

On January 31, 2009, Juneau Superior Court Judge Philip Pallenberg denied Mr. Jack's motion to dismiss the case and wrote, "there is nothing in either the Ogoy conversations or the Dobson interview that would have tended, in and of itself, to negate the defendant's guilt." The excerpts below from the transcripts of these Glass Warrant recordings show how Mr. Pallenberg completely mischaracterized their contents.

The "Ogoy conversations" were 3 hours of secretly taped recordings with Leah Ogoy, a social worker with the state Office of Children's Services (OCS) who told Mr. Jack she needed his help in obtaining appropriate counseling for a 12 year old girl (T.T.) that he and his wife deeply cared for and had been close to adopting just a few months earlier.

Throughout the Ogoy conversations, Mr. Jack provided consistent responses numerous times that he did not intentionally touch T.T. in any improper way. By the same token if he did touch T.T. in an improper way, it was either by accident while roughhousing or reading to T.T. and her sister (Z.T.) at bedtime, or while sleeping during the 2-3 occasions when the entire family fell asleep together watching TV in the master bedroom.

Excerpts from transcript of Glass Warrant recording by Leah Ogoy, on the afternoon of February, 18, 2009:

1. *Jack*: Like when or what was this? What happened? Or what did she say? *Ogoy*: Like – like intimate touching. *Jack*: "**Huh. No.** (Pause) **Like when we're laying in bed reading books or something or...** *Ogoy*: **Yeah, I think it was around those times.** (p. 44)
2. *Ogoy*: Uh-huh. Yeah. What about during alone times with T.T.? *Jack*: During alone times – we didn't really have all that much alone time, really. *Ogoy*: Uh-huh *Jack*: Because Z.T. was always with us. (p. 46)
3. *Ogoy*: But, you know, I think there's times that she thought like maybe your hand went over her chest or something. *Jack*: **Oh, no. No.** There's been so many times where I've – I've hugged them and lay down by them and – and Angela and I both were always talking about good touch/bad touch with them. I said, "Even if we're roughhousing and you think I do something wrong, you know, tell me. I don't want to hurt you or have you scared of me or – or anything." *Ogoy*: Uh-huh. *Jack*: But who knows? Maybe – maybe I did. Maybe she was afraid to say something because of all of mine and Angela's arguing. *Ogoy*: Uh-huh. *Jack*: See. I don't know. Poor girl. (p. 50)
4. *Ogoy*: You know, which is kind of why I wanted to talk to you, because – you know, also is because, you know, I just want to get her what she needs in terms of the counseling. And, you know, she talked about, you know, you touching her and – and I – you know if that's the case, you know, I want to make sure she gets the right kind of counseling, because you know, she – *Jack*: You know, if I – if I did – *Ogoy*: -- she's still communicating. *Jack*: **_If I did touch her in any kind of wrong way or anything, you know, it was just coincidental or –** (p. 66)
5. *Jack*: I didn't do more with her than I did with Z.T. *Ogoy*: Uh-huh. *Jack*: You know, its – it's both the same with both of them. Probably more roughhousing with Z.T. *Ogoy*: Uh-huh. *Jack*: But we were always sure quick to tell them that – *Ogoy*: Uh-huh. *Jack*: -- good touch/bad touch. "Even if we're goofing around, if you think I did something wrong." *Ogoy*:

Well, I mean – *Jack*: (Indiscernible) going to tell me. *Ogoy*: -- in terms specifically talking about, you know, maybe like a hand over the breast. *Jack*: Uh-huh. I don't know. You know, whenever I lay down with them, you know, I'll put my hand on them or lay down. But I don't think – I didn't think that was inappropriate – (p. 81)

6. *Jack*: I don't know. **But no, I would never do anything on purpose like that.** (p. 86)
7. *Ogoy*: So sometimes like when you were in – in T.T.'s room at night, like reading to her and stuff, and you know, did she initiate something sometimes? *Jack*: No. She never did....*Jack*: But they take turns reading. Whenever they'd take turns reading, I'd put my head down and put my arm across them, and maybe across their – their waist. *Ogoy*: Uh-huh. *Jack*: **But I think that was about it.** *Ogoy*: Uh-huh. Yeah. Did sometimes she like – did she ever like take her clothes off or – *Jack*: No. *Ogoy*: -- anything like that? *Jack*: They were always wearing their sweats. (p. 90)
8. *Ogoy*: And I want to do what's best for them, you know. I want to – you know, if some things did happen and T.T. needs to, you know, learn how to deal with that, or Z.T., then, you know, I want to be able to get them the help that they need. And that's what matters the most. *Jack*: And it very well could have, you know – *Ogoy*: Uh-huh. *Jack*: -- while we were all sleeping in the same bed, you know. *Ogoy*: Uh-huh. *Jack*: **And not intentionally.** No, we don't tell the girls, "Come to bed with us." (emphasis added). *Ogoy*: Right. *Jack*: Just watching TV. *Ogoy*: Yeah. **What kinds of things do you think could have happened unintentionally?** *Jack*: **Oh, I don't know. Like I said, you know, I had my arm around her while I was sleeping –** *Ogoy*: Uh-huh. *Jack*: -- **when Angela woke me up.** *Ogoy*: Yeah. **What about like the wetness? Do you think you could have – do you think you could have – do you think that could have been from you?** *Jack*: **No, I don't believe so.** *Ogoy*: Uh-huh. *Jack*: **I would never –** I was always in pajama pants or jeans. (p. 96)

Leah Ogoy was never direct with Mr. Jack, telling him that T.T. alleged he had sex with her. The Ogoy conversations focused on instances where Mr. Jack may have unknowingly touched T.T. in a manner that upset her. Knowing this, on February 22, 2009, Alaska State Trooper Matt Dobson secretly recorded an hour-long conversation with Mr. Jack. This is the "Dobson interview" that Mr. Pallenberg referred to. The following excerpts from the transcript of the Glass Warrant recording show that Mr. Dobson quickly got directly to the point and Mr. Jack immediately and consistently denied attempting to have sex with T.T.

