

Elizabeth Smart's Testimony Against Accused kidnapper and
Rapist, Brian David Mitchell
Federal Court in Salt Lake City
Thursday, October 1, 2009

Judge Dale A. Kimball: We're here in the matter of USA vs.
Brian David Mitchell.

[To Mitchell, who is singing a hymn.] If you continue singing or
otherwise disrupting the hearing, you waive that right and will
be taken to another room where we have the audio and video
feed. Apparently he's not going to stop. I'll ask the Marshals to
take Mr. Mitchell to the room prepared for the audio and video
feed.

[To the prosecutor] You may call Ms. Smart.

U.S. Attorney for Utah Brett L. Tolman: Your honor we would
call Elizabeth Smart to the stand.

Judge: Come forward and be sworn in please Ms. Smart right
up here in front of the clerk of the court.

(sworn in)

Elizabeth Smart: Elizabeth Ann Smart

Tolman: Thank you your honor. Elizabeth you have water in
front of you in case you need. There are Kleenex, as well, if at
any time you need a break let me know. Elizabeth,

what happened to you on June 5, 2002?

Smart: A man broke into my house and held me at knife point
and kidnapped me.

Tolman: You indicate this is the day you were kidnapped?

Smart: Yes.

Tolman: At about what time did this occur?

Smart: In the early morning between 2 and 3. I was in my house in my room.

Tolman: Where was your sister?

Smart: Right next to me in the same bed.

Tolman: Did you know the individual?

Smart: Yes, Brian David Mitchell.

Tolman: What did he do?

Smart: He came into my room and held a knife to my throat and threatened me with my life and my family's life to come with him.

Tolman: Did he do anything ... ?

Smart: Yes, he placed his hand on my chest. He then put the knife up to my neck. He told me to get up quietly and if I didn't then he would kill me and my family.

Tolman: What was his voice like?

Smart: It was quiet. He was whispering, but it was still loud enough it could wake someone. He was dressed in sweats, sweatshirt, stocking cap, tennis shoes.

Tolman: Was he carrying anything with him? You indicated a knife was there. Anything else he was carrying?

Smart: Umm. To the best of my memory that's all I can remember.

Tolman: We'll come back to that. What other instructions did he give you? You indicated he threatened you ...

Smart: He told me to get shoes. When I reached for normal slip-on shoes he told me to take the tennis shoes.

Tolman: He corrected you and indicated you should take tennis shoes. ... Did you ask why he was taking you?

Smart: Yes he told me he was taking me hostage and holding me ransom.

Tolman: You learned it was a lie.

Smart: He had (the knife) to my throat and held it to my back as he took me away from my house and took me up into the mountains.

Tolman: Did he continue to threaten you?

Smart: Yes

Tolman: Once he has you outside the home did you observe if he was carrying anything with him? Did he have a flashlight?

Smart: Yes, he had a flashlight.

Tolman: Did he have any additional clothing?

Smart: I can't remember right now.

Tolman: Any rain coats?

Smart: I just can't remember anymore.

Tolman: Did he have any socks? Did he ask you to put on socks?

Smart: No.

Tolman: What did he say about that?

Smart: I just had my bare feet and my shoes.

Tolman: Did he pick up water along the way? Do you recall if he had placed any water outside?

Smart: I don't remember at all.

Tolman: Was he concerned about getting caught?

Smart: Yes. He forced me to duck down behind some bushes before we crossed the street and we moved at a quick pace up the trail till we eventually turned off the trail and wound up the back side of a canyon where nobody had been, I mean there was no trail.

Tolman: Where did he take you ultimately?

Smart: He took me in a canyon behind my house about three miles up the coast of the mountain ridge. There were lots of trees surrounding where he had a camp he had set up.

Tolman: Was that where Wanda [Barzee, his wife] was?

Smart: Yes.

Tolman: What was the first thing he did to you when he took you to the camp?

Smart: He ... (pause) ... He took me inside where Wanda was then tried to force me to bathe. After arguing with her, she eventually just proceeded to wash my feet and told me to change out of my pajamas into a robe type of garment. And when I refused she said if I didn't she would have Brian Mitchell come rip my pajamas off. I put the robe on in which he came

and performed a ceremony which was to marry me to him. After that, he proceeded to rape me.

