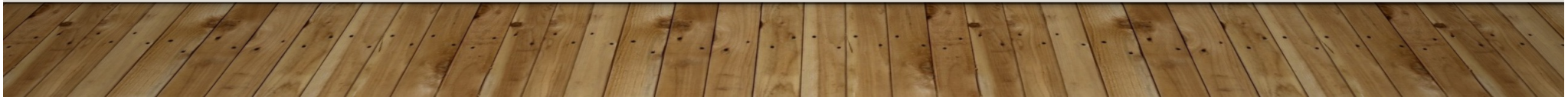


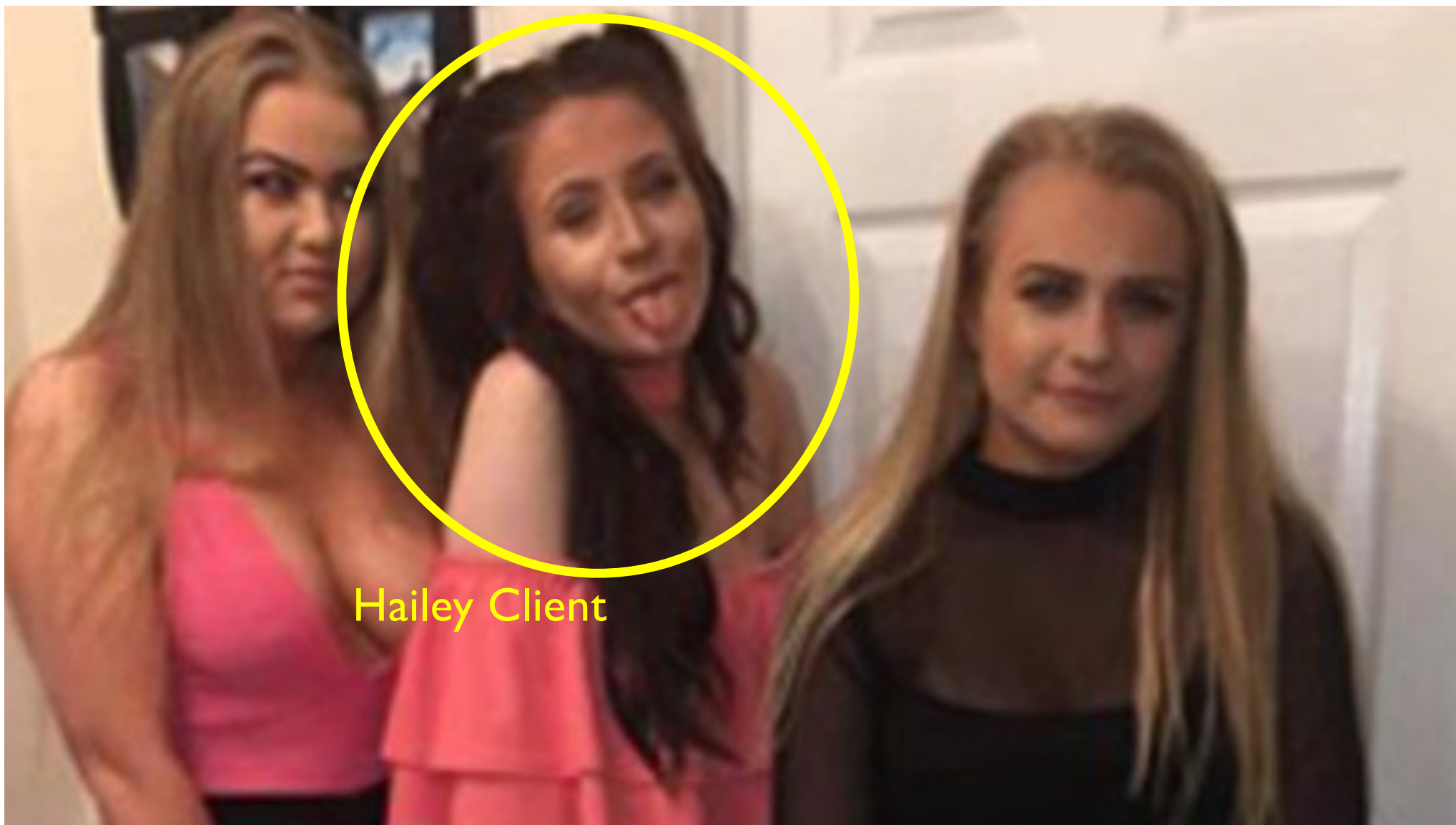
STATE VS. HAILEY CLIENT

- Baby Precious
- 7lbs. 8 oz.
- 8 weeks old



STORYTELLING AND VISUAL AID IN SENTENCING

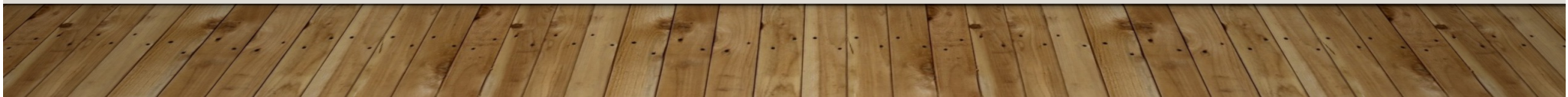




Hailey Client

FACT PATTERN

- Client: Hailey, 18 years old
- Charged with: Felony Child Abuse for Shaking her 8 weeks old, Class E Felony
- Background: Single Mom. Hailey's mother does not approve, kicks her out of house but pays for room and grocery money. She has access to OBGYN through Medicaid. Rents room in her friend's 2 bedroom apartment.
- Doctor calls Police and Department of Social Service after client admits to shaking baby. During interview with officers Hailey admits to shaking baby.
- Hailey signs a family services agreement, underwent a parent capacity evaluation and took parenting classes.



FACT PATTERN (CONTINUED)

- Family Youth Services not involved because maternal grandmother agrees to care for baby.
- HYPO #1: Hailey was arrested but released under NCGS 15A-534.4, because she was breastfeeding the baby. Judge allows for supervised visitation at grandma's house.
- HYPO #2: Haily was arrested and the Judge gave her a \$100,000 secured bond. Neither Haily nor her family have the financial resources to post her bond.

NCGS 14-318.4 (A)(4)

Section 14-318.4. Child abuse a felony

