IN THE SUPREME COURT OF IOWA

STATE OF IOWA, Plaintiff-Appellee, JOHN CHARLES DONAHUE, Defendant-Appellant.	Supreme Court No.: 18-2239 Audubon County Case.FECR048517

ORAL ARGUMENT REQUESTED

APPEAL FROM THE IOWA DISTRICT COURT FOR AUDUBON COUNTY

Honorable Jeffrey L. Larson

APPELLANT'S FINAL BRIEF

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STATEMENT OF ISSUES

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- *State v. Baker*, 679 N.W.2d 7 (Iowa 2004)
- *State v. Brown*, 856 N.W.2d 685 (Iowa 2014), *as amended* (Feb. 23, 2015)
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- *State v. Rogerson*, 855 N.W.2d 495 (Iowa 2014)
- *State v. Runyan*, 599 N.W.2d 474 (Iowa Ct. App. 1999)
- *State v. Spaulding*, 313 N.W.2d 878 (Iowa 1981)
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- *State v. Thompson*, 836 N.W.2d 470 (Iowa 2013)
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THE DISTRICT COURT ERRED BY SUBMITTING AN ERRONEOUS JURY INSTRUCTION.

Authorities:

- *State v. Barnhardt*, 919 N.W.2d 637 (Table), 2018 WL 2230938 (Iowa Ct. App. 2018)
- *State v. Benson*, 919 N.W.2d 237 (Iowa 2018)
- *State v. Hanes,* 790 N.W. 2d 545 (Iowa 2010)
- *State v. Schuler,* 774 N.W.2d 294, 297 (Iowa 2009)

INSUFFICIENT EVIDENCE EXISTS IN THE RECORD TO UPHOLD THE VERDICT.

Authorities:

- *State v. Benson*, 919 N.W.2d 237 (Iowa 2018)
- *State v. Canal*, 773 N.W.25 528, 530 (Iowa 2009)

ROUTING STATEMENT

This case should be *transferred to the court of appeals* because it presents a question regarding application of existing legal principles. IA R. APP. P. 6.1101(3)(a).

STATEMENT OF THE CASE

Nature of the Case:

John Donahue ("Donahue") appeals evidentiary rulings, the use of a jury instruction, conviction, and sentence imposed by District Court Judge Jeffrey Larson sentencing Donahue to incarceration for a period not to exceed 10 years. Additionally, Donahue was committed to lifetime supervision under to Department of Corrections and must register as a sex offender once released.

Procedural History:

On May 30, 2017, Donahue was charged with Sexual Abuse in the Second Degree. (Appx. at 5-6.) On May 22, 2018, the State amended the Trial Information to Sexual Abuse in the Third Degree. (Appx. at 9-10.) On June 28, 2018, Donahue's first jury trial ended in a mistrial. (First Trial Trans. at 203, ln. 13-14.)

A second jury trial began on October 30, 2018. (Trial Trans. at 1.) On October 31, 2018, Donahue was convicted of Sexual Abuse in the Third Degree. (Appx. at 34.) On December 13, 2018, Donahue was sentenced to serve a term not

to exceed 10 years. (Appx. at 35-37.) Additionally, Donahue was committed to lifetime supervision under to Department of Corrections and must register as a sex offender once released. (Appx. at 35-37.)

Donahue appealed on December 28, 2018. (Appx. at 38.)

Factual Background:

On April 26, 2017, a criminal complaint[1] was filed alleging Donahue committed lascivious acts with a child spanning over several years prior. (Appx. at 4.) On May 30, 2017, Donahue was charged with Sexual Abuse in the Second Degree, based on a report provided to law enforcement on August 31, 2016. (Appx. at 4, 5-6.) On May 22, 2018, the State amended the Trial Information to Sexual Abuse in the Third Degree. (Appx. at 9-10.) Donahue was tried on June 26, 2018. (First Trial Trans. at 7, ln.1.) That trial ended in a mistrial on June 28, 2018. (First Trial Trans. at 203, ln. 13-14.)

On October 30, 2018, a second jury trial commenced. (Trial Trans. at 1.) The complaining witness, T.G., testified her parents were separated and she moved to be with her father and his wife after her biological mother physically and mentally abused T.G. (Trial Trans. at 209, ln. 6-14.) T.G. testified her stepmother's Grandfather, John Donahue, sexually abused her more than once. (Trial Trans. at

[1] The allegations that form the basis of this charge in FECR048517 were first charged in a wholly separate case (FECR048487).