Tolman: In those early days, what did he do to ensure you didn't escape?

Smart: He had a big bolt with a cable strung between two trees that had a lock with a key. The cable was bolted to my leg, and that was connected to two trees that was connected to both cables.

Tolman: How long was the cable?

Smart: The cable that was on my leg was probably 10 feet long, the one between the two trees was probably 15 to 20 feet long.

Tolman: At any point did you have the key or the ability to take that off?

Smart: No.

Tolman: Did he have it on him?

Smart: Yes.

Tolman: Did he know police were looking for him?

Smart: I turned to him and said, 'If you get caught you'll go to jail,' I told him if he would let me go I would speak in his behalf, but he did not.

Tolman: How often did he rape you?

Smart: On a daily basis up to three or four times.

Tolman: Of your nine months with him, what was his dominant focus?

Smart: Sex.

Tolman: Did he speak to you about religion?

Smart: He used religion to get what he wanted, had an excuse for everything he did with a religious side.

Tolman: was there ever at time he did not talk about sex or ...

Smart: No.

Tolman: Did he ever give you drugs or alcohol to lower your resistance?

Smart: Yes.

Tolman: Did he ever show you pornography?

Smart: Yes

Tolman: What would he say to you about why he showed you pornography?

Smart: He would say I have to be humble below all things before rising above all things.

Tolman: Did he use religion to justify behavior?

Smart: Yes.

Tolman: How?

Smart: Anything I showed resistance or hesitance to, he would turn to me and say, 'The lord has commanded you to do this, you have to experience the lowest form of humanity to experience the highest.'

Tolman: Did he ever try convince you that having sex with him

was OK?

Smart: He would say that's what a husband and wife do.

Tolman: Was he crude?

Smart: Yes.

Tolman: Was he vulgar?

Smart: Yes.

Tolman: Did he use vulgar terms to describe parts of the male and female body?

Smart: Yes.

Tolman: What would he say he was going to do?

Smart: He was going to minister to the world and to its supplies.

Tolman: What would he want to talk about or do?

Smart: Usually when he'd go down it was after a day or so of not eating, so he would bring back something to eat, then he would go on to rape me.

Tolman: Would he ever sing or shout what he was going to do?

Smart: Yes.

Tolman: What would he say?

Smart: He would run up the mountainside yelling [and sexually threatening her with obscenities.]

Tolman: Several occasions?

Smart: Yes

Tolman: Did you ever get a break from being raped by the defendant?

Smart: Yes, when Wanda would get very upset with her, she said all you do is lust after her. In order to calm Wanda down, he would say, 'I've received a revelation,' but there wasn't an actual 24-hour period he wasn't able to rape me.

Tolman: During this so called break, he was responding to Wanda's objection how lustful he was to you?

Smart: Yes.

Tolman: What would he do to solve that problem?

Smart: He would set apart every other night to spend with her, but it wouldn't last very long.

Tolman: He was setting up some sort of schedule, alternating between you and Wanda?

Smart: Yes.

Tolman: Did he adhere to that schedule?

Smart: He did for a little while. There was an occasion when he took me to get water to hike to an underground stream, on the way up he turned to me, he said how much he needed me to have sex with him right then and there, and that Wanda would never know, she would understand and she would be OK, and it would be OK.

Tolman: Did you say no to him?

Smart: Yes.

Tolman: How did it make you feel to say no to him on that occasion?

Smart: Wonderful.

Tolman: Did he try to convince you it would be bad if you stopped?

Smart: One time he tried and I bit him he said if I did that he would never have sex with me again and I would be the most miserable woman in the world. He said that but it didn't stop him.

Tolman: Can someone be religious but not spiritual or Christlike?

Smart: Yes.

Tolman: And vice versa.

Smart: Yes, he was religious but not spiritual not Christlike.

Tolman: Did you ever observe him to do an act of kindness or charity?

Smart: No.

Tolman: Did he think highly of himself?

Smart: Yes, he was the king, he was the lord's servant and was doing the lord's work.

Tolman: Did you observe him use religion to help others or get what he wanted?

Smart: To get what he wanted.

Tolman: How did he do this?

Smart: He used religion to get into the home of the Kemp family. While he was looking for another young girl to kidnap and he went to an LDS ward posing as an investigator and there was a nice couple there that invited them into their home and invited him to dinner. He saw a picture of their daughter. He used religion to get into their home to pose as an investigator.