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a Class D felony, except as otherwise provided in subsection (a3) of this section.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the child is guilty of child abuse and shall be punished as a Class D felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a Class D felony.

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a Class B2 felony.

(a4) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

GOAL IN SENTENCING

- I/A block sentencing block
- ultimate goal is probation

STORYTELLING IN TRIAL VS. SENTENCING

- STORY OF
INNOCENCE/INSUFFICIENT PBRD
- STORY OF MITIGATION



MITIGATION STARTS WITH INVESTIGATION

STORYTELLING FOR MITIGATION

- Starts with Investigation
- Talk to your client and family and listen in **between the lines** for **mitigation**.
 - **So used to listening for legal issues and story of innocence/insufficient PBRD**
 - **Train yourself to look and listen for mitigation**
- Investigate Mitigation not only Justification
 - That teacher/mentor, sponsor
 - That old man/woman who client took groceries to
 - Photos of house that client was brought up in

MITIGATION STARTS WITH INVESTIGATION

- BIG NET THEORY (the more the better! Can filter later)
 - LEVEL OF SCHOOL COMPLETED
 - MENTAL HEALTH HISTORY
 - MEDICAL HISTORY
 - ACEs (Adverse Childhood Experiences)
 - EMPLOYMENT RECORDS
 - DSS CASE
- ***RECORDS TAKE A LONG TIME