223, ln. 23-25; 224, ln. 1.) T.G. also testified Donahue bought her presents he didn't buy for her siblings or his other grandchildren. (Trial Trans. at 218, ln. 20-25; 219, ln. 4-7.)

T.G. specifically alleged Donahue sexually abused her in Donahue's home with T.G.'s brother in the room. (Trial Trans. at 229, ln. 17-21; 232, ln. 3-11.) T.G. also testified about her discussions with Amy Scarmon, a child advocate who interviewed T.G. in 2016. (Trial Trans. at 235, ln. 16-25; 236, 9-25; 237, ln. 1-21.)

During cross-examination, the defense attempted to ask T.G. about specific other allegations between Donahue and T.G., as addressed in depositions (also called "the Carroll allegation"). (Trial Trans. at 256, ln. 17-24.) The State objected. (Trial Trans. at 256, ln. 25; 257, ln. 1.) The State cited the Motion in Limine from the previous trial, and an agreement between the parties during the previous trial with regard to other allegations. (Trial Trans. at 258, ln. 10-20.) Defense counsel argued no such agreement existed regarding the second trial, and that the State opened the door to this questioning based on both the State's opening arguments and questions asked of T.G. during direct examination. (Trial Trans. at 260, ln. 21-25.) The State argued (1) the prior Motion in Limine bars questions of the specific allegations, and (2) Rule 5.412 (Iowa's Rape Shield law) further prohibits the line of questioning. (Trial Trans. at 264, ln. 2-6; 265, ln. 7-12.) Defense counsel argued that the prior bad acts clause in the Motion in Limine does not bar this line of

questioning. (Trial Trans. at 266, ln. 6-9.) Defense counsel also argued Rule 5.412 does bar the line of questioning and argued the State opened the door during direct examination. (Trial Trans. at 266, ln. 10-14.) Finally, defense counsel cited T.G.'s other statements from direct examination which referenced the allegations. (Trial Trans. at 266, ln. 18-25; 267, ln. 1-2.)

The court sustained the State's objection finding prior bad acts need only be in the past, not necessarily prior to the allegation itself. (Trial Trans. at 268, ln. 1-9.) The court found there was no mention of the specific allegations during prior argument or testimony. (Trial Trans. at 268, ln. 10-19.) The court further based its ruling on Rule 5.412 and the prior motions in limine and rulings on those motions. (Trial Trans. at 268, ln. 1-7.) Additionally, the court held the defense was not allowed to question T.G. on the specific matter even if called in the defense's case in chief. (Trial Trans. at 268, ln. 23-25; 269, ln. 1-5.)

Defense counsel continued to cross examine T.G. T.G. admitted that she told Officer Coby Gust that "while living in Audubon, [she] had not had any weird experiences with . . . anybody . . ." and "had not been hurt by anybody since [she'd] been staying Audubon." (Trial Trans. at 274, ln. 20-22.) T.G. admitted that she told Officer Gust that she "never felt uncomfortable with anybody" and that since moving to Audubon, nobody harmed her, hurt her, or made her felt

uncomfortable except at her mother's house. (Trial Trans. at 274, ln. 23-25; 275, ln. 1-4.)

Kimmy Graves, T.G.'s stepmother testified that T.G. and her siblings were allowed to walk to Donahue's house at any time. (Trial Trans. at 298, ln. 2-15.) T.G. would go down there for homework help from Donahue and to bake with Donahue's wife. (Trial Trans. at 298, ln. 18-25.) T.G. would both go on her own, and with her siblings. (Trial Trans. at 299, ln. 1-7.) Kimmy testified that Donahue was generous with all his family, including T.G. (Trial Trans. at 302, ln. 20-25; 303, ln. 1-3.)

Donahue testified in his own defense. (Trial Trans. at 342, ln. 14.) Donahue testified regarding the financial support he provides to all his family. (Trial Trans. at 346, ln. 21- 348, ln. 14.) Donahue testified regarding the other assistance he provided to his family, including transporting T.G. and her siblings to appointments when needed. (Trial Trans. at 349, lns. 6-24.) Donahue testified about the general level of affection he and his family members show including hugging and kissing on the lips at family events. (Trial Trans. at 350, lns. 23-25; 351, lns. 1-16.) Donahue testified about gifts and other items that he purchased for T.G. and for other grandchildren. (Trial Trans. at 352, lns. 2-6, 16-21; 353, lns. 1-9.) Donahue testified he never touched T.G. inappropriately, never touched T.G.

under her clothes, and never inserted his fingers into T.G.'s vagina. (Trial Trans. at 354, lns. 10-18; 363, lns. 3-5.)