Tolman: So to get needs met? Food, water, alcohol, drugs, sex?

Smart: Yes to all.

Tolman: Did you observe him use religion to get all those things?

Smart: Yes.

Tolman: Did he claim to receive revelation?

Smart: Yes.

Tolman: Give blessings to you and Wanda?

Smart: Mainly Wanda, but there were several occasions he gave me a blessing.

Tolman: What was the purpose of the blessings he would give?

[The defense objects]

Tolman: What did you understand the purpose of giving the blessings to be?

Smart: Wanda would get very upset with him and she would just become irate and the only way to calm her down was to turn to her and say that he needed to give her a blessing and in

the blessing he would say what a wonderful daughter of God she was and she was going to be a daughter of Zion and heir to the throne and say what a queen she was.

Tolman: Did it have a calming effect?

Smart: Yes.

Tolman: Did he get what he wanted through the blessings?

Smart: Yes.

Tolman: Did he ever receive revelation to give up drugs, sex, alcohol, porn?

Smart: No.

Tolman: Any religious fast from food, alcohol, sex, water?

Smart: He had a fast from food before. But there also was no food to eat.

Tolman: Ever a word fast where he would not speak for long periods of time?

Smart: No.

Tolman: Ever feed the hungry, clothe the naked, visit the sick or afflicted?

Smart: No.

Tolman: Were you ever sick during this nine month period of time?

Smart: There was a time when he gave me too much to drink, which I ended up vomiting all over myself. He let me lie face down in my vomit for the entire night until I woke up the next

day.

Tolman: What did he say?

Smart: He said that was showing my true state that I was laying face down in my vomit.

Tolman: Did he ever acknowledge what he was doing was wrong?

Smart: No.

Tolman: Did you ever question him on inconsistencies with values of religion?

Smart: Yes. He said the world was wrong. It was a wicked place. I had been brainwashed by the world and he was the lord's servant and doing the lord's will.

Tolman: You were how old?

Smart: 14

Tolman: Observe him to be manipulative?

Smart: Yes, manipulative.

Tolman: Wanda?

Smart: Yes.

Tolman: Did he manipulate you?

Smart: Yes.

Tolman: Did he try to manipulate you or try to manipulate others?

Smart: Yes.

Tolman: What would he do to try to manipulate them?

Smart: He would not ... there was one younger man in particular who he worked at Wild Oats.

Tolman: Wild Oats the grocery store?

Smart: Yes, the place that now is Whole Foods. He worked there and he used to just run things across the scanner so it looked like he was scanning things but he wasn't. He would put them in a bag and give them to Brian David Mitchell

Tolman: So the individual at the grocer ... he went to him because he could get advantage of him ...

Smart: He wouldn't actually scan them just made it look like he was scanning, so he was stealing from the store. The young man was not -- he was on the edgy side, like he had dyed his hair dark and drank, did drugs, went to raves, to the best of my knowledge that's how he was. Brian never condemned him for doing it, talk about spiritual-related things or religious-related things, talk about god and how god had no respect for a person. I guess this young man felt accepted by Brian. He helped Brian out.

Tolman: Did he turn religion on and off to get what he wanted?

Smart: Yes.

...

Tolman: You indicated the Kemp family. Was that a time when he turned religion on or off? Did he tell you what happened with the Kemps?

Smart: He said that he went to this LDS meeting and that they were just very kind to him and invited to his home for Sunday

dinner.

Tolman: What was he wearing with dinner?

Smart: More casual attire, hair pulled back into a ponytail, he had elastic around his beard.

Tolman: Religious-type robe?

Smart: No, regular clothes. He said he pretended to be an investigator in the church and that by doing that they invited him into their home and he saw a picture of a young girl and asked if that was their granddaughter. They laughed and said, 'No that's my daughter. I'm divorced from my first husband. She spends every other weekend and Wednesdays here.'

Tolman: Did he say purpose of the meeting?

Smart: Yes, he said it was to find a second wife.

Tolman: Did he say her age?

Smart: Yes, he said she looked about my age.

Tolman: Did he act differently around those who agreed and disagreed?

Smart: Those who agreed, he would say god bless you and say yes and be agreeable; those who didn't he would ignore or walk away or start singing, or he would call them to repentance.