1. *Dobson*: Tom, I just – I gotta ask you straight up: Did you – **and this is a yes or no answer, Tom.** And I need you to think about it, okay? **Did you attempt to have sexual intercourse with T.T?** *Jack*: **No.** (p. 18)
2. *Dobson*: Okay. And like I said – okay. Well, then let me ask you this: At some point when you were talking with T.T. or reading to her, at some point did you ever touch her vagina or in her pubic area? *Jack*: **I don't believe so, no.** (p. 19)

3. *Dobson*: And so – I mean, I kind of – obviously I can hear you talking a little bit. So was there a possibility that something happened that you're not – that – for whatever reason? I don't know, do – *Jack*: **No** (p. 31)
4. *Dobson*: Right. So is there any reason why you think she would say this? *Jack*: **No** (p. 32)
5. *Dobson*: -- you know. And so is there any way that something like that [touching of vagina area or the breasts] could have happened or *Jack*: **You know, just by hugging or something, no. But other than that, no.** (p. 33)
6. *Dobson*: Okay. So there was never any time when you were in there when she either didn't have her clothes on or – *Jack*: **No. She always had her clothes on.** (p. 34)
7. *Dobson*: She was pretty explicit stating that – that she felt you with an erection, you know – spooning with her. Is that – did that happen? *Jack*: **No** (p. 40)
8. *Dobson*: Okay. And so you don't – you don't – you don't remember that specific that she – why would she say that, you think? *Jack*: **I don't – I'm not going to say I won't remember, because I'm going to say it didn't happen.** (p. 41)
9. *Dobson*: Okay. And she also stated that on a couple different occasions that you had some sort of ejaculation or something on her pajamas or on her leg. And this is – she may have had a rough – a rough growing up, but this – *Jack*: Yeah, I know. I know, I – *Dobson*: These are things that – there's things that – *Jack*: **And I'm just saying no.** (p. 48)
10. *Dobson*: You don't think it [fondling of breasts, touching in vaginal area, at least one attempt to have intercourse] happened? *Jack*: **No** (p. 51)
11. *Dobson*: Okay. Like I said, I guess the whole thing boils down to is I don't know why T.T. would say this, why she would, you know, just out of – *Jack*: **I don't know either.** (p. 53)
12. *Dobson*: No. I just want you to tell the truth what happened. And right now I kind of – I feel that you're hiding behind – *Jack*: **I'm racking my brain to try and figure out what may have been interpreted wrong while I was trying to be a good father to T.T., trying to – for whatever reason.** (p. 56)
13. *Dobson*: And that you digitally penetrated her. That's not – that's not a – *Jack*: **I didn't –** (p. 57)
14. *Dobson*: I'm listening to what this girl tells me. And I'm asking you, okay? *Jack*: **And I'm telling you no.** (p. 58)
15. *Dobson*: You don't think that happened? *Jack*: **Right.** (p. 58)

16. *Dobson*: Or adamantly it did not happen? Or you're just saying you can't remember it happening? I'm not trying to mince words or trick you into saying something. *Jack*: **No.** (p. 58)
17. *Jack*: I need a – I need to go get my sister. I don't know if I'm being – starting to get nervous now or what's going on, **but I feel like I'm being pressured into** – *Dobson*: Well, I – I'm – *Jack*: -- **admitting something that didn't happen.** (p. 60)
18. *Jack*: -- I know. You're telling me the same things over – *Dobson*: Yeah. *Jack*: -- and over and over again, trying to coax me to say, "Yeah. This happened." *Dobson*: Well, and I'm – *Jack*: "You know, you gotta admit it because, you know, you're a Christian," and everything else. (p. 61)
19. *Jack*: Well, I need – I need to get some legal advice or something. *Dobson*: Okay. *Jack*: **I don't know what – what else to do.** *Dobson*: Okay. *Jack*: **How many more ways I can say "no."** (p. 62)

Sergeant Dobson placed Mr. Jack under arrest at p. 63 of the transcript. A few days later, on February 27, the Juneau District Attorney sought the grand jury's indictment of Mr. Jack on 21 counts including 16 counts of sexual abuse of a minor in the first degree. The charges included 8 counts of digital penetration of the vagina, 6 counts of penile penetration of the vagina and one count each of cunnilingus of the vagina, and penile penetration of the anus.

While considering these charges, the grand jury was led to believe that Ms. Ogoy had specifically and directly confronted Mr. Jack with the intentional nature of these alleged acts when in fact she had not. Likewise, the grand jury was not told of Mr. Jack's immediate and consistent denials when he was later directly confronted by Mr. Dobson beginning with the question, "I gotta ask you straight up....Did you attempt sexual intercourse with T.T?"

In the view of Superior Court Judge Philip Pallenberg, Mr. Jack's consistent statements and denials "did not tend to negate his guilt" despite the fact there was no evidence that supported T.T.'s substantially inconsistent accusations. In 2014 the judges on the Alaska Court of Appeals backed up Mr. Pallenberg, who in 2012 had applied for a seat on the Alaska Supreme Court. In 2015, the Alaska Supreme Court refused to hear Mr. Jack's case, the same year that Mr. Pallenberg applied for another opening on the Alaska Supreme Court and subsequently received the Alaska Judicial Council's nomination.

In my opinion, the Alaska Court System put politics ahead of the Alaska Constitution and an innocent man paid the price. How many others have there been?