Following Donahue's testimony, the parties discussed jury instructions. (Trial Trans. at 364, ln. 23 – 367, ln. 18.) Donahue objected to State's proposed instruction 20. (Trial Trans. at 366, ln. 22-25; 367, ln. 1-4.) The court overruled Donahue's objection based on *State v. Barnhardt*, a May 2018 Iowa Court of Appeals case. (Trial Trans. at 367, ln. 6-10.)

Following closing arguments, the jury returned a guilty verdict to Sexual Abuse in the Third Degree. (Trial Trans. at 402, ln. 9-11; Appx. at 34.)

On December 13, 2018, Donahue was sentenced to serve a term not to exceed 10 years. (Trial Trans. at 411, Ln. 15-24; Appx. at 35-37.) Additionally, Donahue was committed to lifetime supervision under to Department of Corrections and must register as a sex offender once released. (Trial Trans. at 412, ln. 8-14; Appx. At 35-37.)

Donahue appealed on December 28, 2018. (Appx. At 38.)

ARGUMENT

I. THE DISTRICT COURT ERRED IN PROHIBITING DEFENSE COUNSEL FROM CROSS EXAMINING A WITNESS BASED ON A SEPARATE ALLEGATION BY THAT WITNESS

a. Preservation of Error

Following T.G.'s testimony that Donahue abused her more than once, defense attempted to cross-examine her regarding other allegations. (Trial Trans. at 256, ln. 17-23.) The State objected to the questioning on several grounds and the district court sustained the objection. (Trial Trans. at 268, ln. 1-2.) Donahue preserved error by timely filling his notice of appeal on December 28, 2018. (Appx. at 38.)

b. Standard of Review

Iowa appellate courts "review the district court's evidentiary rulings for abuse of discretion." *State v. Thompson*, 836 N.W.2d 470, 476 (Iowa 2013).

"Discretion is abused when it is exercised on grounds clearly untenable or to an extent clearly unreasonable. An abuse of discretion also means the decision lacked rationality and was made clearly against reason and evidence." *Marovec v. PMX Indus.*, 693 N.W.2d 779, 782 (Iowa 2005) (internal citations and quotations omitted). "A ground or reason is untenable when it is not supported by substantial evidence or when it is based on an erroneous application of the law." *State v. Brown*, 856 N.W.2d 685, 688 (Iowa 2014), *as amended* (Feb. 23, 2015) (internal citation and quotations omitted).

"Unreasonableness is defined as action in the face of evidence as to which there is no room for difference of opinion among reasonable minds, or not based

on substantial evidence." *Stephenson v. Furnas Elec. Co.*, 522 N.W.2d 828, 831 (Iowa 1994).

"[C]onstitutional claims, including those based on the Confrontation Clause, [are reviewed] de novo." *State v. Rogerson*, 855 N.W.2d 495, 498 (Iowa 2014).

c. **Analysis**

The district court abused its discretion and violated Donahue's constitutional right to confront witnesses when it prevented Donahue from cross-examining T.G. relating to a separate (uncharged) allegation of sexual abuse referenced by the State during opening statements and by T.G. during testimony.

First, the district court erred in ruling that, based on prior motions in limine and rulings thereon, this line of questioning was prohibited. When ruling on admission of this line of questioning, the district court was first informed that the line of questioning was related to an alleged prior bad act of Donahue and that Donahue himself intended to offer this evidence. (Trial Trans. at 258, ln. 3-8.) Donahue, as the defendant, has the right to ***prohibit a prosecutor from entering evidence*** of prior bad acts, whether alleged or proven. *See State v. Taylor*, 689 N.W.2d 116, 123-24 (Iowa 2004) (citing Iowa R. Evid. 5.404(b)). As Donahue was attempting to offer evidence of his own alleged prior bad act, the State did not have standing or grounds to request exclusion of this evidence. *Id.*

Moreover, the State itself requested that this evidence be admitted, based on *State v. Spaulding*, 313 N.W.2d 878, 880 (Iowa 1981). As argued by the State, *Spaulding* provides the grounds to admit evidence of the alleged Carroll allegations as evidence of "passion or propensity for illicit sexual relations with the particular person concerned in the crime on trial." *Id.* The district court abused its discretion when preventing Donahue from entering this evidence at trial.