Tolman: He would walk away or ignore or sing, but he was different if someone agreed or didn't?

Smart: Yes.

Tolman: The decision was made to leave Utah and go to San Diego.

Smart: Winter was getting closer and the underground house they were digging was nowhere near being finished. He decided we had to move somewhere warmer, that's what the lord wanted him to do, go find wife number two.

Tolman: Any other reasons?

Smart: As far as I know, to move away for winter and find wife number two.

Tolman: Was it beginning to get cold in Utah?

Smart: Yes.

Tolman: When in San Diego, was there an incident where he was arrested?

Smart: Yes.

Tolman: What did he say happened?

Smart: We didn't have any food, so he said he was going to go minister, and um, he said that he went down to the little town we were staying nearby, Lakeside. The first thing he did was instead of getting, buying a bus fare, he went to a convenience store and bought a beer and walked around Lakeside. A woman who had a cart, the little wire pull-along things people use. She had some prescription medications on top. He asked for it, she said no, she went into a store, left the cart for a moment, he stole the prescription medicine and took a few pills. I don't know what they were. Then he broke into a church nearby, and I'm not sure what denomination or building it was, broke in, broke a window and he passed out in there because of the alcohol and the drugs. The next morning he was awoken by some police officers. A young woman who worked there had come in, not sure what for, they took him.

Tolman: Arrested him?

Smart: Yes.

Tolman: Did he tell you about being booked into jail?

Smart: Yes, he was sitting cross-legged on floor, had some worn-out longjohns, thermal pajamas, under his robe and he had the robe up high. There was a big hole in the crotch of the underwear, right where his private parts were, and he said when they were booking him in, they could see everything and they liked what they saw.

Tolman: Did he have a lawyer?

Smart: Yes.

Tolman: What did he say?

Smart: He was a bright young man, and when he went into the judge, he wanted to plead not guilty and the lawyer said he had to plead guilty and pay for the window and do some community service.

Tolman: Did he indicate if he followed the lawyer's advice?

Smart: Yes.

Tolman: Where was Wanda?

Smart: Lakeside. She set up camp. It was a holiday weekend when he went out, and I'm not quite sure, President's Day or [Martin Luther King Jr.] day, I don't remember which holiday it was. He had to sit in jail for three days before going before a judge, they had to be business days. It was actually six or seven days before he came back to camp.

Tolman: Did he indicate to the judge you three were staying with friends? Was he lying?

Smart: Yes.

Tolman: Did he describe the legal system or charges against him?

Smart: No.

Tolman: Was he ever confused about things?

Smart: No, he was very smart, knew a lot of things.

Tolman: Was he ever bewildered, confused or out of control?

Smart: No.

Tolman: Did you observe him singing?

Smart: Yes.

Tolman: Did he sing often?

Smart: Yes.

Tolman: Did you observe him to sing to manipulate a situation?

Smart: Yes.

Tolman: Did he turn off or on the singing when he needed to?

Smart: Yes.

Tolman: Did his desire or compulsion to sing ever get in way of what he wanted?

Smart: No.

Tolman: When he was trying to get sex, food, alcohol, transportation, did he burst into song?

Smart: No.

Defense lawyers: Objection, she didn't hear him.

Tolman: Did you observe him attempt to get sex, food, drug, transportation?

Smart: Yes

Tolman: Did he ever sing so it prevented to get those things?

Smart: No.

Smart: No. There was a time at the Salt Lake City library a person approached him and asked that I remove the veil and cover that they had me wear always. He said I couldn't, it was part of our religion and there was no possible way I could do that.

Tolman: Did he ever burst into singing when confronted by law enforcement?

Smart: No.

Tolman: Did you have to intervene because he was not in control or had burst out into singing or some concept he did not understand?

Smart: No.

Tolman: Did you ever get sense that he enjoyed or got a kick out of fooling others?

Smart: Yes. He would be laughing and say, "They think they're so smart," or, "They think they're guiding me to the light and they don't know I'm the king. I know this. I can dance steps around them. They don't know who they're dealing with."

Tolman: Did he brag about how much he knew about different topics or subjects?

Smart: Yes. He talked about anything that ever came up. He had to be right. He had to know about it. He had to be the authority on that topic.

Tolman: Things religious or not religious?