CLIENTS WITH A CONCURRENT DSS CASE

- Reasons to attend a Client's DSS hearings:
 - Learn about the DSS investigation/findings
 - Listen/take notes on sworn testimony (potential value for impeachment)
 - Get details of Client's case plan
 - Learn about resources available to Client
 - ***Be prepared to answer ADA/Judge's questions about DSS involvement/recommendations – the Judge typically defers to DSS

STORYTELLING STARTS AT PLEA BARGAINING

- Its too late if it starts at sentencing.
- Choose your strategy but, DA's also have discovery. You can tell them a persuasive story of mitigation.
- Story telling doesn't have to be about innocence, it can go to mitigation also
- Need to have a reasonable ask (need info for that)

SENTENCING HEARING: WHAT THE JUDGE WANTS TO KNOW

- 1. WHY DID IT HAPPEN and
- 2. HOW TO PREVENT FROM HAPPENING AGAIN

WHY DID IT HAPPEN

- This is the Mitigation Evidence you collected before trial.
- Ex: 16 year old who killed her mother's boyfriend
 - Elementary school teacher called and wanted to talk
 - Provided family dynamics regarding neglect by family.
 - Mom had mental health issues
 - Teachers had to clean the kids, clothes, provide their
 - (here case was dismissed, but this is information that can be used for sentencing)

WHY DID IT HAPPEN: IN HAILEY'S CASE

- Young
- Didn't have family support, mom kicked her out
- Didn't know how to parent, no guidance or education
- Didn't know who to deal with stress (small apartment, incessant crying)



HOW DO WE PREVENT IT FROM HAPPENING AGAIN: IN HAILEY'S CASE

- PARENTING CLASSES
- Education on dealing with stress
- Help from Mom, Grandma
- Bonding with child
- Matured

PREPARE YOUR CLIENT & HER FAMILY FOR COURT

- Your client's first time seeing/hearing the State's evidence ***cannot be in the courtroom***
- Your client's family's first time seeing/hearing the State's evidence ***cannot be in the courtroom***
- Be prepared to have the difficult conversation:
 - The prosecutor's job is to present evidence of the worst moment/day of your life
 - The prosecutor will not be kind to your client
 - Pictures/videos of the worst injuries will be shown

STATE WILL USE DEMONSTRATIVE EVIDENCE

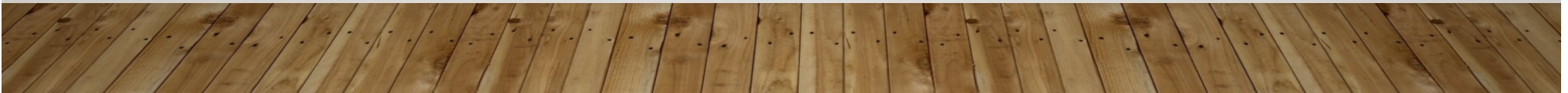
- Shake Doll
- Video
- Victim Impact Statement
- Its so easy for them, just roll in the victim

STATE VS. HAILEY CLIENT

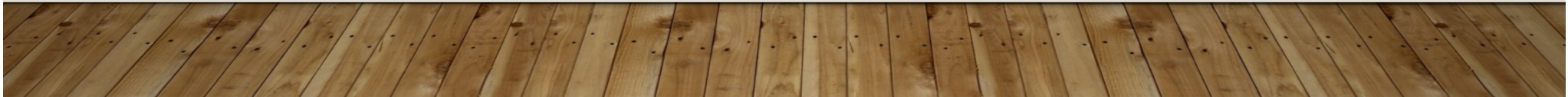
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TAKE AWAY

- Set the scene:
 - Small apartment (photos, use the courtroom)
 - Incessant noise: play
- Exhibits: Prenatal Records, albums of pictures from each visitation
 - Hand up one by one
- Find out ahead of time who the state has and who will be speaking
 - Object if possible to having victim rolled in until after plea, (at least can warn client)
 - Sorry not sorry doesn't work
 - Prepare your client
 - Prepare family