Second, the district court erred in ruling that Iowa Rule of Evidence 5.412 prohibited this line of questioning. At trial, Donahue asserted that Rule 5.412 does not apply to the Carroll allegation. (Trial Trans. at 266, ln. 10-14.) "[P]rior false claims of sexual activity do not fall within the coverage of [Iowa's] rape-shield law" as "a false allegation of sexual activity is not sexual behavior[.]" *State v. Baker*, 679 N.W.2d 7, 10–11 (Iowa 2004). The court was aware Donahue asserted Rule 5.412 would not operate to exclude the desired testimony because the desired testimony related to a false allegation of sexual activity. Donahue maintained the exclusion rule in Rule 5.412 does not exclude the evidence. *Id.*

Even if the evidence regarding the Carroll allegation had involved an actual incident of prior sexual activity, the district court's ruling was in error. A defendant has a constitutional right to confront witnesses through the Sixth Amendment to the United States Constitution, as well as Article I, section 10 of the Iowa Constitution. *State v. Runyan*, 599 N.W.2d 474, 476 (Iowa Ct. App. 1999).

Rule 5.412 provides that an exception to the exclusion rule applies for "[e]vidence whose exclusion would violate the defendant's constitutional rights." Iowa R. Evid. 5.412(b)(C). Any evidence admitted under this exception must be relevant, and the probative must outweigh any prejudicial effect. *State v. Mitchell*, 568 N.W.2d 493, 499 (Iowa 1997).

Here, Donahue's constitutional right to confront T.G. paired with the State's actions to open the door require admission. Impeachment of statements made during direct examination is a necessary aspect of exercising a defendant's constitutional right to confront a witness. Moreover, the State itself opened the door to admission of information about the Carroll allegation through both statements made to the jury during the State's opening, and testimony elicited from T.G. on direct examination. (Trial Trans. at 196, lns. 12-22; 223, lns. 23-25; 224, ln. 1.) Finally, Donahue was not required to comply with the notice requirements under Rule 5.412(c)(1)(A) as this testimony "relate[d] to an issue that ha[d] newly arisen in the case," and the court set a specific time to address the evidentiary question outside the presence of the jury. Iowa R. Evid. 5.412(c)(1)(A).

Here, the district court erred in excluding this evidence based on Rule 5.412 as it is constitutionally-required to be admitted in order to allow Donahue to exercise his constitutionally protected right to confront T.G.

Finally, exclusion of this evidence does not serve any purpose for which Rule 5.412 was enacted. Iowa's Rape Shield Law was enacted to "(1) protect the privacy of victims, (2) encourage reporting, and (3) prevent time-consuming and distracting inquiry into collateral matters." *State v. Mitchell*, 568 N.W.2d 493, 497 (Iowa 1997). First, T.G.'s privacy was no longer protected as the State itself told the jury of other allegations, and T.G. testified regarding other allegations. (Trial Trans. at 196, ln. 12-22; 223, ln. 23-25; 224, ln. 1.) Second, T.G. reported the Carroll allegation at the same time as she reported the allegation for which Donahue was on trial; therefore, reporting would not be discouraged through admission of this testimony. Third, the matter inquired into was far from collateral, but was instead an allegation that was rendered impossible based on T.G's testimony during depositions. This type of impeachment material is both probative and relevant for a defendant, as it calls into question allegations made against Donahue in the present case. *See, e.g.*, *State v. Baker*, 679 N.W.2d 7, 12 (Iowa 2004) (providing that embarrassment relating to proof that a complaining witness at being shown to be a liar or boaster is not unfair prejudice and does not "outweigh the probative value of clearly relevant evidence. This is especially so when, as in this case, the countervailing right of a defendant to present a defense to a criminal charge is at stake.").

Here, the district court abused its discretion, and violated Donahue's constitutional rights by excluding evidence and testimony relating to the allegation between Donahue and T.G. Reversal and remand is necessary.

