

MONDAY, OCTOBER 3, 2011
10:00 A.M.

NO. 2

#25745

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

CHRISTOPHER BRIAN FISHER,
Defendant and Appellant.

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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Patricia C. Riepel
Second Judicial Circuit
Minnehaha County

(CR 08-6771)

STATEMENT OF LEGAL ISSUES AND AUTHORITIES

I. WHETHER THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION TO SUPPRESS HIS STATEMENTS TO DETECTIVES.

The trial court ruled that Christopher Fisher's statements to the Detective were voluntary.

Relevant Cases: *State v. Tuttle*, 2002 SD 94, 650 NW2d 20; *Arizona v. Fulminante*, 499 US 279 (1991); *Blackburn v. Alabama*, 361 US 199 (1960).

Relevant Statutes: Fifth Amendment of the United States Constitution; Fourteenth Amendment to the United States Constitution; Article VI, Section 9 of the South Dakota Constitution.

II. WHETHER THE TRIAL COURT ERRED IN ADMITTING, AS DEMONSTRATIVE EVIDENCE THE EDITED VIDEO OF FISHER'S DEMONSTRATION WITH THE DOLL.

The trial court ruled the video of Fisher's demonstration with the doll, so long as the jury could not see the doll, was more probative than prejudicial.

Relevant Cases: *Sommervold v. Grevlos*, 518 NW2d 733 (SD 1994); *State v. Reay*, 2009 SD 10, 762 NW2d 356; *United States v. Gaskell*, 985 F2d 1056 (11th Circuit 1993).

III. WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S DAUBERT MOTION AND ALLOWING DR. NANCY FREE TO TESTIFY.

The trial court ruled that Dr. Nancy Free was qualified as an expert witness.

Relevant Cases: *Daubert v. Merrell Dow Pharmaceuticals, Inc.* 509 US 579 (1993); *State v. Hofer*, 512 NW2d 482 (SD 1994); *Garland v. Rossknecht*, 2001 SD 42, 624 NW2d 700.

Relevant Statutes: SDCL 19-9-7