Smart: Yes.

Tolman: Any topic?

Smart: Yes.

Tolman: Is it fair to say in that nine-month period of time you came across a number of individuals?

Smart: Yes.

Tolman: Considering all these people, did anyone ever suggest that the defendant needed professional help?

Smart: No.

Tolman: That you should get him to a hospital or help?

Smart: No.

Tolman: Did you conclude he was intelligent?

Smart: Yes. He knew a lot about a lot of different things. He told me about his craziest life, about what he did, what he had done. He was very capable, intelligent human being.

Tolman: Was he articulate?

Smart: Yes.

Tolman: Was the defendant honest?

Smart: No.

Tolman: Do you believe he was honest?

Smart: No.

Tolman: Did you observe him lie?

Smart: Yes.

Tolman: Did it come easy?

Smart: It was easy.

Tolman: Was he convincing?

Smart: To many people, I think so.

Tolman: Were you convinced?

Smart: No.

Tolman: Others were convinced by him?

Smart: Yes.

Tolman: You indicated he was determined not to get caught. How

determined?

Smart: He said he would kill anyone who came into the camp or kill me if I tried to escape or yell out or do anything not in coordination with what he wanted. He told me to say that we were traveling and that he was my father and that Wanda was my mother.

Tolman: Did he tell you to refer to them as mother and father in that instance?

Smart: Yes. He told me to say I had been home schooled and that we traveled around ministering to different people.

Tolman: Did he have a name for you?

Smart: Yes, Augustine Marshall.

Tolman: He told you to use that name?

Smart: Yes.

Tolman: Do you know how he came up with that name?

Smart: It was after the month August.

Tolman: Did he have a name for Wanda?

Smart: Yes.

Tolman: What was her name?

Smart: Juliette.

Tolman: What was the meaning behind her name?

Smart: It was after the month of July.

Tolman: Did he have names for himself?

Smart: Yes, there was his name Immanuel David, prophet Isaiah and then David Sherlson ... David was his middle name and his father was Sherl, so Sherl's son. When he was booked into San Diego he used a different name.

Tolman: Did he tell you that name?

Smart: Michael Jensen.

Tolman: Did he ever quiz you on what you were to say?

Smart: Yes.

Tolman: Did he ever introduce you to others as his bride?

Smart: No.

Tolman: Did he publicly acknowledge you were his bride?

Smart: No.

Tolman: Did he ever say he was commanded to marry several individuals? Did he tell anyone else?

Smart: No.

Tolman: Did he tell anyone else he was to plunder girls and use them as brides?

Smart: No.

Tolman: Did he tell you and Wanda that?

Smart: Yes.

Tolman: Did you observe him talk his way out of situations with law enforcement?

Smart: Yes.

Tolman: How was he in an argument?

Smart: Forceful.

Tolman: Was he quick on his feet?

Smart: Yes.

Tolman: Could he adapt to his surroundings?

Smart: Yes.

Tolman: Did you observe him adapt to the people he was with or the circumstance he was in?

Smart: Yes.

Tolman: Did he indicate he had studied psychology, mind control and hypnosis?

Smart: Yes. He spoke about how people thought and he talked about a time in his life when he was in southern Utah. He was with his brother and he had some books that he had been reading that were on hypnosis and witchcraft, I think.

Tolman: Did he ever tell you about getting away with things in his past?

Smart: Yes. He talked about how in high school he was one of the graduating seniors and there was a girl who was younger and she was physically mature for her age, and he came up behind her and stuck his hand down her shirt and walked away and nothing ever happened. And he talked about his two previous marriages and how he had been accused with molesting his second wife's youngest daughter and how nothing ever happened, how he was able to walk away from that.

Tolman: Did he ever talk about being able to walk away from financial debt or other obligations?

Smart: Yes, and he talked about how he had walked away from an apartment lease and from a big fifth-wheel trailer they took up to Idaho. They stopped making payments and just left it on some property and walked away from it. He talked about how the LDS Church had called an excommunication hearing and how he just never showed up to it and so he walked away from that, and he talked about how his mother had gotten a restraining order put on him and he didn't care, he just walked away from that.

Tolman: Elizabeth, are you aware he was writing a book, the book of Immanuel David Isaiah?

Smart: Yes.

Tolman: Are you aware he wrote in this book after he was captured?