II. THE DISTRICT COURT ERRED BY SUBMITTING AN ERRONEOUS JURY INSTRUCTION

a. Preservation of Error

Donahue objected to the State's proposed jury instruction 20. (Trial Trans. at 366, lns. 22-25; 367, lns. 1-5.) The District Court overruled the objection regarding this instruction. (Trial Trans. at 367, lns. 6-10.) Donahue preserved error by timely filling his notice of appeal. (Appx. at 38.)

b. Standard of Review

Iowa appellate courts

> review [ ] challenges to jury instructions for correction of errors at law. [This] review is to determine whether the challenged instruction accurately states the law and is supported by substantial evidence. Error in a particular instruction does not require reversal unless the error was prejudicial to the complaining party.

State v. Hanes, 790 N.W. 2d 545, 548 (Iowa 2010) (internal citations omitted); *see also State v. Benson*, 919 N.W.2d 237, 241-42 (Iowa 2018).

Iowa appellate courts "'assume prejudice unless the record affirmatively establishes that there was no prejudice.'" *State v. Barnhardt*, 919 N.W.2d 637

(Table), 2018 WL 2230938, at *4 (Iowa Ct. App. 2018) (quoting *Haskenhoff v. Homeland Energy Solutions, L.L.C.*, 897 N.W.2d 553, 570 (Iowa 2017)).

c. Analysis

During trial, the State offered jury instruction 20, a non-corroboration instruction regarding the testimony of T.G. (Trial Trans. at 366, lns. 9-13.) Donahue objected to this instruction; however, the court overruled the objection based on *State v. Barnhardt*, 919 N.W.2d 637 (Table), 2018 WL 2230938 (Iowa Ct. App. 2018). This decision was in error.

First, Jury instruction number 20 erroneously included the phrase "sexual offenses" when instructing the jury that no corroborating evidence was necessary to support T.G.'s testimony in this case. (Appx. at 29.) The *Barnhardt* decision is silent on the type of crime alleged when instructing that no corroboration in necessary. *Barnhardt*, 2018 WL 2230938, at *4. Instead, the *Barnhardt* court merely affirmed the use of a much more basic and straightforward instruction: "that '[t]he law does not require that the testimony of the alleged victim be corroborated.'" *Id.* Additionally, the evidence submitted at trial only provided for one alleged sexual offense. (Trial Trans. at 193, lns. 21-25; 194, lns. 1-5.) There was no testimony sufficient to support the use of this instruction containing the phrase "sexual offenses" by substantial evidence. *See Benson*, 919 N.W.2d at 241-

42. Therefore, instruction 20 used in this case is not an accurate statement of the law supported by substantial evidence in this case.

Second, Donahue was prejudiced by the use of instruction 20. The use of the phrase "sexual offenses" in instruction 20 implies that Donahue committed multiple offenses against T.G., even though evidence of only one offense was charged and testimony was oddly expanded to allow T.G. to reference multiple offenses, but the defendant was not allowed to address multiple offenses. (Trial Trans. at 229-31, 237, lns. 4-21.) The prejudicial implication in instruction 20 is furthered by the State's own opening statement, in which it told the jury that Donahue "repeatedly sexually abused [T.G.] during the time that she lived with her dad . . . [and] [d]ue to the frequency with which he abused [T.G.] and over an extended period of time, only a few occasions stand out in her mind." (Trial Trans. at 196.) Considering the language of instruction 20, the evidence submitted at trial to the misstatements of the State made before the jury, it is clear that the language used in instruction 20 misled and confused the jury by its misstatement of Donahue's singular charge. *See Benson*, 919 N.W.2d at 241-42.

The district court had a "duty to instruct fully and fairly" on the law applicable to "all issues raised by the evidence." *State v. Schuler,* 774 N.W.2d 294, 297 (Iowa 2009). The court breached this duty by allowing an incorrect and prejudicial jury instruction. Instruction 20 alone paints the picture that Donahue is

a repeat offender, but combined with the State's claims Donahue abused T.G. repeatedly and T.G.'s corresponding testimony, it completely alters the view of Donahue in the minds of the jury, prejudicing Donahue.

Donahue was charged with one count of Sexual Abuse in the Third Degree. (Appx. at 5-6.) All elements of trial, including instructions, should reflect this single charge. The incorrect jury instruction fails to do so, which prejudiced Donahue and calls for reversal and remand.

III. INSUFFICIENT EVIDENCE EXISTS IN THE RECORD TO UPHOLD THE VERDICT

a. **Preservation of Error**

Donahue moved for judgment of acquittal based on insufficient evidence after the State's evidence and at the close of the State's evidence and at the close of all evidence. (Trial Trans. at 340; 3-25; 341, ln. 1-7; 364, ln. 16-18.) The district court overruled both motions. (Trial Trans. at 341, ln. 13-18; 364, ln. 21-22.) Donahue preserved error by timely filing his notice of appeal on December 28, 2018. (Appx. at 38.) Donahue preserved error.

b. **Standard of Review**

Iowa appellate courts

> [r]eview a challenge to the sufficiency of the evidence for a correction of errors at law. The goal of the court is to determine whether the evidence could convince a rational trier of fact that the defendant is guilty of the crime charged beyond a reasonable doubt. The court views the evidence in the light most favorable to the State in making this determination

State v. Canal, 773 N.W.25 528, 530 (Iowa 2009) (internal citations omitted). *See also Benson*, 919 N.W.2d 241.

c. **Analysis**

The State's evidence against Donahue is insufficient to convince a rational trier of fact of guilt beyond a reasonable doubt. The State failed to prove all the elements of Sexual Abuse in the Third Degree.

In order to convict Donahue, the State was required to prove beyond reasonable doubt: "1. During the time period of July 31, 2014, through August 26, 2016, the Defendant performed a sex act with T.G." and "2. The Defendant performed the sex act by force or against the will of T.G." (Appx. at 26.) There was no physical evidence of any act. No witnesses testified to Donahue ever behaving inappropriately with T.G. There was never a date or even definitive year of the allegation presented. Defense refuted the State's claim that Donahue "groomed" T.G. by showing he was generous to his entire family. (Trial Trans. at 347, lns. 4-10; 350, lns.11-22; .) Therefore, the only evidence the State entered to support the conviction was testimony of T.G.

Regarding the first element, there is not sufficient evidence for a rational trier of fact to conclude beyond a reasonable doubt that a sex act occurred between Donahue and T.G. The only evidence of the act was T.G.'s testimony; there was no physical evidence. (Trial Trans. at 316, lns. 25; 317, lns. 1-4.) T.G. could not provide a specific date, or even a month or general time of year. (Trial Trans. at 282, lns. 14-22.) T.G. further admitted her story changed based on who she told. (Trial Trans. at 283, ln. 24-25; 284, ln. 1-2.) T.G. admitted that she told a police officer that no one in Audubon had touched or hurt her. (Trial Trans. at 274, ln. 20-22.) .) It was only later she alleged Donahue touched her. (Trial Trans. at 283, ln. 24-25; 284, ln. 1-2.) The vague changing story, coupled with the lack of any corroborating evidence, provides insufficient evidence of this element.

Regarding the second element, there is not sufficient evidence for a rational trier of fact to conclude beyond a reasonable doubt that any act was by force or against the will of T.G. Testimony of multiple witnesses provided that throughout the entire time period alleged by the State, T.G. continued to voluntarily be around Donahue; including walking to his house with siblings, requesting assistance with homework, and generally treating him as any other elder family member (Trial Trans. at 347-348.) Moreover, there was no testimony that, during the alleged sexual abuse, T.G.: told Donahue to stop, said no, pushed his hand away, or otherwise provided any indication that the alleged interaction was against the will

of T.G. Considering both T.G.'s testimony, as well as the surrounding circumstances and her other actions during this time, there is insufficient evidence that any alleged act was by force or against T.G.'s will.

The evidence submitted at trial is insufficient to "convince a rational trier of fact that the defendant is guilty of the crime charged beyond a reasonable doubt." *Canal*, 773 N.W.2d at 530. The court erred in overruling Donahue's motion for a judgment of acquittal.

CONCLUSION

The district court erred in granting the State's objection to a line of cross examination questioning of T.G., erred in submitting an erroneous jury instruction, and erred in overruling Donahue's motion and renewed motion for judgment of acquittal. Donahue's conviction should be reversed and this case remanded.

REQUEST FOR ORAL ARGUMENT

John Donahue requests oral argument.

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Christine Branstad AT001125

CERTIFICATE OF SERVICE:

I, Christine Branstad, certify that copies of the Appellant's Final Brief were served on December 2, 2019:

- By EDMS on the Assistant Attorney General, Criminal Appeals Division
- By United States Postal Service to John Donahue, #6345168, Newton Correctional Facility, Newton, Iowa.

/s/ Christine E. Branstad
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