Smart: Yes.

Tolman: Did he try to convince you that you held the key?

Smart: No

Tolman: Did he try to convince you he could have gotten away?

Smart: No.

Tolman: Did he try to convince you that your parents invited him to their home that night?

Smart: No.

Tolman: That they removed the lock from door and turned off the security alarm?

Smart: No.

Tolman: Did he tell you or Wanda, or convince you, you had opened the window for him to get into the house?

Smart: No.

Tolman: Did he try to convince you you had heard the lord's command of wanting to go with him, that's why you did?

Smart: No.

Tolman: Would he have been able to convince you that any of these claims were true?

Smart: No.

Tolman: This was at all times against your will?

Smart: Yes.

Tolman: Did he acknowledge what he was doing was against the law?

Smart: Yes.

Tolman: Did he have knowledge of the legal system?

Smart: Yes.

Tolman: Did he have knowledge of the government?

Smart: Yes.

Tolman: Did he have knowledge of what would happen to you if he was caught?

Smart: Yes.

Tolman: What words would you use to describe Brian David Mitchell?

Smart: Evil, wicked, manipulative, sneaky, slimy, selfish, greedy, not spiritual, not religious, not close to God.

[Cross examination by Assistant Federal Defendant Robert L. Steele begins.]

Steele: You talked about a concern about getting caught that first night outside of your house. Talk about that. You said he pulled you down behind a bush. Why?

Smart: There was a passing cop car, and he didn't want to be caught.

Steele: What did he say after the cop car passed?

Smart: To the best of my memory, 'The lord is with us.'

...

Steele: He performed a marriage ceremony that night. Was it lengthy or short?

Smart: Short.

Steele: What did he say?

Smart: He just said that in the power that was vested in him, I would be bound on heaven as is on Earth to be wife. I screamed, 'No.' That didn't have any effect on him. He said if I was going to scream, he would kill me.

Steele: I'm sure that was shocking, the marriage ceremony. I bet you didn't see that coming at all. He spent a lot of time talking, he spent a lot of time speaking?

Smart: Yes.

Steele: When?

Smart: Throughout the day.

Steele: What kinds of things did he talk about?

Smart: He talked about a lot of things. He talked about his past experiences, he talked about his previous marriages, talked about me [inaudible] Wanda, talked about the first time he saw me, the future, talked about how we would all appear when he came out of hiding so to speak, talked about the different jobs and occupations he had held, he talked about a lot of things.

Steele: You know an awful lot about Mr. Mitchell and Wanda Barzee.

Smart: Yes.

Steele: They told you their whole life story. Their marriages -- they had several -- their children's names.

Smart: Yes.

Steele: He told you good stuff about himself and bad stuff about himself?

Smart: Yes

Steele: What did he tell you about the government?

Smart: The government was corrupt and served the devil and was of the world, and that America had fallen from being a God-fearing country and they were no longer.

Steele: What did he tell you about the LDS Church?

Smart: He said that the LDS church will be punished more than anyone because they have the most light and truth and have the knowledge, and are not willing to live it. That when the time had come that many of them would have the strength to break away and follow him.

Steele: What did he think he was? What did he tell you?

Smart: He told me that he was a prophet. He was the Davidic king. He said he was God's voice on the Earth and he would reign over the children of God until Christ came, continue to be Christ's mouthpiece for the world.

Steele: Did he talk about the Antichrist?

Smart: Yes.

Steele: What was his position with the Antichrist?

Smart: He said he would one day fight the Antichrist.

Steele: What was the outcome of all that?

Smart: He would be the one to kill the Antichrist.

Steele: He read you the book of Immanuel David Isaiah?

Smart: Yes.

Steele: He read it. How many times?

Smart: Yes, I don't know if I could put a number on it.

Steele: Did you pray together every day, sing?

Smart: Yes.

Steele: What kinds of things?

Smart: Wanda had compiled a book of religious songs, the songs he had compiled.

Steele: How much time of the day?

Smart: Depends on the day. Sometimes just one or two songs, sometimes no singing, sometimes if he was working he would sing, or if uh, he just -- there was usually a reason. It wasn't just because he couldn't contain himself. He felt like singing. He wanted to sing.

Steele: You sang with him?

Smart: It wasn't a duet, so to say. We all sang together before we prayed.